

AI-35736
CC REGULAR



Purchasing Department 19. B. 3.

Meeting Date: 12/18/2012

Submitted For: Martha L. Salazar

Submitted By: Oscar Garza, PURCHASING DEPT.

Department: PURCHASING DEPT.

Information

CAPTION

✓ a. Requesting approval to increase PO #683499 in the amount of \$19,918.97 for proposed Baseball Park Lighting Project in Lopezville Pct. 2. Proposed increase will add additional lighting for Walking Trail in same location to Project #12-274-OGG.

✓ b. Consideration and approval of an “Irrevocable Directive of Draw Proceeds/Disbursement Agreement” as required (as a condition precedent to issuing Payment & Performance bonds) by bonding company, Insurers Indemnity Company, contract surety for Herrera and Hunt, Inc for: “Baseball Park Lighting Project in Lopezville Pct. #2” (approved by Commissioners' Court on October 30, 2012 AI #34978)and thus directing all contract funds to Aacon, Inc., disbursement agent located at 624 West University Dr., PMB #238, Denton, TX 76201-1889 for: Herrera and Hunt, Inc. and as further specified/detailed document (s) attached herein.

BACKGROUND

Approval of this request will allow surety company to provide the required payment and performance bonds to commence proposed Baseball Field Lighting and Walking Trail in Lopezvill Pct. #2

Fiscal Impact

FISCAL YEAR: 2012

ACCT. #: 2-1342-452-00-122-054-0-739

FUNDS AVAILABLE Y/N?: Y/pending

MATCHING FUNDS Y/N?: NO

BUDGETARY IMPACT:

Funding is available as per Mr. Raul Silguero

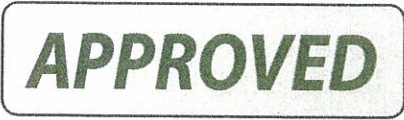
*a transfer will be processed to fund the account.

Attachments

12-274

Form Review

Inbox	Reviewed By	Date
Budget & Management	Obdett Calzada	12/14/2012 03:57 PM
Roland Garcia	Rolando Garcia	12/14/2012 04:47 PM
Purchasing Department	Monica Badillo	12/14/2012 05:37 PM
Form Started By: Oscar Garza		Started On: 12/13/2012 09:10 AM
	Final Approval Date: 12/14/2012	



AI-34978

Purchasing Department 20. B. 2.

CC REGULAR

Meeting Date: 10/30/2012

Submitted For: Martha L. Salazar

Submitted By: Oscar Garza, PURCHASING DEPT.

Department: PURCHASING DEPT.

Information

CAPTION

Acceptance and approval to award the best valued proposal from job order contractor, Herrera & Hunt (awarded JOC through HCDE-Choice Facility Partners) in the amount of \$118,915.49 for the installation of (7) New poles to include lighting/materials and any other appurtenances as may be needed at the Baseball Park located in Lopezville, Pct. #2 as reviewed and approved by project engineer, Raul Sesin, PE, Hidalgo County Planning Deptment-Project #2012-274-OGG.

BACKGROUND

Proposed project consists of installation of (7) new poles to include all lights, materials and any other appurtenances in order to light up the baseball field located in Lopezville, Pct. #2 area.

Fiscal Impact

FISCAL YEAR: 2012

ACCT. #: 2-1342-452-00-122-054-0-739

FUNDS AVAILABLE Y/N?: YES/Pend **MATCHING FUNDS Y/N?:** NO

BUDGETARY IMPACT:

As per Pct. #2 proposed project has only \$101,336.00 in Acct. #2-1342-452-00-122-054-0-739; however please refer to agenda item 34925 for the appropriate transfers to this acct number.

Attachments

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agenda backup

Form Review

Inbox	Reviewed By	Date
Purchasing Department	Marty Salazar	10/26/2012 01:16 PM
Budget & Management	Merlen P. Munoz	10/26/2012 01:47 PM
Roland Garcia	Rolando Garcia	10/26/2012 03:37 PM
Auditor's Office	Angela Garcia	10/26/2012 05:19 PM
Form Started By: Oscar Garza		Started On: 10/26/2012 11:08 AM
	Final Approval Date: 10/26/2012	



Purchase Order

COUNTY OF HIDALGO

PO#: 683499

DATE: 11/06/12

Page No 1 Of 3

VENDOR: 347868 REQ:00225648
 FAX (956)233-5836 Email:
 Phone:(956)459-1696
 HERRERA & HUNT, INC
 P.O. BOX 49
 ALAMO TX 78516

BUYER:
 SHIP TO: HIDALGO CO. PCT 2
 300 WEST HALL ACRES, SUITE G
 PHARR TX 78577

Vendor Acct:

CONTACT:
 SITE: COMMISSIONER, PRECINCT 2
 Contract No: HCDE 09-040JC-07

Special Instructions:

REQ. #0017

VENDOR NOTES

1. DO NOT ADD TO, OR ALTER THIS PURCHASE ORDER. THIS ORDER IS NOT RENEWABLE.
2. TAX EXEMPTION: THIS PURCHASE ORDER MAY BE ACCEPTED IN LIEU OF EXEMPTION CERTIFICATE
3. THIS ORDER IS ALSO PLACED F.O.B. DESTINATION. VENDOR MUST REPAY ALL SHIPPING COSTS
4. INVOICE EACH PURCHASE ORDER SINGLY. ORIGINAL INVOICES ARE REQUIRED CUSTOMER COPY MAY BE ACCEPTED. OUT NUMBER MUST APPEAR ON ALL INVOICES, BILLS OF LADING AND PACKAGES.
5. PAYMENT WILL BE MADE ONLY FOR A BONA FIDE AND FULLY COMPLETED ORDERS, UNLESS OTHERWISE ATTACHED.

QUANTITY	UOM	DESCRIPTION	UNIT PRICE	AMOUNT
		DO NOT DUPLICATE ORDER		
		HCDE 09-040JC-07		
		LOPEZVILLE BASEBALL PARK LIGHTING PROJECT		
		AWARDED PROPOSAL APPROVED ON CC 10/30/2012 #20/B/2 AI-34976		
		(awarded JOC through HCDE-Choice Facility Partners)		
	EACH	CO BASEBALL PARK LIGHTING: INSTALL 7 LIGHT POLES WITH ALL NECESSARY / REQUIRED MATERIALS AT BALL PARK	.00	.00
4	EACH	CO #013113200160 FIELD PERSONNEL, GENERAL PURPOSE LABORER, AVERAGE	2,125.00	8,500.00
2	EACH	CO #013113200240 FIELD PERSONNEL, SUPERINTENDENT, MINIMUM	2,775.00	5,550.00
2	DAY	CO #015419500100 CRANE CREW, DAILY USE FOR SMALL JOBS, 12 TON TRUCK-MOUNTED HYDRAULIC CRANE, PORTAL TO TO PORTAL	1,108.94	2,217.88
2	EACH	CO #015433600120 LIFTING AND HOISTING EQUIPMENT RENTAL; AERIAL LIFT TRUCK, 2 PERS, 30', EXCL. HOURLY OPER. COST	2,271.37	4,542.74
1	EACH	CO #015433602560 RENT CRANE TRUCK MOUNTED, HYDRAULIC, 40 TON CAPACITY, INC. HOURLY OPER. COST	4,685.42	4,685.42
5	EACH	CO #015436501150 MOBILIZATION OR DEMOBILIZATION, DELIVERY CHARGE FOR EQUIPMENT, ON FLATBED TRAILER BEHIND PICKUP TRUCK	108.44	542.20
10	EACH	CO #015436502000 MOBILIZATION OR DEMOBILIZATION, CRANE, TRUCK-MOUNTED, UP TO 75 TON, (DRIVER ONLY, ONE-WAY)	31.66	316.60
35	EACH	CO #260519901300 WIRE, COPPER, STRANDED, 600 VOLT, #8, TYPE THWN-THHN, IN RACEWAY	57.11	1,998.85
35	EACH	CO #260519901350 WIRE, COPPER, STRANDED, 600 VOLT, #6, TYPE THWN-THHN, IN RACEWAY	85.92	3,007.20

FILE COPY

Authorized by: _____

Martín L. Salazar



Purchase Order COUNTY OF HIDALGO

PO#: 683499

DATE: 11/06/12

Page No 2 Of 3

VENDOR: 347868 REQ:00225648
 FAX (956)233-5836 Email:
 Phone:(956)459-1696
 HERRERA & HUNT, INC
 P.O. BOX 49
 ALAMO TX 78516

BUYER:
 SHIP TO: HIDALGO CO. PCT 2
 300 WEST HALL ACRES, SUITE G
 PHARR TX 78577

Vendor Acct:

CONTACT:
 SITE: COMMISSIONER, PRECINCT 2
 Contract No: HCDE 09-040JC-07

Special Instructions:

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QUANTITY	UOM	DESCRIPTION	UNIT PRICE	AMOUNT
35	EACH	CO #260519901400 WIRE, COPPER, STRANDED, 600 VOLT, #4, TYPE THWN-THHN, IN RACEWAY	124.91	4,371.85
1500	FT	CO #260533139120 PVC CONDUIT, SCHEDULE 40, 1" DIAMETER, TO 15' H, INCL TERMINATIONS, FITTINGS, & SUPPORT	3.80	5,700.00
475	FT	CO #260533139150 PVC CONDUIT, SCHEDULE 40, 2" DIAMETER, TO 15' H, INCL TERMINATIONS, FITTINGS, & SUPPORT (475 L.F. @ \$6.39 = \$3,035.25)	6.39	3,035.25
2	EACH	CO #260533186300 WIRING BOXES, DUST TIGHT & DRIP TIGHT, 24" L X 30" W X 6" D, NEMA 12, J.I.C.	507.64	1,015.28
1	EACH	CO #262413200810 SWITCHBOARDS, MAIN FUSIBLE SWITCH, 3 POLE, 4 WIRE, 120/208, 120/240 V, 400 AMP, INCL FUSE	3,762.68	3,762.68
2	EACH	CO #262419206020 FUSE, LIGHT CONTACTOR, TYPE A, 200 AMP, NEMA 12	7,961.20	15,922.40
14	EACH	CO #265613106000 LIGHT POLES, GALVANIZED STEEL, BRACKET ARMS, 4 ARM, EXCL CONCRETE BASES	434.93	6,089.02
1	EACH	CO #265613106460 LIGHT POLES, WOOD, 4-1/2" X 5-1/8", 20' HIGH, EXCL CONCRETE BASES	688.57	688.57
35	EACH	CO #265636202210 FLOODLIGHTS, EXTERIOR, METAL HALIDE, 1500 WATT, INCL BALLAST AND LAMP, EXCL POLE	676.75	23,686.25
1450	EACH	CO #312316141450 EXCAVATING, CHAIN TRENCHER, UTILITY TRENCH, COMMON EARTH, 6" WIDE, 36" DEEP, BACKFILL BY HAND, INCLUDES COMPACTION, ADD	2.00	2,900.00
12	EACH	CO #312323171000 FILL, GRAVEL FILL, COMPACTED, UNDER FLOOR SLABS, ALTERNATE PRICING METHOD, 4" DEEP	84.19	1,010.28
490	EACH	CO #316213234000 PRESTRESSED CONCRETE PILES, SQUARE, 40' LONG, 18" SQUARE, PRICED USING 200, EXCLUDES PILE CAPS OR MOBILIZATION	65.99	32,335.10
80	EACH	CO #316329130085 UNCASSED DRILLED CONCRETE PIERS, CAST IN PLACE AUGERED PILES, 18" DIAMETER, PRICED USING 200 PILES, 60' LONG, UNLESS SPECIFIED OTHERWISE, EXCLUDES PILE CAPS OR	43.17	3,453.60

Authorized by: Martha L. Salazar



Purchase Order COUNTY OF HIDALGO

PO#: 683499

DATE: 11/06/12

Page No 3 Of 3

VENDOR: 347868 REQ:00225648
FAX (956)233-5836 Email:
Phone:(956)459-1696
HERRERA & HUNT, INC
P.O. BOX 49
ALAMO TX 78516

BUYER:
SHIP TO: HIDALGO CO. PCT 2
300 WEST HALL ACRES, SUITE G
PHARR TX 78577

Vendor Acct:

CONTACT:
SITE: COMMISSIONER, PRECINCT 2
CONTACT No: HODE 09-040JC-07

Special Instructions:

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QUANTITY	UOM	DESCRIPTION	UNIT PRICE	AMOUNT
1	EACH	MOBILIZATION, CASING OR REINFORCING CO COMPETITIVE BID COEFFICIENT CHOICE FACILITIES / PERFORMANCE & PAYMENT BOND INSTALLATION OF LIGHT POLES FOR PARK REPORT ROAD HAZARDS 1-866-HCR-SAFE OR 1-866-427-7233	-16,415.68	-16,415.68
		Total		118,915.49
		***** For Hidalgo County use only 2-1342-452-00-122-054-0-739 118,915.49		
		Approved _____		

Authorized by: Martha R. Salazar

MASTER DISBURSEMENT AGREEMENT

This AGREEMENT is entered into on **November 29, 2012**, by and between **Herrera & Hunt, Inc.** (hereinafter referred to as "Contractor"), with its principal place of business located at **PO Box 49, Alamo, Texas 78516**, and **Aacon, Inc.** (hereinafter referred to as "Disbursement Agent"), with its principal place of business located at **624 West University Dr., PMB #238, Denton, TX 76201-1889**.

The Parties acknowledge that the purpose of this Agreement is to provide disbursing authority and agent for and on behalf of the Contractor so as to provide the Contractor with an appropriate and applicable basis to obtain surety bonding from **State Automobile Mutual Insurance Company** (hereinafter "Surety"), and so as to assure the proper and full payment of the Contractor pursuant to its obligations to the Surety, and/or various Owners, General Contractors, or Prime Contractors. In no event, however, shall the Disbursing Agent be deemed an indemnitor of the Contractor, as the Disbursing Agent shall act only with respect to the receipt and disbursement of monies received pursuant to the Contract Agreement between the Owner/General Contractor/Prime Contractor and Contractor, and for no other purpose or reason.

This Agreement shall remain in full force and effect during the term of the various Contract Agreements between various Owners and Contractor. The Contractor understands and acknowledges in the event of earlier termination of the terms and conditions of this Agreement, the Surety must be notified in writing immediately thereof and may cause the provisions of its indemnity agreement with Surety to be immediately invoked and enforced, at the sole discretion of the Surety.

The Disbursing Agent may at any time terminate its responsibility to the Principal or its successor by giving thirty (30) days written notice via registered or certified mail to the Principal and to the Surety at their last known addresses. However, immediately upon written request, the Disbursing Agent shall surrender all funds and records pertaining to the described Project(s) to the Surety or a third party designated by the Surety.

1. From time to time, Contractor will enter into construction contracts (hereinafter referred to as the "Contract Agreement") with various entities (hereinafter referred to as the "Owner") for the construction and/or improvement of various jobs (hereinafter referred to as the "Project(s)"), and each of these Projects will have a defined "Contract Price". Each Project must be constructed in accordance with the Contract Agreement and certain plans, specifications and other documents incorporated into the plans and specifications (collectively "Contract Documents").
2. As required by the Contract Agreement, Contractor as Principal has executed or will execute payment and performance bonds ("Surety Bonds") provided by **State Automobile Mutual Insurance Company** ("Surety").
3. Contractor represents that it is a properly licensed contractor and has all licenses and permits required or necessary to construct these Projects.
4. Contractor desires that Disbursement Agent monitor the disbursement of all monies paid by Owner to Contractor for or on account of Project(s) ("Contract Funds").
5. Disbursement Account

5.1 Contractor agrees that Disbursement Agent will open a commercial checking account at **JP Morgan Chase Bank, N.A., Denton North**

INITIALS AH (Contractor) AA (AACON)

Branch #00435, Denton, Texas, Account No. 427190868, styled in the form; Aacon, Inc., Disbursement Agent For **Herrera & Hunt, Inc. – #09/040JC-07**, the ("Disbursement Account") as the initial Disbursement Account. Subsequent and separate commercial checking accounts will be opened for each of the various Projects, and the Disbursement Agent will provide the Contractor with the account number and set-up information promptly upon receipt of each new assignment. All Contract Funds, including retainages, change orders, interest, modifications and claims proceeds received from the Owner(s), or forwarded by the Contractor, shall be deposited into their various project specific Disbursement Accounts. The Disbursement Agent will be the sole signatory on the Disbursement Account(s). The Disbursement Account(s) will be used solely for deposit of Contract Funds and payment of just bills incurred by or on behalf of Contractor in connection with construction of the Project(s). Contractor shall not borrow funds against the Disbursement Account(s) or the Project(s), nor shall it pledge the Disbursement Account(s) as collateral against any loan, indebtedness or obligation.

5.2 Contractor agrees that it has assigned all contract funds to Aacon, Inc, for deposit into the Disbursement Account, and Contractor agrees that it shall cause or direct the Owner(s) to make all payments due under the Contract Agreement(s) directly to Disbursement Agent for deposit into the Disbursement Account(s) in the form of the Irrevocable Directive of Draw Proceeds form; attached hereto as Exhibit A. Owner's signing of the Exhibit "A" document will be construed as evidence that Contractor has revealed to the Owner(s) the general content of this AGREEMENT, and Owner's signature on the Exhibit "A" document shall not relieve the Contractor from the Contractor's obligation to deliver, or cause to be delivered, all payments due under the Contract Agreement(s) to the Disbursement Agent for deposit into the Disbursement Account(s).

5.3 Concurrently with the Execution of this AGREEMENT, Contractor shall deposit with **JP Morgan Chase Bank, N.A., Denton North Branch #00435, Denton, Texas**, into each of the Disbursement Account(s), the sum of **\$500.00** in cash, for the purpose of maintaining the Disbursement Account(s) in an "open" status. This sum will be held, used and disbursed under the same terms and provisions provided in this AGREEMENT. Any surplus funds that might be left after disbursement under Article 7, and after disbursement of Contractor's monthly fee draw under Paragraph 7.7 shall remain and accumulate in the Disbursement Account(s) until the Owner(s), or its representative, has issued a "Letter of Acceptance", or its equivalent, all bills have been paid for the Project(s), and/or Surety gives its written consent to release the funds. In the event of a default pursuant to Article 9 herein, any and all surplus funds shall not be released to Contractor unless and until Surety has given its written consent thereto.

6. Contractor's Responsibilities

6.1 Contractor shall, for each of the Projects disbursed under this Agreement, furnish to Disbursement Agent a signed copy of the Contract Agreement, a detailed cost breakdown including the names of all subcontractors and material suppliers/vendors, including the amounts of their contracts, and an estimate of the Contractor's anticipated profit or fee; and if requested in writing by the Disbursement Agent, Contractor shall furnish copies of all subcontracts

INITIALS SH (Contractor) AA (AACON)

and major purchase orders, a copy of Contractor's certificate of insurance, a construction schedule and all other items for which Disbursement Agent determines are necessary to process payments to be made by Disbursement Agent. Contractor further agrees to immediately notify Disbursement Agent of any change in said Contract Price or estimated costs and furnish the Disbursement Agent a copy of all Contract Change Order Requests, all Contract Change Orders, all Contract Agreement Modifications, and all Contract Agreement Directives.

6.2 Contractor shall furnish to the Disbursing Agent copies of any and all notices received by the Contractor pursuant to the applicable state's Construction Lien Law, little Miller Act, or if a federal project, the Miller Act or the Capehart Act, whichever is applicable, including any Notices to Contractor, Notices to Owner, Notices of Non-Payment or Claims of Lien or other statutory notices, and shall do so within seven (7) days of its receipt of any such notices or liens. Failure to furnish copies of notices to the Disbursing Agent shall be deemed a material breach of the Disbursement Agreement.

6.3 Contractor shall give notice to the Disbursing Agent of the existence of any disagreement or dispute between the Project Owner(s), the Owner(s), the Contractor or any subcontractor, materialman or provider of labor or services to the Project(s).

6.4 At the request of the Disbursing Agent, the Contractor shall provide the Disbursement Account with such additional funds as may be necessary to fully pay all costs related to the Contract Agreement(s) between the Owner(s) and Contractor. The Parties acknowledge that this paragraph is intended to avoid Disbursing Agent's lacking sufficient funds to pay current bona fide claims of potential lienors or claimants based on the unavailability of funds in the Contractor's Disbursement Account(s). The Contractor's failure to deposit required additional funds in the Disbursement Account(s) hereunder shall be deemed a material default of this Agreement.

7. Disbursement of Funds

7.1 Contractor authorizes, instructs and directs Disbursement Agent to hold in the Disbursement Account all Contract Agreement Funds and to disburse Contract Agreement Funds as follows:

7.2 The Disbursement Agent agrees that it will release funds only upon the presentation by Contractor of fully executed vouchers, from which checks shall be made payable directly to the subcontractors and material suppliers/vendors who have supplied labor, materials, rental equipment, services, and/or incorporated equipment, and who are entitled to receive payment. Said vouchers shall list the total amount due each vendor and the amount to be deducted from each line item category on the cost breakdown that has been submitted to Disbursement Agent by Contractor. Each voucher shall be accompanied by delivery receipts and tickets, invoices, and/or any other similar supporting documentation requested by the Disbursement Agent for processing of the payment(s). No payments for labor, materials, equipment or services shall be authorized in excess of estimated costs as represented to Disbursement Agent, without prior consent of Disbursement Agent, and until labor, materials and/or equipment have been incorporated into the construction or consumed in the

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construction. The Contractor's fee shall be reduced to cover all costs in excess of estimated costs, unless the original estimated costs are revised upwards by signed Change Orders, Contract Modifications and/or Contract Agreement Directives.

Subcontractors and suppliers eligible for payment under this Paragraph include:

(1) Subcontractors performing a portion of the work required by the plans, specifications, or general conditions of the Project;

(2) Suppliers furnishing materials, services, or equipment to be incorporated into the Project, or necessary to complete the work required by the plans, specifications, and general conditions of the Project. Equipment includes equipment installed into the completed project or the rental of equipment necessary to complete the Project. Equipment shall not include the purchase of construction equipment, tools, code books, and/or clothing by the Contractor, or

(3) Subcontractors and/or vendors who are covered by the applicable bond lien law or public works statute(s).

Payments not included in subparagraphs (1) and (2) above are prohibited without the written consent of Surety.

7.3 The Disbursement Agent will make each disbursement check payable directly to the supplier and/or subcontractor to whom such payment is due per each voucher submitted to the Disbursement Agent by the Contractor.

7.4 The Disbursement Agent will also release funds to the Contractor in reimbursement of miscellaneous and C.O.D. materials, suppliers and services (generally under \$1,000 per purchase), and direct job labor, all used to complete the Project upon presentation by the Contractor of fully executed vouchers listing the total amount due for materials, supplies, services and labor and the amount to be deducted from each line item category on the cost breakdown that has been submitted to Disbursement Agent by the Contractor. Further, it is agreed that each voucher shall be accompanied by paid invoices, delivery slips, canceled checks, time sheets, payroll ledgers, certified payrolls (if required by the Contract Agreement, and/or similar documentation as may be required by the Disbursement Agent. Labor eligible for reimbursement under this section shall include only direct labor employed at the job site required to complete the Project including job site supervision. No reimbursement is eligible for corporate officers' payroll or Contractor's general, administrative or overhead labor, materials, supplies or services, except as provided in Paragraph 7.7 below.

7.5 Disbursement Agent shall reserve funds equivalent to the amount of liens or documented and potentially supportable claims or which Disbursement Agent is, or should be, aware that may be filed against the Project in connection with the Contract Agreement, plus a reasonable sum (not to exceed 25% of the lien or claim) for estimated legal costs and attorney's fees connected therewith.

INITIALS AB (Contractor) AA (AACON)

7.6 Disbursement Agent shall withhold **zero percent (0%)** retainage from each payment, in addition to any amount being withheld by the Owner(s) for retainage. This sum will be held as "collateral" per agreement with the Surety, and shall only be released to the Contractor upon the written consent of the Surety. Such withholding is in addition to any percentage that has been identified above as set aside for reserves. Surety must consent in writing before any retainage and/or reserve funds (per Article 7.5) may be released to the Contractor; however, withholdings by the Disbursement Agent in lieu of retention held by the Owner(s) may be released by the Disbursement Agent to Contractor, or its subcontractors upon the Disbursement Agent's satisfaction of Project(s) acceptance.

7.7 The Contractor will be paid its Contractor's Fee monthly, paid in the same proportion as the Contractor is paid by the various Owners, not to exceed a total amount ("Contractor's Fee") for each Contract Agreement, provided by the Contractor in advance of the processing of the first payment request by the Contractor, as proceeds are available in the Disbursement Account(s) to cover Home Office Overhead and Fee. Disbursements to the Contractor under this Paragraph may be withheld by the Disbursement Agent until all documents required by this AGREEMENT have been furnished to the Disbursement Agent.

7.8 Disbursement Agent will obtain, and keep on file for inspection by all parties to this AGREEMENT and by Surety, appropriate releases from subcontractors, laborers, and material suppliers.

7.9 Disbursement Agent is expressly authorized, instructed and directed to disburse funds to itself for payment of its fee for services in accordance with Article 10 below.

7.10 In the event of default, either voluntary or involuntary, by Contractor of:

- (1) Its obligations under this AGREEMENT;
- (2) The Surety Bonds and/or any other agreement between Contractor and Surety; or
- (3) The Contract Agreement;

all funds then held in the Disbursement Account or which may thereafter come to be deposited in the Disbursement Account pursuant to this AGREEMENT, shall be disbursed only with the consent of Surety. Upon receipt of written demand from Surety, following a default of the Principal as defined in this Paragraph, the Principal consents to, agrees, and directs, instructs and authorizes the Disbursement Agent to release all Contract Agreement funds held under this AGREEMENT to Surety.

7.11 Upon completion of the Project as evidenced by a letter of acceptance by the Owner and satisfaction of all liabilities related to or arising out of the Contract Agreement or this AGREEMENT, any funds remaining in the Disbursement Account and any funds that may be accrued by the Disbursement Account shall become the property of Contractor and will be paid within 30 days of receipt of the last payment by Owner, satisfaction of all contractual obligations and upon written consent of Surety.

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7.12 Disbursement Agent is authorized to provide copies of the disbursement monthly summaries, and/or other information on the Disbursement services to Surety, if requested. This authorization shall not create any third party obligations or fiduciary duties between Disbursement Agent and Surety or any other third party.

7.13 In the event of a default as defined by Article 9 below, or if the potential for a default appears imminent, Disbursement Agent is expressly directed, instructed and authorized to provide notice to Surety.

8. Disbursement Agent's Responsibilities

8.1 Disbursement Agent accepts this assignment and undertakes to perform promptly, diligently and faithfully the duties set forth in Article 7 above, upon the condition, however, that its disbursement of funds upon the signed order of Contractor (or Contractor's duly authorized agent) shall, as to Disbursement Agent's duty to the Contractor, be conclusively deemed to be the exercise of due care.

In addition to the foregoing obligation, Disbursement Agent maintains at its principal place of business in Denton, Texas, adequate records of funds received and disbursed in connection with the Project and will permit inspection of these records at any reasonable time or times by Contractor or Surety, or the authorized agent of either of them. The Disbursement Agent has the right to change its principal place of business and will give notice, as soon as possible, if it changes its place of business to the Contractor, the Surety and to the Owner, if applicable.

8.2 Disbursement Agent agrees to maintain for the benefit of Contractor and Surety, a policy of insurance protecting Contractor and Surety from any errors and omissions on its part in performing its obligations pursuant to this AGREEMENT. Disbursement Agent will provide evidence of said coverage to both Contractor and Surety upon their written request(s).

8.3 Contractor and Disbursement Agent agree that in the event the Surety gives the Disbursing Agent directions with respect to the disbursement of Contract Agreement Funds, Disbursing Agent shall be obligated to follow such directions and such directions shall take precedence over any conflicting directions in this AGREEMENT or by the Contractor.

9. Default

9.1 There shall be deemed to have been a default under this AGREEMENT in the event of the occurrence of any of the following:

9.1.1 Failure of Contractor to perform any material obligation to be performed by Contractor in accordance with the Contract Documents or under this AGREEMENT;

9.1.2 Contractor's making of any untrue or misleading statement to Disbursement Agent as to any material fact for the purpose of causing Disbursement Agent to disburse Contract Agreement Funds or to take other action or to omit to take any action;

INITIALS AB (Contractor) AA (AACON)

9.1.3 Failure of Contractor to use and apply within a reasonable time funds paid to the Disbursement Account for the purpose for which funds were paid;

9.1.4 Diversion to any other use of materials furnished, earmarked or obtained for use in this Project;

9.1.5 Contractor's making of an assignment for benefit of creditors, the appointment of a receiver for the Contractor or Contractor's property, or the insolvency of the Contractor;

9.1.6 Transfer, sale, conveyance or assignment by Contractor of Contract Agreement, or of this AGREEMENT, or of any rights, benefits or monies thereunder, except to persons entitled thereto by having furnished labor, materials, or services in the construction of the Project;

9.1.7 If Contractor is an individual, if Contractor dies or becomes incapacitated for any reason, thereby preventing Contractor from performing Contractor's obligations under this AGREEMENT, or if Contractor becomes a fugitive from justice or for any reason disappears and cannot be found immediately by Disbursement Agent by use of the usual methods;

9.1.8 Being defaulted by the Owner;

9.1.9 Breaking any agreement with the Surety.

10. Fee

10.1 For its customary services performed or to be performed pursuant to this AGREEMENT, Disbursement Agent shall be entitled to receive a fee (hereinafter the "Disbursement Fee") of:

Contract Amount	Disbursement Fee Rate
\$0 to \$599,999	One percent (1%) of the contract amount. (\$1,200.00 Minimum Applies)
\$600,000 to \$1,499,999	Three-fourths of One percent (3/4 of 1%) of the contract amount, but not less than \$6,000.00.
Above \$1,500,000	One-Half of One Percent (1/2 of 1%) of the contract amount, but not less than \$11,250.00.
Above \$3,000,000	Three-eighths of One Percent (3/8 of 1%) of the contract amount, but not less than \$15,000.00.

The Disbursement Fee for a particular Project will be established, and agreed, by **ADDENDUM** attached hereto. The Disbursement Fee for each Project shall conclusively be deemed earned by Disbursement Agent upon execution of this AGREEMENT, or the ADDENDUMS hereto, and paid as follows: **in the same proportion as the Contractor is paid by the Owner(s)**. In the event of a default, any unpaid fee shall be paid in full. If the cost of the construction, including the cost of all alterations, deviations and extras, exceeds the sum of the original Contract Price, Disbursement Agent shall be entitled to receive an additional fee, in accordance with the the above fee schedule, of this excess cost.


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10.2 Costs for checks, deposit slips, endorsement stamps, monthly bank service charges, reconciliation, accounting records sheets, and all other materials necessary or proper to establish the appropriate records for receipts and disbursements, along with shipment charges (Federal Express, UPS, Courier, Special Delivery, Etc.) for Disbursement packages, checks, documents, etc. are the sole responsibility of the Contractor and shall be paid by the Contractor from available funds in the Disbursement Account and reimbursed to Disbursement Agent immediately upon incurred cost.

10.3 If Disbursement Agent is required to perform extraordinary services, Contractor shall be liable to pay Disbursement Agent a reasonable sum for these services, and to reimburse Disbursement Agent for necessary expenses. If Disbursement Agent becomes a party to any default, claim, demand, arbitration or litigation arising out of labor or material lien claims involved in the Project or arising out of the Contract Agreement, Contractor shall be liable to pay to Disbursement Agent all of its attorneys' fees and legal costs and the amount of any settlement, judgment or other award rendered in connection with such action and these costs shall be considered Project Costs.

11. This AGREEMENT shall be construed according to the laws and statutes of the State of Texas, except for conflicts of Law questions, which will be construed according to the laws and statutes of the State of New York.
12. Venue under this AGREEMENT shall be in Denton County, Texas.
13. Any suit under this AGREEMENT must be filed within two (2) years and a day of this AGREEMENT being breached, the termination of this AGREEMENT, or the date on which the last check is issued per the terms of this AGREEMENT.
14. This AGREEMENT shall bind and inure to the benefit of the heirs, executors, administrators and successors in interest of the parties of the AGREEMENT.

The parties to this AGREEMENT have executed it on the day first written above.

CONTRACTOR:	DISBURSEMENT AGENT:
Signed: 	Signed: <i>Arnold P. Acker</i>
By/Title: Gilbert Herrera, President	By/Title: Arnold P. Acker, President & CEO
Company: Herrera & Hunt, Inc.	Aacon, Inc.
Address: PO Box 49 Alamo, Texas 78516	624 West University Dr., PMB #238 Denton, Texas 76201-1889
Phone: 956-330-5566	Phone: 940-243-2143 (Patricia Young)
Fax: 956-459-1696 <i>781-3383</i>	Fax: 940-387-2323 (Patricia Young)
Cell:	Phone: 940-665-1399 (Arnold Acker)
Email: Gherrerah1@rgv.rr.com <i>gherrera1@rgv.rr.com</i>	Email: arnold.acker@att.net
	Email: pat.young@aaconinc.com

INITIALS *GH* (Contractor) *AA* (AACON)

EXHIBIT A

HERRERA & HUNT, INC.
PO Box 49
Alamo, Texas 78516
Phone: 956-330-5566 / Fax: 956-459-1696 781-3383

IRREVOCABLE DIRECTIVE OF DRAW PROCEEDS

State Automobile Mutual Insurance Company ("Surety"), Contract Surety for HERRERA & HUNT, INC., ("CONTRACTOR"), has required CONTRACTOR as a condition precedent to issuing its Payment and Performance bonds for the construction of a project known as: **HCDE 09-040JC-07, Lopezville Baseball Park Lighting Project**, to employ the services of a disbursement agent, Aacon, Inc. Aacon, Inc. is to be employed directly by CONTRACTOR and Aacon, Inc. is in no way a party to the agreement between the **Hidalgo County, Texas, Precinct No. 2** ("Owner") and CONTRACTOR.

The Disbursement Agreement between CONTRACTOR and Aacon, Inc. requires that the CONTRACTOR shall assign, per Article 9 of the Uniform Commercial Code and Chapter 9 of the Texas Business and Commerce Code, the Contract Proceeds only for the Project to Aacon, Inc. and the Owner shall direct or shall cause all contract funds, including, but not limited to retainage, interest, change orders, modifications or claim proceeds, if any, to be deposited into a Project Specific Disbursement Account that has been established by Aacon, Inc. for CONTRACTOR. **The Owner signing herein below irrevocably certifies that all payments made to CONTRACTOR for the construction described above shall be posted in the U.S. Mail, delivered by overnight mail, or hand delivered to:**


HERRERA & HUNT, INC.
C/O Aacon, Inc.
624 West University Dr., PMB #238
Denton, TX 76201-1889

Or wire transferred directly to the Project Specific Disbursement Account as follows:

Aacon, Inc., Disbursement Agent for HERRERA & HUNT, INC.
Account No. 427190868, JP MORGAN CHASE BANK.
ABA Routing No. 111000614, JP Morgan Chase Bank, N.A., Branch #00435
1200 West University Drive
Denton, Texas 76201

Aacon, Inc. has the right to change the address to which the funds are to be mailed, or to change the bank and/or account number to which the funds are to be deposited.

This certification is irrevocable by the Owner and can only be changed by written directive of CONTRACTOR with the written consent of the Chief Executive Officer or President of the Surety.

HERRERA & HUNT, INC.:	HIDALGO COUNTY, TEXAS
Signed: 	Signed: _____ Date: _____
By/Title: Gilbert Herrera, President	By/Title: _____
	Phone/Fax: _____
	Email: _____


ADDENDUM No. 1
To
MASTER DISBURSEMENT AGREEMENT

DISBURSEMENT FEE

For its customary services performed or to be performed pursuant to a MASTER DISBURSEMENT AGREEMENT dated, **November 29, 2012**, for a new Contract Agreement entered into by **Herrera & Hunt, Inc.** (hereinafter "Contractor") with **Hidalgo County, Texas, Precinct No. 2**, dated **Contract Date**, for a Project known as: **HCDE 09-040JC-07, Lopezville Baseball Park Lighting Project**, Aacon, Inc. shall be entitled to receive a Disbursement Fee of **\$1,189.15**. This Disbursement Fee shall conclusively be deemed earned by Disbursement Agent upon execution of this AGREEMENT, and paid as follows: **a minimum of 20% (\$237.83) paid with the execution of this AGREEMENT, and the balance (\$951.32) paid in the same proportion as the Contractor is paid by the Owner.** In the event of a default, any unpaid fee shall be paid in full. If the cost of the construction, including the cost of all alterations, deviations and extras, exceeds the sum of **\$118,915.49**, Disbursement Agent shall be entitled to receive an additional fee of **One Percent (1.0%)** of this excess cost.

The project specific Disbursement Account for this Project is styled: **Aacon, Inc., Disbursement Agent for Herrera & Hunt, Inc. – #09/040JC-07**, and has been established with **JP Morgan Chase Bank, N.A., Denton North Branch #00435, Denton, Texas, identified as Account No. 427190868.**

THE PARTIES TO THIS ADDENDUM HAVE EXECUTED IT ON **November 29, 2012.**

CONTRACTOR:	DISBURSEMENT AGENT:
Signed: 	Signed: <i>Arnold P. Acker</i>
By/Title: Gilbert Herrera, President	By/Title: Arnold P. Acker, President & CEO
Company: Herrera & Hunt, Inc.	Aacon, Inc.
Address: PO Box 49	624 West University Dr., PMB #238
Alamo, Texas 78516	Denton, Texas 76201-1889