

**AGREEMENT BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT
Mile 3 N Road Project
C-20-294-02-23**

THIS AGREEMENT is made and entered into on the Effective Date as indicted below, by and between County of Hidalgo, Texas (“Owner”) and **REIM Construction, Inc.**, a Texas limited liability Company (“Contractor”).

WHEREAS, County’s request for responses to notices for Services referenced below (RFB 2020-294) and Contractor’s response to the same are incorporated herein for all purposes.

Owner and Contractor, in consideration of the mutual covenants set forth herein, 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:

Construction of a four lane divided curb & gutter urban section that will include grading, asphalt pavement, flexible base, lime treated subgrade, irrigation and culvert structures, storm drain pipes, riprap, signing, delineation, pavement markings, and one bridge class culvert.

ARTICLE 2- THE PROJECT

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

Mile 3 N Road Project from FM 492 to Tom Gill. Bid No. 2020-294-11-10-HAG.

ARTICLE 3- ENGINEER

3.01 The Project has been designed by **L&G Engineering, Inc., Damien B. Tijerina, P.E., with address at 900 S. Stewart Rd., Suite 5 Mission, Texas 78572**

ARTICLE 4-CONTRACT TIME

4.01 Time is of the Essence

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

4.02 Days to Achieve Substantial Completion

A. The Work will be substantially completed within **480 working days** after the date when the Contract Times commence to run as provided in Item 8L.

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 time specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Item 8L. 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 **One Thousand Two Hundred Dollars (\$1,200.00)** for each day that expires after the time specified in Paragraph 4.02 for Substantial Completion until the Work is substantially complete. 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 **One Thousand Two Hundred Dollars (\$1,200.00)** for each day that expires as provided in 5L.15.1.2.

ARTICLE 5-CONTRACT SUM

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amount of **Fourteen Million Twenty Eight Thousand Six Hundred Forty Eight Dollars and 44 cents (\$ 14,028,648.44)** in current funds 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 Item 9L. 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 Sum on the basis of Contractor's Applications for Payment in accordance with the Texas Prompt Payment Act (Tex. Gov't Code ch.2251) during performance of the Work as provided in Paragraphs 6.02 A.1 and 6.02. A.2 below. All such payments will be measured by the schedule of values established based on the number of units completed:

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, including but not limited to liquidated damages, in accordance with Item 9L:

- a. 95 percent of Work completed (with the balance being retainage) and

- b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

2. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Item 9L.

6.03 Final Payment

A. Upon final completion and acceptance of the Work in accordance with Item 9L, Owner shall pay the remainder of the Contract Sum as recommended by Engineer.

ARTICLE 7-CONTRACTOR'S REPRESENTATIONS

7.01 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 agreeing to the terms and conditions contained within,
- 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 is aware of the general nature of the work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents,
- E. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents,
- F. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor,
- G. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work, and
- H. Under Section 231.006, Family Code, Contractor certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this

contract may be terminated and payment may be withheld if this certification is inaccurate.

ARTICLE 8-CONTRACT DOCUMENTS

8.01 Contents

A. The Contract Documents consist of the following:

1. General Conditions (Item 1L through Item 9L);
2. This Agreement (pages 1 to 6, inclusive);
3. Performance bond (pages 1 to 3, inclusive);
4. Payment bond (pages 1 to 3, inclusive);
5. Specifications as listed in the table of contents of the Project Manual;
6. Drawings consisting of sheets numbered 1 to 467, with each sheet bearing the following general title: Mile 3 N Road Project Hidalgo County, Texas;
7. Addenda (numbers ___ to ___, inclusive);
8. Exhibits to this Agreement (enumerated as follows):
 - a. Required Contract Provisions for all Federal-Aid-Construction Contracts (Form FHWA Form 1273);
 - b. Contractor's Assurance regarding Subcontract Provisions;
 - c. Contractor's Bid Form including Unit Pricing Form (7 pages)
9. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed
 - b. Work Change Directives
 - c. Change Order(s)

B. The documents listed in Paragraph 8.01. 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 8.

D. The Contract Documents may only be amended, modified, or supplemented as provided in 1L. 3.37 of the General Conditions.

ARTICLE 9-MISCELLANEOUS

9.01 Terms

A. Terms used in this Agreement will have the meanings stated in the Items IL-9L.

9.02 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.

9.03 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.

9.04 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.

9.05 Notice

Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests or communication 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 at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to Contractor: REIM Construction, Inc.
9612 Stewart Rd, Mission, Texas 78573
City, State Zip Code

If to County: County of Hidalgo
Attention: County Judge Richard F. Cortez
100 E. Cano, 2nd Floor
Edinburg, Texas 78539

With copy to: Commissioner, Precinct 3
Attention: Everardo "Ever" Villarreal
724 North Breyfogle
Mission, Texas 78572

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 _____, 2021, (which is the Effective Date of the Agreement).

APPROVED BY HIDALGO COUNTY COMMISSIONERS COURT ON _____, 2021.

ATTEST:

By: _____
Arturo Guajardo, Jr., County Clerk

OWNER:

County of Hidalgo, Texas

By: _____
Richard F. Cortez, County Judge

APPROVED AS TO FORM:
Hidalgo County Office of the Criminal
District Attorney

By: _____
Robert Viña III, Assist. D.A.

CONTRACTOR:

Name

By: _____

Title: _____