

SETTLEMENT AND RELEASE AGREEMENT

THIS SETTLEMENT AND RELEASE AGREEMENT ("Agreement") is made by and between the **Williamson County, Texas** ("Owner") and **Chasco Constructors, LTD, LLP** ("Contractor"). From time to time throughout this Agreement, the foregoing entities shall be referred to collectively as the "Parties" or individually as a "Party" to this Agreement.

WHEREAS, Owner procured and contracted with a construction company to construct roadway improvements in relation to the Owner's East Wilco Highway (Southeast Loop Segment 1) Project ("Project");

WHEREAS, Owner's original construction contractor was delayed and did not complete the Project due to utility line conflicts and utility relocation delays at the west end of the Project ("Utility Conflicts");

WHEREAS, due exigent circumstances emanating from the Utility Conflicts and to prevent dangerous roadway conditions that may result from the incomplete work on the Project, Owner's General Engineering Consultant, HNTB Corporation, requested Contractor to complete the construction of various work items on the Project that were not previously completed by Owner's original construction contractor;

WHEREAS, following Contractor's completion of such work on the Project, Contractor submitted a pay application to the Owner in the amount of \$729,337.15, as shown on the pay application costs attached hereto as **Exhibit "1"**;

WHEREAS, following receipt of Contractor's pay application, the Williamson County Auditor did not approve such pay application due to the work being performed prior to the completion of a public procurement process and award of contract for the work performed by Contractor;

WHEREAS, on or about, December 11, 2023, Contractor's legal counsel submitted a written demand for payment of Contractor's pay application, which is attached hereto as **Exhibit "2"**;

WHEREAS, the Parties have agreed, under the threat of litigation, to amicably resolve their disputes relating to the Contractor's demand for payment and desire to set forth the terms thereof in writing.

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained and intending to be legally bound hereby, the parties agree as follows:

1. Agreement by the Owner. Owner hereby agrees, under the threat of litigation, to pay to Contractor the total sum of \$729,337.15 (the "Owner Settlement Payment"), according to the terms of this Agreement, in full satisfaction of the Contractor's claims as hereinafter set forth.

2. Time and Manner of Payment. Owner will submit payment of the Owner Settlement Payment to Contractor within fourteen (14) business days following the Effective Date of this Agreement.

3. Release of Claims by the Contractor. For and in consideration of the Owner Settlement Payment paid by Owner pursuant hereto, the sufficiency of which is acknowledged by Contractor, as well as the mutual promises and covenants herein contained, and effective upon the payment of Owner Settlement Payment, Contractor, for and on behalf of itself and all persons or entities claiming by, through or under it, hereby releases and forever discharges the Owner, its Commissioners Court, and all of their officers, directors, shareholders, employees, contractors, attorneys, agents and servants and their respective predecessors, successors and assigns, of and from, any and all claim, loss, liability, damage, cost or expense that arises out of or relates to the Project, from the commencement of the work through the Effective Date of this Agreement and whether for contract balances, extra or additional work, change orders, delays, acceleration, disruption, lost productivity or inefficiency, cost escalation, extended home or field office overhead or expense, interest, penalties for late payment, attorneys' fees, or any other financial or economic loss or damage of any kind or nature, and whether arising in tort (including negligence and negligent misrepresentation), in contract or otherwise, including, without limitation, the pay application costs as more fully set forth on **Exhibit "1"**. Nothing herein shall be construed or interpreted to release any potential claims between Contractor and Owner for projects other than Project.

4. Common Terms as to All Parties.

a. Nothing in this Agreement shall constitute an admission of liability with regard to the subject matter of this Agreement. By entering into this Agreement, no Party intends to make, nor shall they be deemed to have made, any admission of any kind. The parties agree that they are entering into this Agreement solely as an accommodation for the purposes of settling certain disputes between them and to avoid the cost of further litigation with respect to those disputes. This Agreement is the product of informed negotiations and compromises of previously stated legal positions. This Agreement shall be deemed to fall within the protection afforded to compromises and offers to compromise and settle claims by the Texas Rules of Evidence and the parties to this Agreement agree to its inadmissibility in any proceeding except an action to enforce any provision of this Agreement.

b. In executing this Agreement, no Party has relied upon any oral or written promises, representations or covenants of the other Party or the other Party's representatives except as are expressly provided for herein. The Parties acknowledge that they have each been represented by counsel of their own choosing and that they have carefully and thoroughly reviewed this Agreement, in its entirety, with counsel, that they understand the import and significance of this document, that they are competent to execute this Agreement, and that they are duly authorized to execute this Agreement. The Parties each acknowledge that in executing this Agreement they have relied solely on their own judgment, belief and knowledge, and such advice as they may have received from their own counsel, and that they have not been influenced by any representation or statements made by the opposing Party or opposing counsel.

c. This Agreement shall be binding upon the Parties hereto, their predecessors, successors, parents, wholly and partially owned subsidiaries, affiliates, assigns, agents, directors, officers, employees, contractors, attorneys, heirs and personal representatives.

d. Each party to this Agreement hereby agrees and acknowledges that venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Agreement shall lie exclusively in Williamson County, Texas, and the parties hereto expressly consent and submit to such jurisdiction. Furthermore, except to the extent that this Agreement is governed by the laws of the United States, this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excluding, however, its choice of law rules.

e. Should any litigation be commenced to enforce the terms of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys fees and all costs of litigation from the Party which breached the terms of this Agreement. A breach by one Party to this Agreement shall not diminish the rights, remedies, and defenses of any non-breaching Party.

f. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement. Facsimile signature pages and/or signature pages in or other electronic format shall have the same force and effect as original signatures.

g. Each Party shall bear its own costs, expenses, and attorneys fees in connection with this Agreement and all actions contemplated hereby, unless otherwise expressly noted herein.

h. No addition, amendment, or modification to this Agreement shall be effective unless set forth in a writing signed by all Parties that have executed this Agreement.

i. Owner does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

j. The Parties agree that this Agreement constitutes the entire agreement between the Parties on the subject matter hereof and supersedes all other oral or written understandings or agreements among the parties regarding the subject matter of this Agreement.

[The Remainder of this Page is Blank]

IN WITNESS WHEREOF, the undersigned parties have each executed this Settlement and Release Agreement by and through a duly authorized officer to be effective as of the last Party's execution below ("Effective Date").

OWNER:

Williamson County, Texas

By: Bill Gravelly

Name: Bill Gravelly, Jr., County Judge

Title: As Presiding Officer, Williamson County
Commissioners Court

Date: January 23, 2024

CONTRACTOR:

**Chasco Constructors, Ltd. L.L.P.,
acting by and through its General Partner
Chasco Contracting GP, LLC**

By: [Signature]

Name: CHASCO KINS

Title: VP

Date: January 11, 2024

EXHIBIT "A"

Pay Application Costs



P.O. Box 1057
Round Rock, TX 78680
(512) 244-0600
Fax (512) 244-6065

PROJECT: EAST WILCO HWY CR 138 WORK - R1					11/22/2023
ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	ITEM COST
100-6002	PREPARING ROW	4.00	STA	\$3,650.00	\$14,600.00
104-6022	REMOVING CONC (CURB AND GUTTER)	490.00	LF	\$8.00	\$3,920.00
105-6088	REMOVING STAB BASE AND ASPH PAV (0-5")	745.00	SY	\$9.00	\$6,705.00
106-6002	OBLITERATING ABANDONED ROAD	2,872.00	SY	\$11.00	\$31,592.00
110-6001	EXCAVATION (ROADWAY)	1,934.00	CY	\$25.00	\$48,350.00
132-WC01	EMBANKMENT (FINAL)(DENS CONT)(TY C)	260.00	CY	\$34.00	\$8,840.00
160-WC02	FURNISHING AND PLACING TOPSOIL (4")	1,390.00	SY	\$5.00	\$6,950.00
500-6001	MOBILIZATION	1.00	LS	\$75,000.00	\$75,000.00
502-6001	BARRICADES, SIGNS, AND TRAFFIC HANDLING	0.00	MO	\$4,000.00	\$0.00
529-6008	CONC CURB & GUTTER (TY II)	310.00	LF	\$40.00	\$12,400.00
644-6076	REMOVE SM RD SN SUP&AM	2.00	EA	\$330.00	\$660.00
662-6004	WK ZN PAV MRK NON-REMOV (W) 4" (SLD)	2,485.00	LF	\$0.75	\$1,863.75
662-6034	WK ZN PAV MRK NON-REMOV (Y) 4" (SLD)	2,478.00	LF	\$0.75	\$1,858.50
662-6109	WK ZN PAV MRK SHT TERM (TAB) TY W	500.00	EA	\$1.75	\$875.00
662-6111	WK ZN PAV MRK SHT TERM (TAB) TY Y-2	500.00	EA	\$1.75	\$875.00
666-6170	REFL PAV MRK TY II (W)4"(SLD)	1,985.00	LF	\$0.75	\$1,488.75
666-6178	REFL PAV MRK TY II (W)8"(SLD)	250.00	LF	\$1.50	\$375.00
666-6205	REFL PAV MRK TY II (Y)4"(BRK)	130.00	LF	\$0.75	\$97.50
666-6207	REFL PAV MRK TY II (Y)4"(SLD)	2,348.00	LF	\$0.75	\$1,761.00
677-6001	ELIM EXT PAV MRK & MRKS (4")	525.00	LF	\$2.00	\$1,050.00
3076-6001	D-GR HMA TY-B PG64-22	3,388.50	TON	\$140.00	\$474,390.00
3076-6066	TACK COAT	985.00	GAL	\$4.50	\$4,432.50
6001-6002	PORTABLE CHANGEABLE MESSAGE SIGN	2.00	EA	\$5,000.00	\$10,000.00
999-WC01	FORCE ACCOUNT	1.00	LS	\$21,253.15	\$21,253.15
TOTAL					\$729,337.15

T & M CHANGE PROPOSAL

JOB # 22100-1
Date: 11/15/2023

Chasco Cost Co: 22100-1-01-8110
Work Location: CR 138 S. SH 130

Prepared by: Rick Risener

T&M - FORCE ACCOUNT

Description:

INCLUDES THE FOLLOWING: RELOCATING OVERHEAD FIBER LINE FROM ONE POLE TO ANOTHER. POLE REMOVAL INCLUDED IN PREP ROW - CLEAN UP AND VEGETATIVE MAINTENANCE FOR THE RIBBON CUTTING - UTILITY LOCATING VIA VACUUM EXCAVATION - OFF DUTY POLICE OFFICERS FOR NIGHT WORK TRAFFIC SAFETY.

ITEM	Cost code	DESCRIPTION	Qty	Unit	LABOR		MATERIALS		EQUIP/SUBCONTRACT		TOTAL
					UNIT	TOTAL	UNIT	TOTAL	UNIT	TOTAL	
1		Superintendent	0	hr	90.00	\$0	0.00	\$0	17.00	\$0	\$0.00
2		Admin Assistant	2	hr	42.00	\$84	0.00	\$0	0.00	\$0	\$84.00
3		Foreman	39	hr	85.00	\$3,315	0.00	\$0	24.00	\$936	\$4,251.00
4		Journeyman	37	hr	40.00	\$1,480	0.00	\$0	0.00	\$0	\$1,480.00
5		Skilled Laborer	58	hr	30.00	\$1,740	0.00	\$0	0.00	\$0	\$1,740.00
6		Equipment Operator	10	hr	48.00	\$480	0.00	\$0	0.00	\$0	\$480.00
7		Safety Professional	2	hr	75.00	\$150	0.00	\$0	0.00	\$0	\$150.00
8		Mobile Equipment/Material	4	ld	0.00	\$0	0.00	\$0	400.00	\$1,600	\$1,600.00
9		Small Farm Tractor	10	hr	0.00	\$0	0.00	\$0	35.00	\$350	\$350.00
10		Brush Hog Mowing Implement	10	hr	0.00	\$0	0.00	\$0	5.00	\$50	\$50.00
11		Misc Small Tools & Supplies	36	hr	0.00	\$0	0.00	\$0	5.00	\$180	\$180.00
12		Police for Traffic Control	1	ls	0.00	\$0	0.00	\$0	1470.00	\$1,470	\$1,470.00
13		Utility Locating @ Dns	1	ls	0.00	\$0	0.00	\$0	1606.00	\$1,606	\$1,606.00
14		18" Class III RCP (Purchased)	64	lf	0.00	\$0	60.00	\$3,840	0.00	\$0	\$3,840.00
15		Wilco Purchase of Chasco Owned Water Barriers (~\$400.00 new)	6	ea	0.00	\$0	200.00	\$1,200	0.00	\$0	\$1,200.00
16			0	ls		\$0	0.00	\$0	0.00	\$0	\$0.00
		SUBTOTALS				\$7,249	0.00	\$5,040	0.00	\$6,192	\$18,481.00

Further description:

Insurance	0.00%	\$0.00
Overhead	0.00%	\$0.00
SUBTOTAL		\$18,481.00
MARKUP	15.000%	\$2,772.15
GRAND TOTAL		\$21,253.15

Exhibit “B”

Contractor’s Demand and Threat of Litigation

McNERY & VOELKER, P.C.
Attorneys & Counselors at Law

FIRST TEXAS BANK BUILDING
600 ROUND ROCK AVENUE
SUITE 2
ROUND ROCK, TEXAS 78664
Telephone (512) 255-6840
Telecopier (512) 255-6875

Dan R. McNery
(1946 - 2019)

Troy L. Voelker
troy@mcneryvoelker.com

December 11, 2023

Christen Eschberger, VP, PE
Williamson County Road Bond Program
Project Director
HNTB CORPORATION
101 East Old Settlers Blvd, Suite 225
Round Rock, Texas 78664

Certified Mail, Return Receipt Requested

and by email
ceschberger@hntb.com

RE: County Road 138 Project

Greetings:

I represent Chasco Constructors, LTD, LLP (“Chasco”), and I have been asked to pursue payment for the labor and materials my client supplied for this project. It is my understanding Chasco timely completed this project and its work was approved by the project director. Upon approval, a pay request was submitted consistent with the contract. Despite that approval, the request was rejected based upon the determination that the project had not been properly bid.

The bidding process and notice of award were clearly out of my client’s control. In any event, I have received no indication that the County has any issue with the quality of the work or the amount being requested. It is our position that the work was done and the money is owed. I am, therefore making formal demand for payment of \$729,337.15 as shown in the following application - the same application which was previously rejected.

My client has a long history of successful completion of projects for Williamson County. We trust that this matter can be resolved quickly and amicably. I see no reason that I should have to advise my client to seek relief in court, but I feel obligated to do so if payment is not forthcoming.

Sincerely,

A handwritten signature in black ink, appearing to read 'Troy L. Voelker', with a stylized, flowing script.

Troy L. Voelker

cc: Charles King
Judy Kiley, County Auditor

chasco.cr138 kiley hr