

RESOLUTION 39-2010

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, APPROVING AN AGREEMENT WITH DEANDA CONSTRUCTION FOR THE BENSON SIDEWALK PROJECT AS PART OF PHASE III OF CDBG GRANT #112-09

WHEREAS, the City of Benson was previously awarded a grant by the Arizona Department of Housing for a Community Development Block Grant (CDBG) from the Federal Department of Housing and Urban Development for construction of sidewalks on Patagonia Street from Flint to Walker on the East side, Huachuca Street from Flint to Walker on the East side, San Pedro Street from Flint to Walker on the West side and Mark Street from Patagonia to San Pedro on the North side, within the City of Benson; and

WHEREAS, the Public Works Department has published a request for sealed bids for the sidewalks and other work described in this grant application and the proposal received from DeAnda Construction, in the amount of \$29,632.40 is recommended for selection as the lowest responsible bidder.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Benson, Arizona, as follows:

The construction contract with DeAnda Construction attached hereto as Exhibit "A" and incorporated herein by this reference, in the amount of \$29,632.40 is hereby approved and the Mayor is authorized to execute said agreement on behalf of the City; Brad Hamilton, City Engineer and Public Works Director, is hereby designated as project manager of the above-described project on behalf of the City.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, this 7th day of June, 2010.



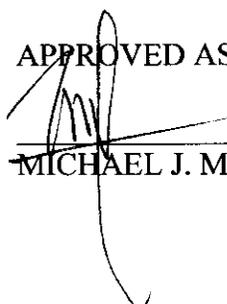
MARK M. FENN, Mayor

ATTEST:



VICKI L. VIVIAN, CMC, City Clerk

APPROVED AS TO FORM:



MICHAEL J. MASSEE, City Attorney

EXHIBT A
CONSTRUCTION AGREEMENT

City of Benson
Benson Sidewalk Project (Phase III), CDBG #112-09

CONSTRUCTION AGREEMENT
City of Benson
Sidewalk Project, CDBG #112-09

THIS AGREEMENT, made and entered into as of the date last signed, by and between the City of Benson, Arizona, organized and existing under the laws of the State of Arizona, hereinafter designated as the "Owner" and DeAnda Construction, hereinafter designated the "Contractor".

WITNESSETH: That the Contractor and the City of Benson, in consideration of the mutual covenants herein contained, agree as follows:

ARTICLE I
SCOPE OF WORK

To construct 4 foot wide concrete sidewalks at the following locations:

1. Patagonia Street, from Flint to Walker, on the East side, approx. 3,480 sq ft
2. Huachuca Street, from Flint to Walker, on the East side, approx. 2,640 sq ft
3. San Pedro Street, from Flint to Walker, on the West side, approx. 2,440 sq ft
4. Mark Street, from Patagonia to San Pedro, on the North side, approx. 2,520 sq ft

Alley Crossings will be required to have depressed ramps. There are 2 on Huachuca Street, 2 on San Pedro Street. The Crossing shall be per Detail No. 207 Sheet 4 of 5 top details of Pima County-City of Tucson Standard Details for Public Improvements 2003 Edition. The Sidewalk in the alley section shall be 7" in depth of concrete and will require curb remove and replacement.

The Sidewalk shall be constructed to Pima County-City of Tucson Standard Specification for Public Improvements 2003 Edition. The grade of the Sidewalks shall be the same grade as the curbing of the street that it parallels. No existing sidewalk is to be removed or replaced. Any additional base or fill material will be provided by the City of Benson. Any waste material will be disposed of by the contractor at Lions Park. The City of Benson will designate the location.

The City of Benson retains the right to increase, reduce or eliminate portions of the work to coincide with the availability of Project funds. See complete bid document for details. The Contractor shall furnish all materials, labor, equipment, services and transportation, and perform all of the work on for the Owner's project known as **BENSON SIDEWALK PROJECT, CDBG CONTRACT #112-09.**

1.2 This project is wholly or in part federally funded and the Contractor, accordingly will be required to comply with all applicable federal laws, including but not limited to the Federal Labor Standards Provisions, Davis-Bacon Act (29 CFR Parts 1, 3, 5, 6, and 7), Contract Work Hours and Safety Standards Act, Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented by the Department of Labor regulations (29 CFR Part 3), and the Fair Labor Standards Act.

1.3 The Contractor agrees to comply with the Federal Labor Standards Provisions (HUD 4010 (2-83)), which is incorporated by reference herein. The Contractor shall supply information to the Owner as necessary for monitoring of compliance to include, but not limited to, submission of Labor Standard Forms included in the bid package, on-site inspections, investigations and/or enforcement by the Owner. The Contractor agrees to comply with the current **Wage Rate Determination General Decision Numbers: AZ100014, MOD #2, 03/26/2010, HIGHWAY**, which are included in the bid package and incorporated by reference.

ARTICLE II CONTRACT PRICE

Basic Price. The City of Benson shall pay the Contractor the base bid sum of Twenty Nine Thousand, Six Hundred and Thirty Two Dollars and Forty Cents (\$29,632.42), subject to adjustment as actual units are determined.

ARTICLE III CONTRACT DOCUMENTS

The following listed documents constitute the Contract Documents and they are all as fully a part of the Contract as if herein repeated.

1. Invitation to Bid
2. Information for Bidders
3. Bid Proposal
4. Non-Collusion Affidavit
5. List of Subcontractors
6. 10% Bid Bond
7. 100% Statutory Labor and Materials Payment Bond
8. 100% Statutory Performance Bond
9. Notice of Award
10. Notice of Non-Award
11. Notice to Proceed
12. Construction Agreement
13. Standard General Conditions
14. Federal Supplementary Conditions (if applicable)
15. Supplementary Conditions
16. LS-2, Contractor Certification
17. LS-3, Subcontractor Certification
18. Certification Regarding Lobbying

19. Certification Regarding Conflict of Interest
20. Cement (Fly Ash) Certification
21. Civil Rights Provisions
22. Section 503 Clause (Affirmative Action for Handicapped Workers)
23. Section 3 Clause
24. EEO Provisions
25. Federal Labor Standards Provisions (HUD 4010)
26. Wage Rate Determination: **AZ100014, MOD #2, 03/26/2010, HIGHWAY**
27. SEAGO Labor Standards (SLS) Form B, Point of Contact Information Sheet
28. SLS Form C, Professional Firm's Sub-Firm's Certification
29. LS-4, Weekly Payroll Reports
30. LS-5, Statement of Compliance
31. LS-7, Notice to All Employees
32. LS-13, Request to Conform an Additional Classification
33. LS-14, Fringe Benefits Documentation Form
34. LS-15, Authorization for Deductions
35. LS-17, Certification for Applicable Fringe Benefit Payments
36. Non-Discrimination Poster
37. EEO Certification Poster
38. EEO It's the Law Poster
39. LS-9, Record of Employee Interviews Labor Standards
40. LS-10, On-Site Inspection Report
41. LS-11, Labor Standards Investigative Report
42. LS-12, Labor Standards Enforcement Report
43. S3B-1, Section 3 Assurance
44. S3B-2, Estimated project Work Force Breakdown
45. S3B-3, Section 3 Business Self-Certification
46. S3P-1, JOBS! JOBS! JOBS! Section 3 Notice
47. S3P-2, Preliminary Resident Eligibility Determination
48. S3P-3, Employment Survey
49. S3R-1, Notice Documentation
50. S3R-2, Business Utilization Report
51. S3R-3, Applicant and New Hire Employment Report
52. Addenda (if any)

ARTICLE IV BONDS

Performance Bond and Labor And Material Payment Bond. The Contractor shall furnish performance and labor and material payment bonds covering the faithful performance of the Contract and the payment of all obligations arising, thereunder, in such form and amount as the Owner may prescribe and with such sureties as may be agreeable to the Owner. The premiums shall be paid by the Contractor. The Contractor shall, prior to commencement of the Work, submit such bonds to the Owner.

**ARTICLE V
TIMETABLE**

4.1 Starting Time. Notice to Proceed shall be issued not later than 30 days after execution of this agreement.

4.2 Completion Time:

4.2.1 The work shall be completed within 60 consecutive calendar days for construction after the date of the Notice to Proceed. The Contractor agrees that said work shall be prosecuted promptly, regularly, diligently and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified.

4.2.2 It is expressly agreed that the time for completion is a reasonable time, considering average climatic conditions and usual industrial conditions prevailing in the area.

**ARTICLE VI
PROGRESS PAYMENT**

After the Owner has approved an Application for Payment, the Owner shall make a payment to the Contractor as soon as grant funds become available from the State CDBG Program to the Owner, or sooner, at the OWNER'S discretion, and subject to compliance with labor standard requirements. Payment will be based on ninety percent (90%) of the value of the Work actually performed during the preceding calendar month. Any amounts retained by Owner shall be paid to the Contractor, as previously specified, after the Final Completion Date, provided the Contractor has by that time duly furnished the Owner consent of surety, lien waivers, any other documents of any nature called for in the Contract Documents or required for the proper functioning of the Work as a whole and has otherwise performed all of Contractors' obligations under the Contract Documents.

**ARTICLE VII
LIQUIDATED DAMAGES**

Liquidated Damages. If the work is not completed when agreed, the Contractor shall pay to the City of Benson \$300.00/day as liquidated damages for each consecutive calendar day the work remains incomplete after the scheduled completion date for construction.

**ARTICLE VIII
INSURANCE**

8.1 The CONTRACTOR shall procure and shall maintain during the life of this Contract: Statutory Workmen's Compensation Insurance, Contractor's Public Liability Insurance, Contractor's Property Damage in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate; and Vehicular Liability of \$1,000,000 for any one person or \$2,000,000 for each occurrence. The OWNER/GRANTEE shall be named as co-issued on the policy.

- 8.2 The CONTRACTOR shall either (1) require each of his/her subcontractors to procure and to maintain during the life of his/her subcontract, Subcontractor's Public Liability and Property Damage Insurance of the type and in the amounts specified above; or (2) insure the activities of his/her subcontractor's in his/her policy specified above.
- 8.3 "All Risk" type Builder's Risk Insurance will not be required for this Project.
- 8.4 Property Insurance. The OWNER/GRANTEE shall not be required to maintain a property insurance policy upon the work.

ARTICLE IX SUSPENSION OF WORK AND TERMINATION

9.1 Termination of Contract for Cause:

9.1.1 If, through any cause, the CONTRACTOR shall fail to fulfill in a timely and proper manner his/her obligations under this Contract, or if the CONTRACTOR shall violate any of the covenants, agreements, or stipulations of the Contract, the OWNER/GRANTEE shall thereupon have the right to terminate this Contract by giving written notice to the CONTRACTOR of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the CONTRACTOR under this Contract shall, at the option of the OWNER/GRANTEE, become its property and the CONTRACTOR shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

9.1.2 Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to the OWNER/GRANTEE for damages sustained by the OWNER/GRANTEE by virtue of any breach of the Contract by the CONTRACTOR, and the OWNER/GRANTEE may withhold any payments to the CONTRACTOR for the purpose of set-off until such time as the exact amount of damages due the OWNER/GRANTEE from the CONTRACTOR is determined.

- 9.2 Termination for Convenience of the OWNER/GRANTEE. The OWNER/GRANTEE may terminate this Contract at any time by giving at least (10) days notice in writing to the CONTRACTOR. If the Contract is terminated by the OWNER/GRANTEE as provided herein, the CONTRACTOR will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the CONTRACTOR, the aforementioned clause relative to termination shall apply.

ARTICLE X RECORDS DOCUMENTATION

- 10.1 Records Retention. The CONTRACTOR shall maintain accounts and records including personnel, property and financial records adequate to identify and account

for all costs pertaining to the Contract and such other records as may be deemed necessary by the OWNER/GRANTEE to assure proper accounting for all project funds both Federal and non-Federal shares. These records will be retained for five (5) years after the expiration of this Contract unless permission to destroy them is granted in writing by the OWNER/GRANTEE.

10.2 Access to Records. Legible copies of all records maintained by the CONTRACTOR shall be made available, upon request, to the OWNER/GRANTEE, the Arizona Department of Housing, the Office of the Inspector General (HUD), and any other body authorized by the OWNER/GRANTEE.

**ARTICLE XI
MISCELLANEOUS**

11.1 Guarantee. The Contractor shall guarantee all work under this Contract against defects of material and workmanship for a period of one (1) year from the completion date. Material and workmanship made good through compliance with such guarantee shall be subject to the same guarantee for a period of one (1) year from the date on which the material and/or workmanship was made good.

11.2 Assignment. Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other, nor shall the Contractor assign any monies due or to become due to him hereunder without the previous written consent of the City of Benson.

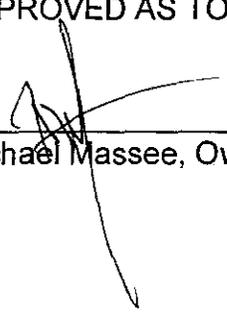
SIGNED this _____ day of _____, 2010.

Glenn Nichols, City Manager, City of Benson

COUNTERSIGNED this _____ day of _____, 2010.

Daniel DeAnda, President/Owner

APPROVED AS TO FORM this 14 day of JUNE, 2010.



Michael Massee, Owner's Legal Representative

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ARTICLE XI MISCELLANEOUS

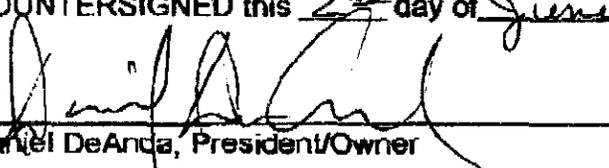
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SIGNED this _____ day of _____, 2010.

Glenn Nichols, City Manager, City of Benson

COUNTERSIGNED this 2nd day of June, 2010.



Daniel DeAnda, President/Owner

APPROVED AS TO FORM this _____ day of _____, 2010.
