

**SECTION 7**

STATE OF TEXAS§

**Contract**

COUNTY OF JOHNSON §

PROJECT NO. ST2305

This Contract, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of Burleson of Johnson County, Texas, a municipal corporation, hereinafter called "OWNER," and  
TEJAS CUTTERS, LLC  
hereinafter called "Contractor."

W I T N E S S E T H:

For and in consideration of the payment, agreements and conditions hereinafter mentioned, and under the conditions expressed in the bonds herein, Contractor hereby agrees to complete the construction of improvements described as follows:

**Elk Drive Sidewalk Improvements**

**City of Burleson Project No. ST2503**

in the City of Burleson, Texas, and all extra work in connection therewith, under the terms as stated in the Standard Specifications for Public Works Construction as it may be amended from time to time (hereinafter called "Standard Specifications"), and under the terms of the Special Provisions of this Contract; and at his, her or their own proper cost and expense to furnish all superintendence, labor, insurance, equipment, tools and other accessories and services necessary to complete the said construction in accordance with all the Contract documents, incorporated herein as if written word for word, and in accordance with the plans, which include all maps, plats, blueprints, and other drawings and printed or written explanatory manner therefore, and the specifications as prepared by OWNER, who has been identified by the endorsement of the Contractor's written proposal, these General Provisions of the Standard Specifications, the Special Provisions of this Contract, the payment, performance, and maintenance bonds hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire Contract.

The Contractor hereby agrees to commence work within fifteen (15) days after the date written notice to do so shall have been given to him or her and to

quantities and unit prices stated in the proposal or as modified by change order, the sum of which TWO HUNDRED FOURTEEN THOUSAND SEVEN HUNDRED FIFTY-ONE AND 80/100 DOLLARS (\$214,751.80) subject to additions and deductions, as provided therein.

Within the following thirty (30) days, Owner shall make partial payments to the Contractor for work performed during the preceding calendar month as estimated by the Owner or Owner's Representative. Ten percent (10%) of Each estimate shall be retained by the Owner until final completion and acceptance of all work covered by the Contract for contracts less than four hundred thousand dollars (\$400,000). Five percent (5%) of each estimate shall be retained by the Owner until final completion and acceptance of all work covered by the Contract for contracts greater than four hundred thousand dollars (\$ 400,000). Upon completion and acceptance of all work in compliance with the Contract, the Owner shall, within thirty (30) days, pay the Contractor the balance due under the terms and conditions of the Contract.

This Contract is entered into subject to the Charter and ordinances of OWNER, as they may be amended from time to time, and is subject to and is to be construed, governed, and enforced under all applicable State of Texas and federal laws. Situs of this Contract is agreed to be Johnson County, Texas, for all purposes including performance and execution.

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this Contract is held for any reason to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this Contract shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

OWNER reserves the right to terminate this agreement immediately upon breach of any term or provision of this Contract by Contractor; or, if any time during the term of this Contract, Contractor shall fail to commence the work in accordance with the provisions of this Contract or fail to diligently provide Services in an efficient, timely, and careful manner and in strict accordance with the provisions of this Contract or fail to use an adequate number or quality of personnel and equipment to complete the work or fail to perform any of its obligations under this Contract, then OWNER shall have the right, if Contractor shall not cure any such default after thirty (30) days written notice thereof, to terminate this Contract and complete the work in any manner it deems desirable, including engaging the Services of other parties therefore. Any such act by OWNER shall not be deemed a waiver of any other right or remedy of OWNER.

If after exercising any such remedy the cost to OWNER of the performance of the balance of the work is in excess of that part of the Contract sum which has not theretofore been paid to Contractor hereunder, Contractor shall be liable for and shall reimburse OWNER for such excess.

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but, each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

Contractor's status shall be that of an independent Contractor and not an agent, servant, employee or representative of OWNER in the performance of this Contract. No term or provision of, or act of Contractor or OWNER under this Contract shall be construed as changing that status.

This Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties relating to matters herein; and except as otherwise provided herein, cannot be modified without the written agreement of the parties.

OWNER and Contractor each bind themselves, their successors, executors, administrators and assigns to the other party to this Contract. Neither OWNER nor Contractor will assign, sublet, subcontract or transfer any interest in this Contract without the written consent of the other party. No assignment, delegation of duties or subcontract under this Contract will be effective without the written consent of OWNER.

It is further agreed that one or more instances of forbearance by the OWNER in the exercise of its rights herein shall in no way constitute a waiver thereof.

In performing this Contract, Contractor agrees to use diligent efforts to purchase all goods and services from Burleson Businesses whenever such goods and services are comparable in availability, quality and price.

IN WITNESS WHEREOF, the parties of these presents have executed this agreement in the year and date first written above.

WITNESS:

CONTRACTOR

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Typed/Printed Name

\_\_\_\_\_  
Tax Identification Number:

\_\_\_\_\_  
Title

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Printed or Typed Title

ATTEST:

CITY OF BURLESON, TEXAS

\_\_\_\_\_  
Amanda Campos  
City Secretary

\_\_\_\_\_  
Tommy Ludwig  
City Manager

THE STATE OF TEXAS §

**Corporate Acknowledgment**

COUNTY OF JOHNSON §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared \_\_\_\_\_, who is known to me or who was proved to me on the oath of \_\_\_\_\_ (name of person identifying the acknowledging person) or who was proved to me through \_\_\_\_\_ (description of identity card or other document issued by the federal or state government containing the picture and signature of the acknowledging person) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of \_\_\_\_\_, a corporation of \_\_\_\_\_ County, Texas, and as \_\_\_\_\_ thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public In and For The State of Texas

\_\_\_\_\_  
Notary's Printed Name

My Commission Expires: \_\_\_\_\_

THE STATE OF TEXAS §

**City Acknowledgement**

COUNTY OF JOHNSON §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared \_\_\_\_\_, known to me to be a person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act of the City of Burleson, Texas, a Texas municipal corporation, and as \_\_\_\_\_ thereof, and for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public In and For The State of Texas

\_\_\_\_\_  
Notary's Printed Name

My Commission Expires: \_\_\_\_\_