

AGREEMENT made as of the **15th** day of **November** in the year **2014**

BETWEEN the Owner:

Webb County
Webb County Justice Center
1110 Victoria St
Suite 201
Laredo, TX 78040-0029

and the Contractor:

AC-DC, Inc.
1519 E. Price
Laredo, TX 78040

for the following Project:

Sheriff's Administrative Building Paving/Fencing

Project: RFP 2014-08

902 Victoria St

Property Location is described as Western Division, Block 175, Lots 1-4

The Architect:

N/A

The Owner and Contractor agree as follows.

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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or

agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

**The date will be a fixed date in a notice to proceed
Days to Complete this project will be 90 days**

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than **Ninety (90)** days from the date of commencement, or as follows: **Upon receiving Notice to Proceed**

Portion of Work

Substantial Completion Date

subject to adjustments of this Contract Time as provided in the Contract Documents. Prior to being given and/or receiving a Notice to Proceed, Contractor shall submit a full list of all contractors, materialmen, and/or suppliers, with address, contact phone numbers, e-mails, fax and/or office numbers to both Owner/Architect. Should the Contractor fail for any reason to achieve total Substantial Completion by the date set forth in Section 3.3, the Contractor shall pay liquidated damages (and any attorneys' fees, as discussed below) to the Owner in the amount set forth above. The Parties agree that such liquidated damages are reasonable estimate of the damages which Owner will suffer from such delay. Should litigation or arbitration arise regarding the Contract Documents or the Work, attorneys' fees shall be awarded to the party who prevails in such litigation or arbitration. An award of liquidated damages under this provision shall not preclude Owner's right to recover attorneys' fees. It is understood that the Contractor shall make all reasonable efforts to maintain the current project schedule as included in this contract and subsequent revisions.

The Contractor shall not be entitled to additional or extended general condition costs due to the Contractor's failure to complete all work on schedule unless such failure is a result of an Owner initiated change in scope of Work and Contractor followed the applicable procedures for requesting such additional compensation pursuant to the General Conditions and notified Owner, in writing, promptly of the change in Scope of Work.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be **One Hundred Seventy Five Thousand Dollars and no Cents (\$ 175,000.00)**, subject to additions and deductions as provided in the Contract Documents.

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner: **N/A**

§ 4.3 Unit prices, if any:

Item	Units and Limitations	Price Per Unit (\$ 0.00)
N/A	N/A	N/A

§ 4.4 Allowances included in the Contract Sum, if any:

Item	Price
N/A	N/A

ARTICLE 5 PAYMENTS

§ 5.1 PROGRESS PAYMENTS

§ 5.1.1 Based upon Applications for Payment submitted to the County Engineer by the Contractor and Certificates for Payment issued by the Webb County, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month

§ 5.1.3 Provided that an Application for Payment is received by the Webb County Engineering Dept. not later than the 25th day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the 1st day of the following month provided that if a lien is filed, payment may be withheld until the lien has been released or bonded off. If an Application for Payment is received by the Webb County Engineering Dept., after the application date fixed above, payment shall be made by the Owner not later than Thirty (30) days after the Webb County Engineering Dept., receives the Application for Payment; subject to the approval of Owner, provided that if a lien is filed, payment may be withheld until the lien has been released or properly bonded off

Each Application for Payment shall include a lien release for the current draw request (conditional); current monthly cost report; letter to Owner certifying that the estimated costs, as indicated on each Monthly Application for Payment, are current and sufficient for the completion of construction of the Project; provided, however, neither this estimate nor the payment of any sums shall be deemed acceptance of Work not completed in accordance with the plans and specifications and Contractor shall remain obligated to complete the Work in accordance with the plans and specifications regardless of whether payment has been made.

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work and must be submitted with each Application for Payment. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Webb County Engineering Dept., may require. This schedule, unless objected to by the Webb County Engineering Dept., shall be used as a basis for reviewing the Contractor's Applications for Payment; provided, however, the Schedule of Values shall not be deemed acceptance of work not completed in accordance with the plans and specifications and the Contractor shall remain obligated to complete the Work in accordance with the plans and specifications regardless of the Schedule of Values..

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment; provided, however, neither the application, nor the reflected percentage of completion, nor the payment of any sums shall be deemed acceptance of the Work not completed in accordance with the plans and specifications and the Contractor shall remain obligated to complete the Work in accordance with the plans and specifications regardless of whether payment has been made less retain-age of **TEN percent (10%)**.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retain-age of **TEN Percent (10%)**. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™-2007, General Conditions of the Contract for Construction;

- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retain-age of **TEN percent (10%)**;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retain-age applicable to such work and unsettled claims; (The Webb County Engineering Dept. shall withhold **TEN percent (10%)** for incomplete Work and punch list item(s)).
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-2007.

§ 5.1.8 Reduction or limitation of retain-age, if any, shall be as follows: **TEN percent (10%)** until Final Payment under Section 5.2.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 FINAL PAYMENT

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-2007, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect, together with;
- .3 a signed and fully verified affidavit of completion affirming full payment to all subcontractors, materialmen/suppliers must signed by the General Contractor which shall first be required to be submitted to Owner/Architect.
- .4 a signed and fully verified release and verification of payment confirming full payment to be executed by any and all individual subcontractors and materialmen/suppliers which shall first be required to be submitted to Owner/Architect for issuance of final certificate for payment.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Webb County Engineering Dept. final Certificate for Payment, or as follows:

No later than thirty (30) days after:

- (a) The Contractor submits to Owner an unconditional lien for the material and labor in connection with this Project for prior month's pay request. Such lien shall be from the Contractor, each subcontractor and each potential lien claimant and shall be executed and acknowledged before a notary; and
- (b) Completion of the scope of Work under this Agreement, with any amount paid, less the amount determined by the Architect for any incomplete items such as the Architect's punch work, the units' respective purchasers' punch work, and any warranty items; and
- (c) The amount is withheld from final payment to the Contractor at Substantial Completion shall be equal to one half (1/2) times the cost to complete the County Engineer's punch work, the units' respective

- purchasers' punch work, and any warranty items, with such cost to be determined by the County Engineer; and
- (d) Owner is in receipt of all warranties and manuals for each subcontractor as related to the close-out documents, which a list of such close-out documents and noted by the specifications such as test reports, redline drawings (2 copies) and termite inspection reports; and
 - (e) The Contractor submits to Owner the copies of all permits, inspection reports, test reports, signed and approved by the local or regulating authority involving the Project; and
 - (f) Owner's receipt of certificates of final completion of the Project from the County's engineers certifying that the Project has been substantially completed in accordance with the Contract Documents, subject to a minor punch list; and
 - (g) Providing as-built drawings and redlines detailing any changes made to the original plans and specifications; and
 - (h) Conditional full and final lien waivers from the Contractor and each subcontractor and potential lien claimant receiving money from the final payment and unconditional full and final waiver of liens from such parties within fifteen (15) working days after receipt of final payment from the Owner; and
 - (i) Contractor's final accounting.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 INITIAL DECISION MAKER

The County Engineer will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2007, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

§ 6.2 BINDING DISPUTE RESOLUTION

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201-2007, the method of binding dispute resolution shall be as follows:

- Arbitration pursuant to Section 15.4 of AIA Document A201-2007
- Litigation in a court of competent jurisdiction in Webb County, Laredo, TX
- Other (*Specify*)

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2007.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201-2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

§ 8.3 The Owner's representative:

Joe Lopez
Webb County Sheriff's Dept.
902 Victoria
Laredo, TX 78040

§ 8.4 The Contractor's representative:
 David J. Cantu
 243 El Rocio
 Laredo, TX 78043
 956-744-7005

§ 8.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

§ 8.6 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A101-2007, Standard Form of Agreement Between Owner and Contractor.

§ 9.1.2 The General Conditions are AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Paving/Fencing Project Specifications	Exhibit One	October 9, 2014	1 of 1
Letter to Webb County Engineering	Exhibit Two	October 9, 2014	1 of 1

§ 9.1.4 The Specifications:

Section	Title	Date	Pages

§ 9.1.5 The Drawings:

Number	Title	Date
Pg 02-05 Exhibit 4	Howland Engineering & Surveying Co.	08-22-12

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
#1 Question & Answers Exhibit Three	Exhibit Three	1

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents:

- .1 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:

All notices required in the Contract Documents shall be mailed certified, return receipt requested.

- .2 Other documents, if any, listed below:

N/A

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201-2007.

Type of insurance or bond Payment & Performance

Limit of liability or bond amount (\$ 175,000.00)

1. Workers Compensation	Statutory Limit
2. General Liability	\$1,000,000 each occurrence/\$1,000,000 annual aggregate
3. Personal Injury	\$1,000,000 annual aggregate
4. Comprehensive Auto Liability	\$1,000,000 Bodily Injury each person/\$2,000,000 each occurrence; \$1,000,000 Property Damage each occurrence
5. Excess Limits (Umbrella)	\$1,000,000
6. Builders Risk/Contractual	Amount of Contract: N/A

This Agreement entered into as of the day and year first written above.

Danny Vally
OWNER (Signature)

 (Printed name and title)

[Signature]
CONTRACTOR (Signature)
Gerardo Martinez / PRESIDENT.
 (Printed name and title)

ATTEST:

Margie Ramirez Ibarra
 Margie Ramirez Ibarra
 Webb County Clerk



APPROVED AS TO FORM:

[Signature]

Marco A. Montemayor
 Webb County Attorney

*By law, the county attorney's office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).

ACDC, INC
1519 EAST PRICE • LAREDO, TEXAS 78040
Phone (956) 724-4684

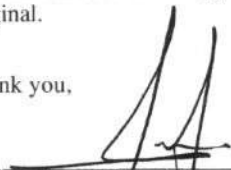
IRREVOCABLE DIRECTIVE OF DRAW PROCEEDS

Re: Paving and Fencing Project for the Sheriffs Administrative Building
File#: WEBB COUNTY (TEXAS) RFP 2014-08

Please be advised that AC DC, INC. has assigned its accounts on this project to RMP Capital Corp for the purpose of disbursing funds at the direction of the Surety. This letter represents the AC DC, INC and WEBB COUNTY (TEXAS) written consent to use RMP Capital Corp. Lockbox System. To the extent that WEBB COUNTY (TEXAS) is now indebted or may in the future become indebted to AC DC, INC with respect to the above referenced contract, payment thereof is to be made as hereby directed and not to AC DC, INC or any other entity unless authorized by the above referenced contract. Payment in any other way will not discharge this obligation. Except by order of Court, this agreement is irrevocable and can only be changed by written consent of RMP Capital Corp., with such consent signed before a notary public. Notwithstanding anything contained herein, WEBB COUNTY (TEXAS) reserves all of its rights under the above referenced contract, including, but not limited to, the right to make payments to unpaid claimants of AC DC, INC in accordance with the terms of the above referenced contract. However, the foregoing notwithstanding, WEBB COUNTY (TEXAS) recognizes RMP Capital Corp.'s assignment of all accounts due to AC DC, INC and will remit to RMP Capital Corp. any and all payments it would otherwise have made directly to AC DC, INC. Furthermore, WEBB COUNTY (TEXAS) will not, under any circumstances, release any payments directly to AC DC, INC, its owners, and employees or otherwise affiliated entities.

NOTE: An electronic copy of this agreement by WEBB COUNTY (TEXAS) will act the same within the same force as an original.

Thank you,



GERARDO MARTINEZ, PRESIDENT

Payments are requested to be made out to AC-DC, INC and forwarded, as follows:

By Regular	ACDC, INC c/o RMP Capital Corp. 2800 E. Broadway, Suite C#354 Pearland, Texas 77581
By ACH funds transfer:	c/o RMP Capital Corp. Bank of America Routing No: 111 000 025 Account No: 5860 3246 8008
By Wire Transfer:	c/o RMP Capital Corp. Bank of America Routing No: 026 009 593 Account No: 5860 3246 8008

WEBB COUNTY (TEXAS)

By: *Danny Valdez* Date: _____

Name of Signer: Danny Valdez, Webb County Judge
Business Address: 1000 Houston Street, 3rd Floor, Laredo, Texas 78040
Phone: 956-523-4600

CC: Leo Flores, County Auditor
Delia Perales, County Treasurer

To be acceptable, this form must be filled out, in full, and completely legible.