

DURHAM, J. C. PURCHASE OF IMPROVEMENTS (Stock Subscription Contract) FLAYA DRAIN

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APRIL 1924

~~6-19-1924~~ TEXAS

DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Rio Grande IRRIGATION PROJECT

CONTRACT RELATING TO ~~Purchase of Land~~
Improvements.

This Contract, Made April 29, 1924, in pursuance of the act of June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, between THE UNITED STATES OF AMERICA, herein styled the United States, represented by the officer executing this contract,¹ and subject to the approval of the proper supervisory officer, and

J. C. DUNHAM, El Paso, Texas.

herein styled Contractor, his ¹ heirs, executors, administrators, successors, and assigns.

2. Witnesseth, That the parties hereto do hereby mutually covenant and agree as follows:

² The Contractor will ~~do hereby sell, assign, transfer and set over to the~~
United States, free and clear of any lien or encumbrance, all buildings, fences,
ditches, seedings, crops, trees, shrubbery, and other improvements, (all hereinafter
styled improvements), located upon, attached to, or connected with that
certain tract of land approximately three and three-quarters (3 $\frac{3}{4}$) miles north-
west of the town of Yoleta, El Paso County, Texas, in the southeast quarter (SE $\frac{1}{4}$)
section sixteen (16) township thirty-one (31) south, range six (6) east, United
States Bureau of Reclamation survey, and in tract No. twenty (20) "Sunnyfield"
subdivision, being also in surveys 144 and 145 of the Yoleta grant, and more
particularly described as follows:

Beginning at a point on the line between tracts twenty (20) and twenty-one (21) "Sunnyfield" and from which point the southeast corner tract twenty (20) and southwest corner tract twenty-one (21) bears south forty-three degrees, nineteen minutes (43°19') west, fifty-three and sixteen hundredths (53.16) feet; and the northwest corner section sixteen (16) bears north fourteen degrees, seventeen (17) minutes twenty seconds (14°17'20") west, three thousand nine hundred fifty-two and seventy-two hundredths (3952.72) feet; thence north eleven degrees, one minute (11°01') west, one hundred forty-seven and twenty-two hundredths (147.22) feet to a point on the northwesterly line of tract No. twenty (20) and from which point the southwest corner of said tract bears south forty-three degrees, nineteen minutes (43°19') west, one hundred fifty-four and forty-six hundredths (154.46) feet; thence north forty-three degrees, nineteen minutes (43°19') east, along said northwesterly line of tract twenty (20), one hundred forty-six and two hundredths (146.02) feet to a point from which the northeast corner section sixteen (16) bears north sixteen degrees, eighteen minutes, forty-five seconds (16°18'45") west, three thousand seven hundred twenty-nine and eighty-seven hundredths (3729.87) feet; thence south twenty-eight degrees, twenty-seven minutes (28°27') east, thirty-seven and ninety-seven hundredths (37.97) feet; thence south

¹ Strike out words not applicable.

eleven degrees, one minute (11°01') east, one hundred two and eighty-four hundredths (102.84) feet to a point on the line between tracts twenty (20) and twenty-one (21); thence along said line south forty-three degrees, nineteen minutes (43°19') west, one hundred sixty and two hundredths (160.02) feet to point of beginning, containing four hundred thirty-four thousandths (0.434) acres more or less.

4. The Contractor does hereby release, acquit and discharge the United States from any and all liability for damages or compensation arising from entry upon the land above described and from the construction, operation and maintenance thereon heretofore and hereafter of works pertaining to the above-named Federal irrigation project.

5. The Contractor does hereby ratify and confirm the grant to the United States of the right of way across the land above described, under stock subscription contract with the El Paso Valley Cattle Raisers' Association.

For and in consideration of the faithful performance of this contract, the Contractor shall be paid as follows:

6. The Contractor will furnish evidence satisfactory to the United States that the Contractor is the owner of said improvements and of the land on which the same are located, and that the improvements are free from any lien or encumbrance, and for this purpose will submit to the United States for examination any pertinent abstract of title or other title papers which the Contractor may have, with the right to the United States to make and retain copies of such papers; but any abstract of title additional to what the Contractor may now have, which the United States may require, shall be procured at the cost and expense of the United States.

7. The Contractor will procure and have recorded where proper for record, all evidences of title which in the opinion of the District Counsel for the Bureau of Reclamation, are necessary to show good title unencumbered, in the Contractor to the property purchased, and which may be requested by said District Counsel.

8. The United States will pay the Contractor the sum of _____ Dollars, upon Government voucher, by ~~check~~ ^{treasury warrant or disbursing officer's check}, as full purchase price of said improvements and as full payment for all damages by reason of the matters and things herein stated.

9. Liens or encumbrances against the property purchased may, at the option of the United States, be discharged at the time of payment, or a sufficient amount for this purpose may be retained from the purchase price and the same discharged with the money so retained; but this provision shall not be construed to give precedence to any lien or encumbrance over this contract, nor as an assumption of the same by the United States.

10. The United States will permit the Contractor to retain possession, of the land above described, to use and enjoy the same, and to remove therefrom any property not the property of the United States, until _____ 192____, unless prior thereto it becomes necessary to occupy said land for Government purposes, in which event the Contractor will be duly notified; and the Contractor agrees that whenever so notified the Contractor will immediately yield and deliver up the possession of said land, together with the said improvements thereon purchased by the United States.

11. The Flaya drain to be constructed by the United States across the property above described, shall be a pipe which shall be buried in the ground about eight feet; and the United States shall, without unreasonable delay fill the trench in which said pipe is laid.

~~In the performance of this contract no person shall be employed who is undergoing a sentence of imprisonment at hard labor imposed by any municipal, territorial, or State court having criminal jurisdiction.~~

..... No interest in this contract shall be transferred by the contractor to any other party, and any such transfer shall cause annulment of the contract so far as the United States is concerned; all rights of action, however, for breach of this contract are reserved to the United States, as provided by section 3737, Revised Statutes of the United States.

..... Where the operations of this contract extend beyond the current fiscal year it is understood that the contract is made contingent upon Congress making the necessary appropriation for expenditures thereunder after such current year has expired. In case such appropriation as may be necessary to carry out this contract is not made, the contractor hereby releases the United States from all liability due to the failure of Congress to make such appropriation.

..... No Member of or Delegate to Congress, or Resident Commissioner, after his election or appointment or either before or after he has qualified and during his continuance in office, and no officer, agent, or employee of the Government, shall be admitted to any share or part of this contract or to any benefit to arise thereupon. Nothing, however, herein contained shall be construed to extend to any incorporated company, where such contract is made for the general benefit of such incorporation or company, as provided in section 116 of the act of Congress approved March 4, 1909 (35 Stat., 1109).

..... The contractor warrants that the contractor has not employed any person to solicit or secure this contract upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Government the right to annul the contract or, in its discretion, to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commissions payable by contractors upon contracts or sales secured or made through bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business with others than the Government.

In witness whereof, The parties have hereto signed their names the day and year first above written.

THE UNITED STATES OF AMERICA,

By L. H. Lawrence
Superintendent, Bureau of Reclamation.

J. C. Durham
Contractor.

By _____

P. O. Address #508 Mills Bldg.

El Paso, Texas,

Approved, _____, 192 _____

AFFIDAVIT OF DISINTERESTEDNESS

STATE OF _____ }
COUNTY OF _____ } ss.

I do solemnly swear (or affirm) that the copy of contract hereto annexed is an exact copy of a contract made by me, personally, with _____ that I made the same fairly without any benefit or advantage to myself, or allowing any such benefit or advantage corruptly to the said _____, or to any other person or persons; and that the papers accompanying include all those relating to the said contract, as required by the statute in such case made and provided.

_____, Bureau of Reclamation.

Subscribed and sworn to before me at _____

[OFFICIAL SEAL] this _____ day of _____, A. D. 192 _____

My commission expires _____

UNITED STATES OF AMERICA

NOTE.—Execute this affidavit only on the copy for the Returns Office; not on original.

INSTRUCTIONS

1. In the heading, in the blank following the words "Contract relating to," insert an appropriately descriptive word, such as Damages, Supplies, Repairs, Drayage, etc.
2. The post office address of the contractor must appear in the contract; all dates plainly given and blanks carefully filled, and all particulars and conditions stated as fully and as clearly as practicable.
3. Erasures and interlineations or other irregularities must be explained over the signatures of the parties to this contract. A general statement that "erasures and interlineations were made before execution" is not sufficient.
4. Only one copy of a contract should be executed, unless the Contractor requests an executed copy, in which case the contract may be executed in duplicate.
5. A contract with a firm should describe the Contractor in the preamble, as, for instance, "Doe & Roe, a partnership, consisting of John Doe and Richard Roe, copartners," the names of all members of the firm being inserted. The contract should be signed in the firm name by a member thereof, who should also affix his title of "Copartner."
6. A contract with a corporation should describe the Contractor in the preamble, as, for instance, "Doe Mercantile Company, a corporation duly organized under the laws of the State of Colorado." The contract should be signed in the corporate name by an appropriate officer thereof, who should affix his official designation, together with the corporate seal. A certificate under the corporate seal that the officer signing the contract is authorized to do so should accompany the contract. If the corporation has no seal, the certificate should state that fact.
7. In the execution of this contract the names of the parties should be signed in ink in the usual manner and as written in the body of the instrument.