



**Weller Systems, LLC**  
 1590 Garnet School Rd  
 Dahlonega, GA 30533  
 (706) 867-0171

**Customer:** Test Company  
 3110 Camp Road  
 Test Citu, GA 30008

**Estimate Date:** 4/30/2007  
**Project:** Concrete Slab Modifications

**Estimate ID:** 85  
**Estimator:** Eric Weller  
**Cell Phone:**  
**Email:** eric718@alltel.net

## CONTRACT

The total contract price will be: **\$12,229.40**                      Contract valid until: **05/30/2007**

The client will make an initial down payment of: \$ \_\_\_\_\_ before work commences, & payment upon approved draw schedule.

If in the course of work there appear subsurface or concealed conditions or unusual conditions differing substantially from those usually found in similar projects, then the project cost will be adjusted by the change in cost due to said conditions. All plans, specifications and conditions that are identified by the signatures of **Weller Systems, LLC** (known hereafter as the "**Contractor**") and **Customer**, shall together with this Agreement, constitutes the '**Contract**'.

This **Contract** only covers those items identified in the Scope of Work document reviewed with **Customer**. This **Contract** does not include any structural engineering work to the existing footers, posts, floor system, walls and roof other than what is noted in the Scope of Work or on the approved set of plans. All work will be done in substantial conformity with the plans and Scope of Work, and any general or special conditions attached to this Agreement.

Deficient framing not visible during **Contractor's** inspection in preparation for this bid are not covered in the contract price. If such concealed oblems are discovered, a Change Order will be executed to cover the cost of additional work required.

THE ONLY WARRANTIES PROVIDED BY THE **CONTRACTOR** ARE THOSE EXPRESSLY CONTAINED IN THIS AGREEMENT. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF HABITABILITY, MERCHANTABILITY AND FITNESS OF PURPOSE, SHALL BE WAIVED.

Labor supplied by the **Customer** is provided fully at the risk of the **Customer**. Additional costs due to delays caused by Customer-supplied labor, and the cost of any repair of deficiencies in said work, will be fully chargeable to the **Customer**.

DRAW SCHEDULE	
Upon posting permit & completion of demolition and Rough Clean	
Upon completion of demolition of drywall finish	
Upon completion of painting & flooring	
Upon final building inspection	
Upon final Customer punch-out	
<b>TOTAL</b>	<b>\$ -</b>

### SECTION A: CONTRACTOR RESPONSIBILITIES

**GENERAL DUTIES:** The **Contractor** will provide construction work as specified in the Scope of Work and/or site plans, according to the terms of this Agreement and will use safe and sound building practices and will also maintain the worksite in a safe and clean condition, consistent with normal construction practices.

**SUBCONTRACTORS:** Any subcontractors used by the **Contractor** shall have proper licenses and insurance for their trade.

LICENSES AND INSURANCE: The **Contractor** agrees to fully comply with all licensing requirements and will obtain **Contractor's** Liability Insurance in the sum of One Million Dollars (\$1,000,000), and Worker's Compensation Insurance on all workers on the job.

PERMITS AND CODES: All work to be done as a part of this Agreement will be in compliance with the building codes presently in force in the municipality where the project is located.

## **SECTION B: CUSTOMER RESPONSIBILITIES**

GENERAL DUTIES: The **Customer** will make all payments on time and provide a safe and secure work site for the **Contractor**, including sufficient secure storage areas for materials delivered to the work site. The **Customer** will promptly notify the **Contractor** of any changes that will affect the **Contractors'** ability to perform work on the project.

INSURANCE: The **Customer** agrees to carry 'Owner's Risk' insurance covering losses to new construction as it is put into place.

BUILDING PERMITS: The **Customer** will obtain and pay for all necessary variances, impact fees, Environmental Impact Statements and similar permissions, except as otherwise noted in the Scope of Work. Any delays or additional costs caused by problems in the permit application process will be the responsibility of the **Customer**.

OWNER RELATIONS WITH SUBCONTRACTORS AND EMPLOYEES: All communication must be with an authorized representative of **Contractor**. No other agreement is valid without written approval of **Contractor**. **Customer** agrees not to hire any **Contractor** employees or subcontractors unless **Customer** receives written approval from **Contractor**.

## **SECTION C: GENERAL CONDITIONS**

CONTRACT DOCUMENTS: Contract Documents are this agreement and any attached sited plans or specifications or Scope of Work and constitute the entire agreement between **Contractor** and the **Customer**.

ITEMS NOT SPECIFICALLY INCLUDED: Items of work not specifically included in the Scope of Work are not considered part of this Agreement, with the exception of preparatory and collateral work that would ordinarily be considered a part of the work as specified.

PARKING, WORK HOURS AND SITE ACCESS: The **Customer** agrees to make available sufficient parking areas, material storage space and working areas. The **Contractor** agrees to work only between the hours of 7:30 A.M. and 5 P.M., Monday through Friday, unless permission to work other hours is given by the **Customer**. The **Customer** agrees to make available one set of keys to all locked areas that require access by the **Contractor**. The **Contractor** shall be allowed to make sufficient copies of all keys necessary to provide sufficient access to Subcontractors working in each area.

DELAYS IN CONSTRUCTION: The **Contractor** agrees to complete work within the time limits agreed to by **Contractor** and **Customer**, unless that schedule becomes impossible to attain due to war, riot, lightning, earthquake, bad weather, strikes, unavailable materials, government actions, or other causes beyond the control of the **Contractor** or the **Customer**. **Customer** further agrees to pay **Contractor** liquidated damages equal to 15% of the total price should **Customer** cancel this contract for any reason prior to the initiation of work on the **Customer's** property for **Contractor** time and services to date of cancellation.

PAYMENT SCHEDULE: The **Customer** agrees to pay **Contractor** promptly, as per agreed to payment schedule. **Contractor** will pay all employees, material suppliers and subcontractors providing services and materials. **Customer** hereby agrees that if amounts due and owing hereunder are not paid when due, **Customer** also shall be liable to pay all costs of collection, including, but not limited to reasonable attorney's fee and costs, which amounts, together with all sums due and owing hereunder, shall bear interest at 1 1/2% per month for date due.

SUBSTANTIAL COMPLETION & FINAL PAYMENT: The project will be considered as 'substantially complete' when the following events occur: the project is 'signed off' by the Building Department, or the project is otherwise suitable for its intended use at which time final payment will be due.

TERMINATION OF THIS AGREEMENT: The **Customer** may terminate the Agreement for any of the following reasons:

1. Failure of the **Contractor** to perform work on the project for a period of five (5) days, unless the a absence is necessary due to weather conditions or construction constraints, or has been approved in writing by the **Customer**.
2. Failure of the **Contractor** to remedy Building Department citations or notices within a period of five (5) days unless the delay is necessary due to weather conditions, construction constraints or other just causes, or has been approved in writing by the **Customer**.

**Contractor** may terminate this agreement if the **Customer** fails to make any payment within (5) five days from its due date, or fails to cooperate with **Contractor** or its contractors to the point where further construction is impossible or prohibitively expensive.

The terminating party must give (5) five working days notice of intent to terminate to the other party, during which time, the grounds for termination may be remedied and this agreement continued in full force.

**WARRANTIES:** **Contractor** will turn over to the **Customer**, documentation on any manufacturer warranties that apply to materials used on the project. The **Contractor** will provide a warranty for a period of Two (2) years on workmanship of installation. The warranty period will commence upon substantial completion of the project. If the **Customer** reports defective materials or workmanship within the specified time period, **Contractor** will repair or replace the problem items, or otherwise remedy the defect, at **Contractor's** option. In no event shall **Contractor's** obligation over the life of this warranty exceed the price paid for the work. **Contractor** is not liable for incidental or consequential damages to the building or the contents of the building, (**Contractor's** liability is limited to the work performed, and only for the **Customer** signing this agreement). All rights under the **Contractor's** warranty are terminated if all bills for materials and workmanship have not been paid in full.

B: The **Contractor** does not represent or warrant the soil or sub-surface condition of the Lot. The **Customer** expressly assumes the risk of any and all losses or damage to the Lot caused by soil or sub-surface conditions, whether or not any such adverse conditions could have been discovered or were discoverable by appropriate testing before construction.

#### TERMS OF ENFORCEMENT:

A: This Agreement shall be legally binding on the **Contractor** and the **Customer** for themselves, their heirs, executors, successors and assignees. This Agreement supersedes all prior Agreements and understandings between the parties, and may not be changed unless mutually agreed upon in writing by both parties. In the event any provision of this Agreement is found to be legally unenforceable, such unenforceability shall not prevent enforcement of any other provision of this Agreement. This Agreement shall be governed by the **Laws of the State of Georgia** and any legal proceeding shall be conducted in **Lumpkin County, Georgia**.

**OTHER AGREEMENTS:** It is expressly agreed that this Agreement constitutes the sole understanding between the parties hereto and that no oral understanding, representation, promise, or any other statement whatsoever made by anyone whomsoever shall be binding upon **Contractor** or **Customer** unless same is duly signed by all parties and contained herein or in another instrument attached hereto and made a part of this Agreement. Revisions to this Agreement shall be in writing, executed by parties and attached hereto as an addendum.

**DISPUTE RESOLUTION:** The parties are to consult one another frequently during construction in an effort to resolve disputes or answer questions, etc. If a matter arises that cannot be resolved, both parties agree to seek mediation to resolve the dispute. The mediator shall be acceptable to both parties. The parties agree to submit their dispute to this neutral mediator and both parties agree to pay one-half (1/2) of the applicable mediator's fees when invoiced by the mediator. Use of a mediator to resolve disputes may be made as frequently as the parties desire during the Contract period. If conciliation by the parties and mediation does not resolve the dispute, both parties agree to arbitrate their dispute in a binding arbitration proceeding pursuant to the Rules of the **Lumpkin County Bar Association Arbitration Service**. The parties agree to share evenly the costs of arbitration, including the fees of the arbitrator. Only one arbitrator shall be used. All proceedings shall be conducted in English at a mutually convenient location within twenty-five (25) miles of the **Contract**

**LEGAL FEES:** If a suit or action is instituted in connection with any controversy arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to costs, such sums the court may adjudge reasonable as attorney's fees.

**WAIVER OF PERFORMANCE:** Waiver by any party of strict performance of any provision of this Agreement shall not necessarily be considered a waiver of the same provision in the future, or of any other provision.

**DAMAGE TO OWNERS VEGETATION/PROPERTY:** The **Customer** understands that the **Contractor** will not be held responsible for damage to lawn grass, shrubs, flowers, trees, or any other vegetation during the construction process of this contract. The **Contractor** will make every reasonable effort to avoid damaging vegetation and the **Customer's** property.

**DAMAGE TO DRIVEWAYS AND SIDEWALKS AND OTHERS:** Delivery trucks can weigh more than 10 tons that can cause cracks in driveways and sidewalks. The **Customer** is liable and take full responsibility and risk including but not limited to any damages to driveways, buildings, septic tanks, wires, structures, and grounds, the **Contractor** will not be responsible for damage caused by such deliveries unless due to the **Contractor's** negligence.

**SECTION D:**

A: CHANGE ORDERS: The **Customer** may order changes in the work consisting of additions, deletions or modifications. All changes to the contract specifications shall be made by a written Change Order signed by the **Customer** (or any person who may be designated by the **Customer**) and the **Contractor** (or any person who may be designated by the **Contractor**). The total contract price will be adjusted by the Change Order amount. To expedite changes, only one signature from each party will be required to execute a change order and make it fully binding as an addendum to this Agreement.

The **Customer** understands that **Contractor** may elect not to perform a change or alteration to said plans and specifications if **Contractor**, in **Contractor's** sole discretion, decides **Customer's** request is infeasible.

CHANGE ORDER NOTIFICATION: No work on a changed item shall commence until both parties have signed the Change Order, unless such a requirement would cause an unacceptable delay in the project. In the event that additional work must go on before a written Change Order can be created, the **Contractor** agrees to deliver a written Change Order to the **Customer** within five (5) business days of the initial request. The **Customer** agrees to sign Change Orders that are a confirmation of prior verbal change requests within five (5) business days of receipt.

SCHEDULE CHANGES DUE TO CHANGE ORDERS: It is agreed that if the scope of work is increased by the inclusion of additional work, the completion date will also be delayed proportionally to the additional work to be done. If possible, the amount of delay will be specified on the Change Order.

ALLOWANCES: Items marked as allowances in the Scope of Work will be included in the total contract price, at the listed allowance cost. After that item of work is completed, the overall contract price will be adjusted to reflect the difference between the actual amount spent on the allowance item, and the original allowance amount.

EXISTING OUT-OF-PLUMB AND OUT-OF-LEVEL CONDITIONS: Unless otherwise agreed, the **Contractor** is not responsible for correcting existing out-of-plumb and out-of-level conditions in existing structure.

MATCHING EXISTING FINISHES: The **Contractor** calls the attention of the **Customer** to the limitations of matching finish surfaces. Although the **Contractor** will make every effort to match existing textures, colors and planes, exact duplication is not promised.

If the **Contractor** finds that the material bid for the performance of this job is not equal to what is currently in place, the **Contractor** agrees to notify the **Customer**. The Contact price shall be adjusted to reflect the better quality material.

This Agreement is binding upon **Customer** and **Contractor**, their heirs, successors, assigns, personal and legal representatives. IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

\_\_\_\_\_, 2006.

BY: \_\_\_\_\_

\_\_\_\_\_  
CUSTOMER Date

BY: \_\_\_\_\_

\_\_\_\_\_  
CONTRACTOR Date