

STATE OF TEXAS §
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COUNTY OF HIDALGO §
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INTERLOCAL COOPERATION AGREEMENT
BETWEEN CITY OF EDINBURG
AND COUNTY OF HIDALGO, TEXAS
(PRECINCT#4)
FOR SEMINARY ROAD RECONSTRUCTION

This Agreement is made on this the 21st day of February, 2012 by and between CITY OF EDINBURG, TEXAS, hereinafter referred to as "CITY", and COUNTY OF HIDALGO, TEXAS BY AND THROUGH HIDALGO COUNTY PRECINCT #4, hereinafter referred to as "COUNTY", and pursuant to the provisions of the Texas Interlocal Cooperation Act, as follows:

WITNESSETH:

WHEREAS, CITY is a municipality located in Hidalgo County, Texas;

WHEREAS, COUNTY is a county created in the State of Texas;

WHEREAS, CITY AND COUNTY are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Tex. Gov't. Code 791.001 et.seq., which authorizes units of local government to contract with each other to perform governmental functions and services under the terms of the Act;

WHEREAS, COUNTY is engaging in a Project more particularly described as the re-construction of Seminary Road, of which approximately Two Thousand Four Hundred and Five (2,405) Feet of said road is within the City Limits of the City of Edinburg (the "Project"); and

WHEREAS, to better serve the health and safety of the residents that utilize Seminary Road and the surrounding areas, it is in the best interest of both COUNTY and CITY to mutually provide for the re-construction of the Project; and

WHEREAS, the CITY has agreed to assist COUNTY by providing funding for the re-construction for a portion of the Project within City Limits; and

WHEREAS, the labor, equipment and materials for the Project as outlined below is to be provided through COUNTY; and

WHEREAS, the COUNTY will serve as the lead agency for the Project; and

WHEREAS, the CITY will provide the Engineering plans, specifications and construction management for the Project at its sole cost; and

NOW, THEREFORE, the COUNTY and CITY, in consideration of the mutual covenants hereinafter, agree as follows:

1. COUNTY agrees to provide materials, labor, equipment and fuel for the re-construction of certain portions of the Project as outlined below:
 - a. Re-Construct the portion of Seminary Road within the City of Edinburg City Limits (2,405 Feet by 22 Feet wide) as indicated on the Plans and Specifications.
 - b. Provide Materials, Equipment, and Labor for the Project.
 - c. Prepare Sub-grade and Base Preparation for approximately 2,405 feet of Seminary all within City Limits.
 - d. Overlay 2 inches with Asphalt for approximately 2,405 feet of Seminary Road all within City Limits.
3. COUNTY will serve as the lead agency for the Project and shall execute all contracts necessary to complete the Project.
4. COUNTY shall provide CITY with manpower at the current hourly rates for individuals required to complete the Project as shown in the attached Exhibit "A" which is incorporated herein for all purposes.
5. COUNTY shall provide materials and equipment for completion of the Project at the rates and cost as shown in the attached Exhibit "A".
6. Prior to CITY utilizing COUNTY manpower, equipment and materials, CITY shall request and will receive the current hourly rates of COUNTY individuals required to complete the Project, the current hourly rates for equipment and costs for materials. Hourly rates shall include all benefits and other costs associated with the employment of each personnel, equipment and materials. COUNTY shall be solely responsible for determining the current rate of its personnel. Any request for use by CITY of COUNTY individuals shall be subject to the approval by the Commissioner of Precinct #4 determining that the COUNTY individuals, equipment and materials so requested by the CITY are not required for other projects of Precinct #4 at the time requested by CITY.
7. COUNTY will provide to CITY invoices with supporting documentation, including but not limited to receipts and invoices for all labor, equipment and materials used or purchased by COUNTY for the Project in accordance with the Paragraph 8 below.
8. CITY agrees to pay COUNTY for the entire cost of materials, equipment and personnel used by COUNTY for the portion of the Project within City Limits. Prior to COUNTY commencing the Project, CITY shall escrow the amount of the COUNTY'S estimate for the Project with the Hidalgo County Treasurer (the "Escrow"). Should CITY deposit such Escrow with the County Treasurer, CITY agrees COUNTY may draw from the Escrow the costs of

materials, equipment and personnel for such Project within seven (7) business days of receipt by CITY of an invoice and supporting documentation from COUNTY, the entire cost of COUNTY materials, equipment and personnel used for the portion of the Project within City Limits. Any costs incurred by COUNTY exceeding the estimate attached as Exhibit "A" must first be presented to the CITY for its consideration and approval. In the event the actual cost of the project is finally determined to be less than the amount of the Escrow, COUNTY agrees to remit such difference to CITY.

9. Upon a change in price for manpower for COUNTY personnel, equipment or materials, the COUNTY shall notify CITY within ten (10) working days during the term of the Project and before beginning any new work on the Project.
10. COUNTY and CITY shall coordinate work schedules in order to provide for minimal disruption to the construction of the Project and will use their best efforts to complete the COUNTY Project within 180 (days) of the date of this Agreement.
11. Upon final completion of the Project work described herein, the CITY agrees to repair and maintain only those improvements located within the jurisdiction of the CITY.
12. Upon final completion of the Project work described herein, the parties agree that COUNTY will be released of any and all duties imposed by this Agreement.
13. Each party agrees to conform to its own applicable purchasing laws, regulations, policies and procedures with respect to the portion of the work under this Agreement performed by each party.
14. **Conflict of Applicable Law:** Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is a conflict between and provisions of their Agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provisions or provision of the Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during times such conflict exists.
15. **No Waiver:** No waiver by any party hereto of any breach of any provisions of the Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.
16. **Entire Agreement:** This Agreement contains the entire contract between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representation or agreement in connection with this Agreement not specifically set forth herein. This Agreement

may be modified or amended only by agreement, in writing, executed by the CITY and COUNTY, and not otherwise.

17. TEXAS LAW TO APPLY. THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATION OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN HIDALGO COUNTY, TEXAS. THE PARTIES HEREBY CONSENT TO PERSONAL JURISDICTION IN HIDALGO COUNTY, TEXAS.

18. Indemnification: To the extent allowed under the Constitution and laws of the State of Texas, COUNTY agrees to indemnify and hold harmless and defend CITY, its agents, employees and officers from and against any claim, loss, damage, liability and expense, including reasonable attorney's fees, incurred or suffered by it, by reason of any and all claims, demands or causes of action asserted or that may be asserted, against any or all of the above named parties, whether alleging intentional or negligent acts or omissions, and whether seeking compensatory or punitive damages, and involving, arising out of, or in any manner related to this agreement.

To the extent allowed under the Constitution and laws of the State of Texas, CITY agrees to indemnify and hold harmless and defend COUNTY, its agents, employees and officers from and against any claim, loss, damage, liability and expense, including reasonable attorney's fees, incurred or suffered by it, by reason of any and all claims, demands or causes of action asserted or that may be asserted, against any or all of the above named parties, whether alleging intentional or negligent acts or omissions, and whether seeking compensatory or punitive damages, and involving, arising out of, or in any manner related to this agreement.

19. Notice. Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests or communication required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to CITY: City of Edinburg
 Attention: Richard Garcia, Mayor
 415 W. University Drive
 Edinburg, Texas 78540

With copy to: City of Edinburg
 Attention: Shawn Snider, Acting City Manager
 415 W. University Drive
 Edinburg, Texas 78540

If to COUNTY: Hidalgo County
Attention: Ramon Garcia, County Judge
P.O. Box 758
Edinburg, Texas 78540-0758

With copy to: Commissioner, Precinct Number 4
Attention: Joseph Palacios
1102 N. Doolittle
Edinburg, Texas 78539

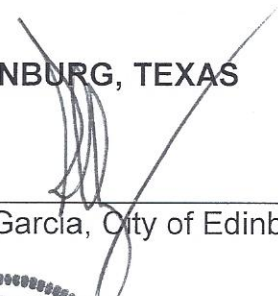
Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee of, if mailed, at such time as it is deposited in the United States mail.

20. **Additional Documents.** The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.
21. **Successors.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.
22. **Assignment.** This Agreement shall not be assignable
23. **Gender and Number.** All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and singular shall include the plural whenever and as often as may be appropriate.
24. **Authority to Execute.** The execution and performance of the Agreement by CITY and COUNTY have been duly authorized by all necessary laws, resolutions and corporate action, and this Agreement constitutes the valid and enforceable obligations of CITY and COUNTY in accordance with its terms.
25. **Government Purpose.** Each party hereto is entering into this Agreement for the purpose of providing for governmental services or functions and will pay for such services out of current revenues available for the paying party, as herein provided.
26. **Commitment of Current Revenues Only.** In the event that, during any term, hereof, the governing body of any party does not appropriate sufficient funds to meet the obligations of such party under this Agreement, then any party may terminate this Agreement upon ninety (90) days written notice to the other party. Each of the parties hereto agrees, however, to use its best efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of each party hereto pursuant to the provisions of Tex. Loc. Govt. Code Ann. §271.903.

27. **Termination.** Either party may terminate this Agreement with or without cause upon thirty (30) days written notice to the other.

WITNESS THE HANDS OF THE PARTIES effective as of the day and year first written above.

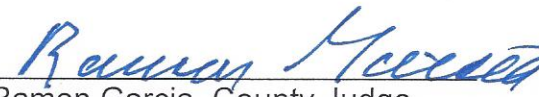
CITY OF EDINBURG, TEXAS

BY: 
Richard Garcia, City of Edinburg - Mayor

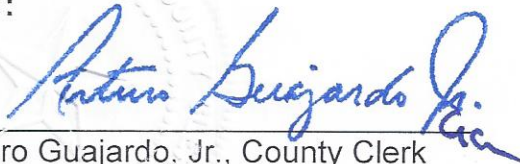
ATTEST:

BY: 
City Secretary



BY: 
Ramon Garcia, County Judge

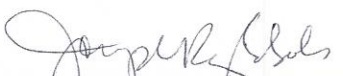
ATTEST:

By: 
Arturo Guajardo, Jr., County Clerk

APPROVED BY
COMMISSIONERS' COURT
ON: 

APPROVED AS TO FORM:

Hidalgo County District Attorney

By: 
Josephine Ramirez Solis
Assistant District Attorney, County Affairs

By: Gonzalez Palacios LLP
Attorneys at Law

Ronald E. Castillo (signature)

City Attorney

Approved by Edinburg City Council

On: 2/21/12

EXHIBIT "A"

**Current Hourly Rates for Precinct #4 Personnel; rates for Materials and Equipment;
and Estimated Project Cost**

EQUIPMENT		
EQUIPMENT	RATE PER HOUR	TOTAL COST
PAVER	\$130.00	\$4,550.00
RECYCLER	\$85.00	\$1,360.00
MOTOR GRADER	\$80.00	\$3,200.00
PNUEMATIC ROLLER	\$33.00	\$1,320.00
DOUBLE DRUM STEEL ROLLER	\$28.00	\$1,120.00
DUMP TRUCKS	\$75.00	\$3,000.00
WATER TRUCK	\$38.00	\$1,536.00
	TOTAL COST	\$16,086.00

MATERIALS		
MATERIALS	COST OF MATERIAL	TOTAL COST
ASPHALT	\$47.23 A TON	\$24,228.40
SS-2 OIL	\$3.00 A GALLON	\$1,800.00
EN-1 STABILIZER	\$80.00 A GALLON	\$2,400.00
	TOTAL COST	\$28,428.40

MAN HOURS		
EQUIPMENT	RATE PER HOUR	TOTAL COST
MOTOR GRADER	\$25.76	\$1,442.56
RECYCLER	\$25.76	\$824.32
PAVER	\$25.76	\$618.24
PNUEMATIC ROLLER	\$13.09	\$733.04
DOUBLE DRUM STEEL ROLLER	\$13.09	\$733.04
DUMP TRUCKS	\$14.18	\$340.32
WATER TRUCK	\$14.18	\$794.08
	TOTAL COST	\$5,485.60

TOTAL ESTIMATED CONSTRUCTION COST:	\$50,000.00
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STATE OF TEXAS

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COUNTY OF HIDALGO

APPROVAL OF
INTERLOCAL COOPERATION AGREEMENT
PROJECT

In accordance with Texas Government Code §791.014, Hidalgo County, Texas, acting by and through the Hidalgo County Commissioners Court, has been advised of a proposed project desires County to engage in a project for the reconstruction of Seminary Road to include approximately two thousand four hundred and five feet (2,405) within the Edinburg City Limits and in Hidalgo County, Texas (the "Project"); through the Interlocal Cooperation Agreement to be entered into with the City of Edinburg, Texas, and Hidalgo County.

By vote on _____ 2012, the Hidalgo County Commissioners Court has approved the Project identified above.



Ramon Garcia, County Judge

ATTEST:

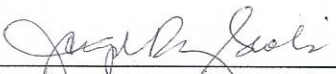


Arturo Guajardo, Jr., County Clerk

APPROVED BY
COMMISSIONERS' COURT
ON: 2/21/12

APPROVE AS TO FORM:

Hidalgo County District Attorney



By: Josephine Ramirez Solis
Assistant District Attorney, County Affairs