

STATE OF TEXAS §

COUNTY OF HIDALGO §

INTERLOCAL COOPERATION AGREEMENT BETWEEN THE COUNTY OF HIDALGO AND CITY OF MCALLEN, TEXAS CONCERNING CERTAIN IMPROVEMENTS TO E. YUMA AVENUE FROM JACKSON RD TO MCCOLL RD

THIS agreement is made on this ____ day of _____, 2015 by and between the County of Hidalgo, Texas, hereinafter referred to as “County”, and the City of McAllen, Texas, hereinafter referred to as “City” pursuant to the provisions of the Texas Interlocal Cooperation Act, as follows:

WITNESSETH:

WHEREAS, the City is a home rule municipality located in Hidalgo County, Texas;

WHEREAS, the County is a County in the State of Texas;

WHEREAS, the City and County desire to cooperate in making needed road improvements to E. Yuma Avenue from Jackson Rd. to McColl Rd. as illustrated in greater detail in Exhibit A (the “Project”);

WHEREAS, The Hidalgo County Metropolitan Planning Organization (HCMPO) has identified the E. Yuma Avenue project within its financially constrained Metropolitan Transportation Plan;

WHEREAS, County, will be the fiduciary agent for this project and assume the role of project development lead;

WHEREAS, the total estimated cost for the project is approximately Six Hundred Thousand and no/100ths Dollars (\$600,000.00);

WHEREAS, the City desires to cooperate by contributing a fixed lump sum amount of Two Hundred Thousand and no/100ths Dollars (\$200,000.00) to County toward the development of the Project;

WHEREAS, County desires to cooperate by contributing the remainder of all costs for the Project, if any;

WHEREAS, County commits to providing design, procurement, construction management, construction, construction inspection and construction material testing for the project; and

WHEREAS, County and City are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Texas Government Code 791.001 et. Seq. which authorizes local governments to contract with each other to perform governmental functions and services under the terms of the Act; and

NOW, THEREFORE, County and City, in consideration of the mutual covenants expressed hereinafter, agree as follows:

1. County agrees to complete all project development.
2. The Project would benefit the Hidalgo County Regional Linear Park Project by providing enhanced connectivity and increased traffic, pedestrian and bicycle safety (as referenced from TxDOT correspondence with County).
3. The total estimated cost for the Project will be approximately \$600,000.00.
4. City agrees to pay a fixed lump sum in the amount of Two Hundred Thousand and no/100ths Dollars (\$200,000.00) to County within thirty (30) days after the date of invoice from County toward the development of the Project.
5. County shall provide through its own forces or by third party contractor(s) design, procurement, construction, construction management, construction inspection and construction material testing for the Project.
6. Pursuant to Tex. Trans. Code 251.012, City authorizes County to perform the work and services described herein with its corporate city limits.
7. The parties further agree that upon completion of the improvements, each party shall be responsible for the maintenance and operation of the Road within each party's respective jurisdiction.
8. 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.
9. **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 any conflict between any provision of this 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 provision or provisions of the Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.

10. **No Waiver:** No waiver by any party hereto of any breach of any provision of the Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.
11. **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 agreement or representative) and 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 County and City, and not otherwise.
12. **Amendment:** This Agreement can't be amended, changed, modified, supplemented or revised unless it is evidenced in writing and signed by all parties to this agreement.
13. **TEXAS LAW TO APPLY:** THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN HIDALGO COUNTY, TEXAS. THE PARTIES HEREBY CONSENT TO PERSONAL JURISDICTION IN HIDALGO COUNTY, TEXAS.
14. **Notice:** Except as maybe 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, or (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 McAllen: City of McAllen
Attention: Honorable Jim Darling, Mayor
1300 Houston Avenue
McAllen, Texas 78501

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

Copies to: Honorable Eduardo "Eddie" Cantu, Commissioner, Pct. No. 2
300 W Hall Acres Ste G
Pharr, Texas 78577

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, or, if mailed, at such time as it is deposited in the United States mail.

15. **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.
16. **Successors:** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns where permitted by this Agreement.
17. **Assignment:** This Agreement shall not be assignable.
18. **Headings:** The headings and captions contained in this Agreement are solely for the convenience reference and shall not be deemed to affect the meaning or interpretation of any provision of paragraph hereof.
19. **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.
20. **Authority to Execute:** The execution and performance of this Agreement by County and the City have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of the County and City in accordance with its terms.
21. **Governmental Purpose:** Each party hereto is entering into the agreement for the purpose of providing for governmental services or functions and will pay for such services out of current revenues available to the paying party as herein provided.
22. **Commitment or 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.

23. Following completion of construction of the Project each party hereto shall maintain the road described in the Project within their respective jurisdictions where applicable.

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

CITY OF MCALLEN

By: _____
Jim Darling, Mayor

ATTEST:

City Secretary

COUNTY OF HIDALGO

By: _____
Ramon Garcia, County Judge

ATTEST:

County Clerk

APPROVED AS TO FORM:

By: _____
McAllen City Attorney

APPROVED AS TO FORM:

Atlas, Hall & Rodriguez, L.L.P.

By:  _____
Stephen L. Crain

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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 regarding road improvements to E. Yuma Avenue from Jackson Rd. to McColl Rd., which is within the City limits of the City of McAllen, Texas and which benefits the County Regional Linear Park Project through an Interlocal Cooperation Agreement to be entered into with Hidalgo County and the City of McAllen, Texas.

By vote on _____ 2015, the Hidalgo County Commissioners Court has approved the Project identified above.

By: _____
Ramon Garcia, County Judge

ATTEST:

Arturo Guajardo, County Clerk

APPROVED AS TO FORM:

Atlas, Hall & Rodriguez, L.L.P.

By:  _____
Stephen L. Crain