

STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

AMENDMENT AND RESTATEMENT OF THAT CERTAIN INTERLOCAL COOPERATION AGREEMENT BETWEEN THE COUNTY OF HIDALGO AND CITY OF EDINBURG, TEXAS CONCERNING CERTAIN IMPROVEMENTS TO FM 1925 (MONTE CRISTO) FROM MCCOLL RD. TO 1,500 FEET WEST OF 10TH STREET

THIS agreement is made on this the _____ day of _____, 20__ by and between the CITY OF EDINBURG, TEXAS, hereinafter referred to as the "CITY" and the COUNTY OF HIDALGO, Texas hereinafter referred to as "COUNTY", 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; and

WHEREAS, on or about February 17, 2015, the City of Edinburg ("City") and Hidalgo County (the "County") entered into an Interlocal Cooperation Agreement (the "Agreement") regarding certain road improvements to FM 1925 (Monte Cristo Road) from McColl Road to fifteen hundred feet west of 10th Street (the "Road"), a section which is in part within the city limits of City and in part within County jurisdiction; and

WHEREAS, the Hidalgo County Metropolitan Planning Organization (HCMPO) has identified this project as a high priority corridor and has assigned Federal funds toward its completion; and

WHEREAS, the County has been designated by TxDOT an eligible entity to receive reimbursements for work related to the Road within the county and city limits; and

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

WHEREAS, the County desires to fully implement the improvements required to complete the Road which will include engineering, environmental, Right-of-Way (ROW) Map, and acquisition of certain ROW; and

WHEREAS, the total project cost is estimated to be \$2,073,927 of which County will contribute an estimated amount of \$1,073,927; and

WHEREAS, the City desires to cooperate by contributing a fixed lump sum amount of \$1,000,000 to the County toward the project development activities on or before December 1, 2016; and

WHEREAS, the 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

WHEREAS, the County and City agree it is essential to upgrade and add capacity to the portion of FM 1925 between McColl Rd. and 10th Street to a four lane urban roadway; and

WHEREAS, the City has requested the County provide all of the services required to negotiate the acquisition of ROW required for the expansion of FM 1925 in the name of the State; and

WHEREAS, the City agrees to support the proposition that the County assume the role as project sponsor to develop all aspects of the Road project within the city limits.

NOW, THEREFORE, County and City, in consideration of the mutual covenants expressed hereinafter, agree to amend and restate the Original Agreement in its entirety and the Original Agreement is superseded by the terms of the restated agreement as follows:

1. The County agrees to develop all aspects of project development activities, including engineering, environmental, public involvement and the acquisition of right-of-way for the Road within the city limits of the City, including but not limited to, compensable utilities and utility relocation required, title reports, title policies, appraisals, recording fees, closing costs, and cost of land and condemnation.
2. The Road at various points, passes through the jurisdiction of City and County and forms a connecting link or integral part of the County road system.
3. The City agrees to contribute a fixed lump sum amount of \$1,000,000 to the County toward the completion of the project on or before December 1, 2016.
4. 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.
5. City, pursuant to Tex. Trans. Code 251.012, authorizes County to perform the work and services described herein within its corporate city limits.

6. 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 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 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.
7. 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.
8. 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 the City and County, and not otherwise.
9. 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.
10. 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 City: City of Edinburg
Attention: Richard H. Garcia, Mayor
415 W. University Dr.
Edinburg, Texas 78541

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

With copy to: Joseph Palacios, Commissioner, Precinct No. 4
1051 N. Doolittle Rd.
Edinburg, Texas 78542

11. 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.
12. 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.
13. 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.
14. Assignment: This Agreement shall not be assignable.
15. 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.
16. 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.
17. Authority to Execute. The execution and performance of this Agreement by the City and County have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of the City and County in accordance with its terms.
18. 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.
19. 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

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

CITY OF EDINBURG

By: Ramiro Garza Jr.
Ramiro Garza Jr., City Manager

ATTEST:

[Signature]
City Secretary



APPROVED AS TO FORM:
PALACIOS & ASSOCIATES, P.C.

By: [Signature]
City Attorney

COUNTY OF HIDALGO

By: _____
Ramon Garcia, County Judge

ATTEST:

County Clerk

APPROVED AS TO FORM:
ATLAS & HALL, LLP

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 certain road improvements to FM 1925 (Monte Cristo Rd.) from McColl Road to 1,500 feet West of 10th Street (the "Road"), a section which is in part within the city limits of City and in part within County jurisdiction through an Interlocal Cooperation Agreement to be entered into with the City of Edinburg, Texas, and Hidalgo County.

By vote on _____ 2016, 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, L.L.P.

By: _____
Stephen L. Crain