

STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF WESLACO, TEXAS, AND HIDALGO COUNTY, TEXAS CONCERNING CERTAIN PHASE I AND PHASE II IMPROVEMENTS TO MILE 6 WEST ROAD FROM MILE 9 NORTH TO MILE 11 NORTH.

THIS agreement is made on this _____ day of _____, 2017 by and between the City of Weslaco, Texas, hereinafter referred to as "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, both the CITY and COUNTY executed an Interlocal Cooperation Agreement on the 6th day of August, 2013 (the August 6, 2013 Agreement) for the Phase I project development activities to the Road as hereinafter defined to have been completed;

WHEREAS, the Phase I project development activities to the Road consists of the Environmental Assessment, Public Involvement and Schematic Services;

WHEREAS, the terms and conditions of this Agreement to the extent it conflicts with the August 6, 2013 Agreement shall be controlled by this Interlocal Cooperation Agreement;

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

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

WHEREAS, CITY and COUNTY, each pursuant to its statutory and constitutional authority, are responsible for maintenance and improvements of certain public roadways within their boundaries;

WHEREAS, Mile 6 West (Westgate Drive) is an important and critical integral infrastructure connecting link corridor within the City of Weslaco and Hidalgo County;

WHEREAS, Texas Department of Transportation ("TxDOT"), Hidalgo County Metropolitan Planning Organization (HCMPO), CITY and COUNTY have identified the need to widen and reconstruct Mile 6 West (Westgate Drive) from Mile 9 North to Mile 11 North from an existing two-lane rural roadway to a four-lane urban roadway (the "Road");

WHEREAS, TxDOT, HCMPO, CITY and COUNTY have allocated Federal, State and local funds to fully fund engineering, environmental, survey, the acquisition of right of way, adjustment of utilities and construction of the Road;

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

WHEREAS, COUNTY and CITY desires to complete the remaining project development activities in Phase II and III for this project as follows:

- Phase II – shall include Field Surveys, Right-of-Way Map, Plans, Specification & Estimates, Roadway Right-of-Way Acquisition / Compensable Utility Services; and
- Phase III – shall include Outfall Right-of-Way Acquisition / Compensable Utility Services and Construction Management Services including but not limited to Construction Inspection / Construction Material Testing;

WHEREAS, COUNTY desires to complete Phase II of the project development in this Agreement:

WHEREAS, the segment of the Road from Mile 9 to Mile 10 is within the current corporate limits of the CITY, while the segment North from Mile 10 to Mile 11 is within the Extraterritorial Jurisdiction (ETJ) of the CITY and within COUNTY jurisdiction as outlined in Exhibit A;

WHEREAS, the Road serves as a connecting link and as an integral part of the county road system and such road improvements are in the best interest of the COUNTY and CITY;

WHEREAS, the CITY and COUNTY desire to equally share the total estimated project development costs;

WHEREAS, the estimated total Phase I & II projects development costs will be \$ 4,087,482.80 as identified in Exhibit B;

WHEREAS, the CITY's estimated share is \$2,043,741.40 for Phase I & II of which the CITY has already contributed \$187,991.63 leaving a balance of \$1,855,749.77;

WHEREAS, the CITY desires to cooperate by contributing \$755,008.37 upon execution of this agreement, \$ 347,000 in October 2017, \$416,000 in October 2018 and \$337,741.40 in October 2019. Any over runs and/or under runs will be shared equally between the CITY and COUNTY for this Phase I & II development costs;

WHEREAS, the COUNTY's estimated share is \$2,043,741.40 for Phase I & II project development costs;

WHEREAS, CITY and COUNTY 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;

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

1. COUNTY and CITY desire to complete Phase II of this project development in this Agreement consisting of and including:
 - Field Surveys, Right-of-Way Map, Plans, Specification & Estimates, Roadway Right-of-Way Acquisition/ Compensable Utility Services.
2. The Road serves as a connecting link and is an integral part of the county road system and such road improvements are in the best interest of the COUNTY and CITY.
3. The CITY and COUNTY desire to equally share the total estimated project development cost.
4. The estimated total Phase I & II projects development cost is \$ 4,087,482.80 as identified in Exhibit B.
5. The CITY's estimated share of Phase I & II project development cost is \$2,043,741.40 of which the CITY has already contributed \$187,991.63 leaving a balance of \$1,855,749.77.
6. The CITY shall pay the COUNTY the sum of \$755,008.37 upon execution of this Agreement, \$347,000 in October 2017, \$416,000 in October 2018 and \$337,741.40 in October 2019. Any over runs and/or under runs will be shared equally between the CITY and COUNTY for this Phase I & II development costs;
7. The COUNTY's estimated share is \$2,043,741.40 for Phase I & II project development costs.
8. To the extent the terms and conditions of the Agreement conflict with the terms and conditions of the August 6, 2013 Agreement, the terms of this Agreement shall control.
9. 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.
10. 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.

11.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 of succeeding breach of the same or any other provision hereof.

12.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 Mission, McAllen and County, and not otherwise.

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 Weslaco: City of Weslaco
Attention: David Suarez, Mayor
225 S. Kansas Ave.
Weslaco, Texas 78596

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

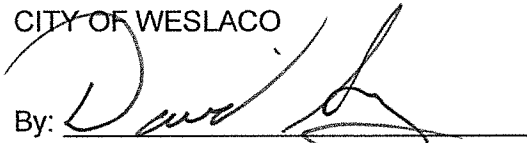
Copies to: David Fuentes, Commissioner, Precinct No. 1
1902 Joe Stephens Ave.
Weslaco, Texas 78596

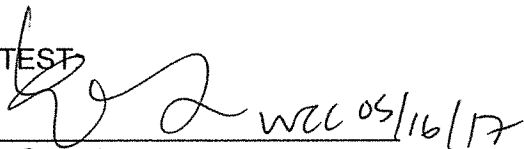
15.Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee, or, if mailed, at such time as it is deposited in the United States mail.

16.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.

17. 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.
18. Assignment: This Agreement shall not be assignable.
19. 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.
20. 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.
21. Authority to Execute: The execution and performance of this Agreement by the Mission, McAllen 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 Cities and County in accordance with its terms.
22. 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.
23. 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.
24. Following completion of construction of the Road each party hereto shall maintain the road within their respective jurisdictions where applicable.

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

CITY OF WESLACO
By: 
David Suarez, Mayor

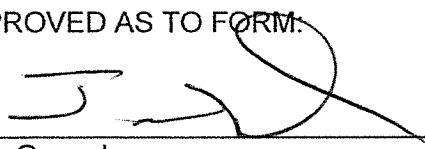
ATTEST
 WCL 05/16/17
City Secretary

COUNTY OF HIDALGO

By: _____
Ramon Garcia, County Judge

ATTEST:

County Clerk

APPROVED AS TO FORM:

By: _____
Juan Gonzales
Weslaco City Attorney

APPROVED AS TO FORM:
Atlas, Hall & Rodriguez, L.L.P.
By: _____
Stephen L. Crain

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 §
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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 to desire to widen and reconstruct Mile 6 West between Mile 9 and Mile 11 through a Phase II Interlocal Cooperation Agreement to be entered into with the City of Weslaco, Texas, and Hidalgo County.

By vote on _____ 2017, 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