

STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

**INTERLOCAL COOPERATION AGREEMENT BETWEEN THE
COUNTY OF HIDALGO AND CITY OF MCALLEN, TEXAS
CONCERNING CERTAIN IMPROVEMENTS TO
FM 676 (MILE 5) FROM TAYLOR ROAD TO FM 2220 (WARE ROAD)**

THIS agreement is made on this the _____ day of _____, 2019 by and between the CITY OF MCALLEN, TEXAS, hereinafter referred to as the "CITY" and the COUNTY OF HIDALGO, Texas hereinafter referred to as "COUNTY", collectively referred to as the "Parties", acting under the authority granted in and pursuant to the provisions of the Texas Interlocal Cooperation Act (the "Act"), Chapter 791, Texas Government Code.

WITNESSETH:

WHEREAS, the City is a home rule municipality and a local government as defined by the Act, located in Hidalgo County, Texas; and

WHEREAS, the County of the State of Texas, and a local government as defined by the Act; and

WHEREAS, the City and County desire to cooperate in making needed road improvements to the FM 676 (Mile 5) ("the Road") from Taylor Road to FM 2220 (Ware Road) as outlined in Exhibit A (the "Project") in order to increase efficiency and effectiveness; and

WHEREAS, the City and County agree it is essential to continue to develop this very important corridor, which is in much need of improvements, specifically in need of added capacity for increased safety; and

WHEREAS, County and City entered into a Interlocal Cooperation Agreement on December 8, 2015 for the ("Phase I") Project Development activities in which the City and County agreed to provide certain improvements to the FM 676 (Mile 5); and

WHEREAS, the majority of the Phase I project development activities consisting of Preliminary Engineering, Environmental Assessment, Public Involvement and Schematic services are complete; and

WHEREAS, the City and County will continue to cooperatively seek to fund the Construction and Right-of-Way (ROW) costs of this Project through the Hidalgo County Metropolitan Planning Organization (HCMPO) and TxDOT; and

WHEREAS, the City and County desire to proceed and complete ("the Phase II and Phase III") of the Project Development activities which generally consists of Phase II Right-of-Way Map, PS&E and Surveys, and Phase III Right-of-Way Acquisition and Construction Oversight; and

WHEREAS, the County and City are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Texas Government Code Chapter 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, County and City, in consideration of the mutual covenants expressed hereinafter, agree to enter into this agreement as follows:

1. The County shall act as the fiduciary agent and agrees to complete the Phase II and Phase III of "the Road" project development, which includes:

Phase II – Right-of-Way Map, PS&E and Surveys
Phase III – Right-of-Way Acquisition and Construction Oversight;
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 total estimated Phase II project development cost is anticipated to be \$1,347,248.24.
4. The City desires to cooperate by contributing a fixed lump sum for Phase II project development funding in the amount of \$1,347,248.24 to the County upon execution of this agreement prior to commencement of Phase II.
5. The County desires to cooperate by providing all of the Phase III project development activities of "the Road" project.
6. City, pursuant to Tex. Trans. Code 251.012, authorizes County to perform the work and services described herein within its corporate city limits.
7. 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.
8. 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.
9. 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.
10. Entire Agreement: This Agreement contains the entire agreement 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.

11. 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.

12. 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 McAllen
Attention: Honorable Jim Darling
1300 Houston Avenue
McAllen, Texas 78501

With copy to: City of McAllen
Attention: Kevin D. Pagan, City Attorney
1300 Houston Avenue
McAllen, Texas 78501

If to County: Hidalgo County, Texas
Attention: Hon. Richard Cortez, County Judge
100 E. Cano
Edinburg, Texas 78539

With copy to: Hon. Ellie Torres, Commissioner Pct. #4
1051 N. Doolittle Road
Edinburg, Texas 78539

13. 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.

14. 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.

15. 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.
16. Assignment: This Agreement shall not be assignable.
17. 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.
18. 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.
19. 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.
20. 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.
21. Non-Discrimination. The Agreement and all related activities shall be conducted in a manner that does not discriminate against any person on a basis prohibited by applicable law or County and CSCD policy, including without limitation race, color, national origin, religion, sex, age, veteran status, or disability.
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. Immunities. Nothing in this Agreement is intended to and the Parties do not hereby waive, release or relinquish any right to assert any of the defenses the Parties enjoy by virtue of the state or federal constitution, laws, rules or regulations, and any sovereign, official or qualified immunity available to the Parties as to any claim or actions of any person, entity, or individual against the Parties.
24. Appendix II to CFR 200-Contract Provisions. Pursuant to 2 CFR 200.236, a non-Federal entity's contracts must contain the applicable provisions described

in Appendix II to 2 CFR 200-Contract Provisions for non-Federal Entity Contracts under Federal Awards. Therefore, if applicable, the provisions of Appendix II to 2 CFR 200 are attached and incorporated by reference into this County contract should it be subject to Federal award.

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

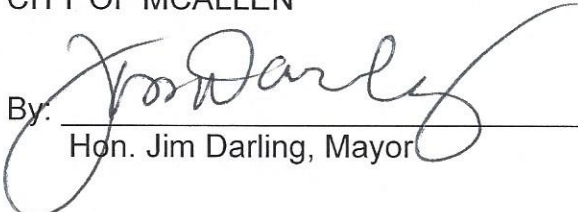
COUNTY OF HIDALGO

By: _____
Richard Cortez, County Judge

ATTEST:

Arturo Guajardo, Jr., County Clerk

CITY OF MCALLEN

By:  _____
Hon. Jim Darling, Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

Hidalgo County Criminal District Attorney's Office
Ricardo Rodriguez, Jr.

By: _____
Victor M. Garza, Assistant District Attorney



ITEM SUMMARY

BOARD: City Commission

AGENDA ITEM

3.B.

DATE SUBMITTED

8/19/2019

MEETING DATE

8/26/2019

- 1. Agenda Item: Consideration and Approval of an Interlocal Agreement with County of Hidalgo for widening of FM 676 - Mile 5 (Auburn) from Taylor Road to FM 2220 Ware Road.
- 2. Party Making Request: Yvette Barrera
- 3. Applicant:
- 4. Nature of Request: Approval of Interlocal Agreement between the City of McAllen and the County of Hidalgo for the Roadway Project Development (Phase II & Phase III) of 5 Mile Lane (Auburn Avenue) from Taylor Road to FM 2220 (Ware Road).

The City of McAllen will participate with the total cost of Phase II, fix lump sum amount of \$1,347,248.24 and the County of Hidalgo with the total cost for Phase III.

- 5. Fiscal Impact Summary: The City of McAllen will participate with the total cost of Phase II, fix lump sum amount of \$1,347,248.24 and the County of Hidalgo with the total cost for Phase III.

Funding requested in fiscal year 19-20. Amount to be paid in Fiscal year 19-20

- 6. Budgeted:

Bid Amount: _____
 Under Budget: _____

Budgeted Amount: _____
 Over Budget: _____
 Amount Remaining: _____

- 7. Routing:

Veronica Sanchez	Created/Initiated - 8/19/2019
Yvette Barrera	Approved - 8/19/2019
Angie Rodriguez	Approved - 8/21/2019
Gerardo Noriega	Approved - 8/21/2019
Michelle Rivera	Approved - 8/21/2019
Kevin Pagan	Final Approval - 8/21/2019

- 8. Staff Recommendation: Approval of Interlocal Agreement with County of Hidalgo for widening of FM676 - Mile 5 (Auburn) from Taylor to FM2220- Ware Road.

- 9. Advisory Board:

- 10. City Attorney: Approve. IAD

- 11. Manager's Recommendation: Approve. RR



ENGINEERING DEPARTMENT
MEMORANDUM

To: Roel “Roy” Rodriguez, PE, City Manager
From: Yvette Barrera, PE, CFM, City Engineer
Date: August 19, 2019
Subject: **Agenda Item – Consideration and Approval of an Interlocal Agreement between the City of McAllen and the County of Hidalgo for widening of FM676 – Mile 5 (Auburn Avenue) from Taylor Road to FM 2220 (Ware Road).**

Goal

Consideration and Approval Interlocal Agreement between the City of McAllen and the County of Hidalgo for right of way acquisition and widening of FM676 – Mile 5 (Auburn Avenue) from Taylor Road to FM 2220 (Ware Road).

Explanation

The proposed Interlocal Agreement proposes to reimburse the County of Hidalgo for the roadway widening improvements of 5 Mile lane (Auburn Avenue) from Taylor Road to FM2220 (Ware Road). Under the agreement, the County of Hidalgo would continue to be the fiduciary agent for this project and assume the role of project development lead. The City of McAllen and the County of Hidalgo desire to proceed and complete Phase II and Phase III of the project development activities, which generally consist of:

Phase II – Right-of-Way Map, Roadway Design (PS&E) and Surveys
Phase III – Right-of-Way Acquisition and Construction Oversight.

The City of McAllen will participate in improvements by contributing a **fixed lump sum** for Phase II of the project development funding, in an amount of **\$1,347,248.24** to the County of Hidalgo, prior to commencement of Phase II. The County of Hidalgo will participate by providing all of the total Phase III project development activities.

Options

Approve or Disapprove Interlocal Agreement with the County of Hidalgo

Recommendation

Based on review by this office, staff recommends approval of the Interlocal Agreement with the County of Hidalgo.

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**APPROVAL OF
INTERLOCAL COOPERATION AGREEMENT
PROJECT**

In accordance with Texas Government Code §791.014, the County of Hidalgo, Texas, acting by and through the Hidalgo County Commissioners Court, has been advised of a proposed project regarding certain Phase II and Phase III road improvements to FM 676 (Mile 5) from Taylor Road to FM 2220 (Ware Road), a section which is in part within the city limits of McAllen and in part within County jurisdiction through an Interlocal Cooperation Agreement to be entered into with the City of McAllen, Texas, and the County of Hidalgo.

By vote on _____ 2019, the Hidalgo County Commissioners Court has approved the Project identified above.

By: Richard Cortez, County Judge

ATTEST:

Arturo Guajardo, Jr., County Clerk

APPROVED AS TO FORM:

Hidalgo County Criminal District Attorney's Office
Ricardo Rodriguez, Jr.

By: _____
Victor M. Garza, Assistant District Attorney