

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

This Agreement is made on this the ____ day of _____, 2021 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, the County and City, each pursuant to its statutory and constitutional authority, are responsible for maintenance and improvements to certain public roadways within their boundaries;

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; and pursuant to the County Road and Bridge Act which authorizes counties to improve roadways within the limits of a City with the City's consent.

WHEREAS, COUNTY is engaging in a Project more particularly described as the re-construction of North Mon Mack Road, of which approximately One Thousand and Seventy (1,070) Feet of said road is within the City Limits of the City of Edinburg (the "Project"); and

WHEREAS, County and City have determined the Project will serve a public purpose and provide a mutual benefit to each other.

WHEREAS, to better serve the health and safety of the residents that utilize North Mon Mack 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 COUNTY 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 North Mon Mack Road within the City of Edinburg City Limits (1,070 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 1,070 feet of North Mon Mack Road all within City Limits.
 - d. Overlay 2 inches with Asphalt for approximately 1,070 feet of North Mon Mack 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. The City's contribution to the construction cost shall be an amount not to exceed Eighteen Thousand Three Hundred Dollars and Ten Cents (\$18,300.10) which shall be reimbursed to the County within thirty (30) days of presentation of said charge. Any contribution exceeding the City's \$18,300.10 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 100 (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 Molina, Mayor
 415 W. University Drive
 Edinburg, Texas 78541

With copy to: City of Edinburg
Attention: Ron Garza, City Manager
415 W. University Drive
Edinburg, Texas 78541

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

With copy to: Commissioner, Precinct Number 4
Attention: Ellie Torres
1051 N. Doolittle
Edinburg, Texas 78541

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. **Term.** The effective date of this agreement shall be the date first written above. The term of the Agreement shall be for the time period referenced above.
28. **Termination.** Either party may terminate this Agreement with or without cause upon thirty (30) days written notice to the other.
29. **Liability Insurance.** Each entity will carry sufficient liability insurance at the statutorily required limits, pursuant to the Texas Tort Claims Act.
30. **Immunities.** It is expressly understood and agreed that, in the execution of this agreement, neither the City nor County waive, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercising of governmental powers and functions.
31. **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 City policy, including without limitation race, color, national origin, religion, sex, age, veteran status, disability or any other category protected under law.
32. **Governing Provisions.** Parties shall comply with all applicable laws and regulations. A non-exclusive list of regulations commonly applicable to Federal and State grants and equipment can be found in the new 2 CFR 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements.
33. **Legal Construction/Severability.** In case any one or more of the provisions contained in this Agreement will for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provision thereof, and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
34. **Prior Agreements.** This Agreement supersedes and terminates all previous Interlocal Agreement(s) between the parties hereto concerning the subject matter hereof, except for any Interlocal Agreement dated prior to this Agreement to the extent work is being performed under said Agreement at the time of executing this Agreement. Once ongoing work under any such previous Interlocal Agreement(s) is completed and payment is remitted such previous Interlocal agreement shall terminate at such time.

[SIGNATURE PAGE TO FOLLOW]

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

CITY OF EDINBURG, TEXAS

BY: _____
Richard Molina, City of Edinburg - Mayor

ATTEST:

BY: _____
Myra L. Ayala, City Secretary

By: Omar Ochoa Law Firm, P.C.

Approved by Edinburg City Council

Attorneys at Law

Omar Ochoa, City Attorney

On: _____

HIDALGO COUNTY

BY: _____
Richard Cortez, County Judge

ATTEST:

By: _____
Arturo Guajardo, Jr., County Clerk

APPROVED AS TO FORM:

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

By: _____
Robert Vina, III, Assistant District Attorney