

STATE OF TEXAS           §

COUNTY OF HIDALGO      §

**INTERLOCAL COOPERATION AGREEMENT  
BETWEEN THE CITY OF MCALLEN, TEXAS, HIDALGO  
COUNTY AND HIDALGO COUNTY DRAINAGE DISTRICT NO. 1**

THIS Agreement is made on this the\_\_ day of November 2022, by and between the **CITY OF MCALLEN, TEXAS** (“McAllen”), **HIDALGO COUNTY** (“Hidalgo County”) and **HIDALGO COUNTY DRAINAGE DISTRICT NO.1** (the "District"), pursuant to the provisions of the Texas Interlocal Cooperation Act, as follows:

**WITNESSETH:**

**WHEREAS**, the Parties wish to undertake certain drainage improvements identified as Mayberry Rd. to Glasscock Rd. Drainage improvements in the drainage improvement schematic attached hereto as **Exhibit A** (the “Improvements”); and

**WHEREAS**, the Improvements will assist in addressing desired flood control measures for the benefit of the residents of McAllen, Hidalgo County and the those serviced by the District; and

**WHEREAS**, the Improvements will include costs for engineering fees, acquisition of parcels in fee and/or by easement, construction costs and material testing; and

**WHEREAS**, McAllen wishes to participate in the Improvements by monetarily contributing Thirty percent (30%) of the costs; and

**WHEREAS**, the District wishes to participate in the Improvements by procuring engineering, construction services, material testing and monetarily, with its financial contribution to equal Thirty five percent (35%) of the costs of the Improvements; and

**WHEREAS**, Hidalgo County, through Precinct 3, wishes to participate in the Improvements by a combination of monetary contribution and/or in-kind services, to equal Thirty five percent (35%) of the costs of the Improvements; and

**NOW, THEREFORE**, McAllen, Hidalgo County, and the District, in consideration of the mutual covenants expressed hereinafter, agree as follows:

1. **Improvements.** The Parties agree to cooperate with one another in undertaking the Improvements along the area described in **Exhibit A**. The District has prepared a preliminary cost estimate for the Improvements attached as **Exhibit B** which the Parties know is subject to change based on market prices. The Parties wish to obtain substantial completion of the Improvements approximately seventeen (17) months from the execution of this Agreement.

- A. McAllen agrees to issue payment to the District for \$998,942.11 of the estimated project cost within thirty (30) days of the execution of this Agreement. McAllen agrees to reimburse the balance of costs of the Improvements to the District no later than December 2023. In the event actual costs are more than what McAllen has paid, the District shall issue an invoice to McAllen and McAllen agrees to pay the District within 30 days of receipt of an invoice. In the event McAllen's payment to the District exceeds its share of the costs of the Improvements, the District shall issue a check to McAllen for the difference within 30 days of final completion of the Improvements.
  - B. The District agrees to follow its procurement requirements to acquire engineering services (plans and design), parcel acquisition services, a construction contractor and contribute Thirty Five percent the cost of the Improvements.
  - C. Hidalgo County agrees to provide monetary and/or in-kind services equal to Thirty Five percent the costs of the Improvements. Equipment costs will be calculated at the FEMA approved rates. Hidalgo County agrees to issue payment to the District within thirty (30) days of receipt of an invoice. District shall invoice Hidalgo County periodically through the performance of the Improvements.
2. **License.** McAllen hereby grants to the Drainage District and Hidalgo County a non-exclusive license to perform the Improvements (the "License") along McAllen streets and easements where the Improvements are to be performed. The License is conveyed AS IS, WHERE IS, WITH ALL FAULTS.
  3. **Indemnification.** To the extent permitted by law, McAllen shall protect, defend and hold Drainage District and Hidalgo County and their respective elected officials, servants, agents, contractors, subcontractors, licensees, invitees and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all costs for investigation and defense thereof (including, but not limited to attorney's fees, court costs and expert fees), of any nature whatsoever arising out of the negligent acts or omission of the McAllen under this Agreement. The provisions of this Section shall survive the expiration or termination of this Agreement and shall not be limited by reason of any insurance coverage.
  4. **Indemnification.** To the extent permitted by law, Hidalgo County shall protect, defend and hold Drainage District and McAllen and their respective elected officials, servants, agents, contractors, subcontractors, licensees, invitees and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all costs for investigation and defense thereof (including, but not limited to attorney's fees, court costs and expert fees), of any nature whatsoever arising out of the negligent acts or omission of the Hidalgo County under this Agreement. The provisions of this Section shall survive the

expiration or termination of this Agreement and shall not be limited by reason of any insurance coverage.

5. **Indemnification.** To the extent permitted by law, Drainage District shall protect, defend and hold McAllen and Hidalgo County and their respective elected officials, servants, agents, contractors, subcontractors, licensees, invitees and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all costs for investigation and defense thereof (including, but not limited to attorney's fees, court costs and expert fees), of any nature whatsoever arising out of the negligent acts or omission of the Drainage District under this Agreement. The provisions of this Section shall survive the expiration or termination of this Agreement and shall not be limited by reason of any insurance coverage.
6. **Conflict with 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 provision of this Agreement shall be modified only to the extent necessary to bring this Agreement within any such legal requirements and only during the times such conflict exists.
7. **No Waiver.** No waiver by any party hereto of any breach of any provision of this 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 agreement between the parties hereto, reflecting the subject matter 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 parties hereto.
9. **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.
10. **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, 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 of McAllen:           City of McAllen  
  Attn: City Manager  
  1300 Houston Ave.  
  McAllen, TX 78501

If to Hidalgo County:           Hidalgo County  
  Attn: Pct. 3  
  724 Breyfogle Rd.  
  Mission, TX 78574

If to Drainage District:         Hidalgo County Drainage District No. 1  
  Attn: General Manager  
  902 N. Doolittle  
  Edinburg, Texas 78540-0758

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.

11. **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.
12. **Successors.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective administrators, legal representatives, successors and assigns where permitted by this Agreement.
13. **Assignment.** This Agreement shall not be assignable.
14. **Headings.** The headings and captions contained in this Agreement are solely for convenience reference and shall not be deemed to affect the meaning or

interpretation of any provision of paragraph hereof.

15. **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 so often as may be appropriate.
16. **Authority to Execute.** The execution and performance of this Agreement by the parties have been duly authorized by all necessary laws, resolutions or governing body action of the parties and this Agreement constitutes the valid and enforceable obligations of the Drainage District, and the Irrigation District in accordance with its terms.
17. **Governmental 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 to the paying party as herein provided.
18. **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.
19. **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 each entity enjoys by virtue of the state or federal constitution, laws, rules or regulations, and any sovereign, official or qualified immunity available to as to any claim or action of any person, entity, or individual against each party.
20. **Non-Discrimination.** This 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 by County, Drainage District and City policy, including without limitation race, color, national origin, religion, sex, age, veteran status, or disability.
21. **Appendix II TO CFR 200-Contract Provisions.** Pursuant to 2 CFR 200.326, 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 incorporated by reference into this agreement should it be subject to Federal award.

**WITNESS THE HANDS OF THE PARTIES** effective as of the day and year firstwritten above.

**AGREED:**

**HIDALGO COUNTY DRAINAGE DISTRICT NO. 1.**

By: \_\_\_\_\_  
Richard F. Cortez, Chairman of the Board

**Approved as to Form Only:**

\_\_\_\_\_  
Jones, Galligan, Key & Lozano L.L.P.

**AGREED:**

**HIDALGO COUNTY, TEXAS**

By: \_\_\_\_\_  
Richard F. Cortez, County Judge

**Approved as to Form Only:**

\_\_\_\_\_  
Hidalgo County District Attorney's Office

**AGREED:**

**CITY OF MCALLEN, TEXAS**

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By: Javier Villalobos, Mayor

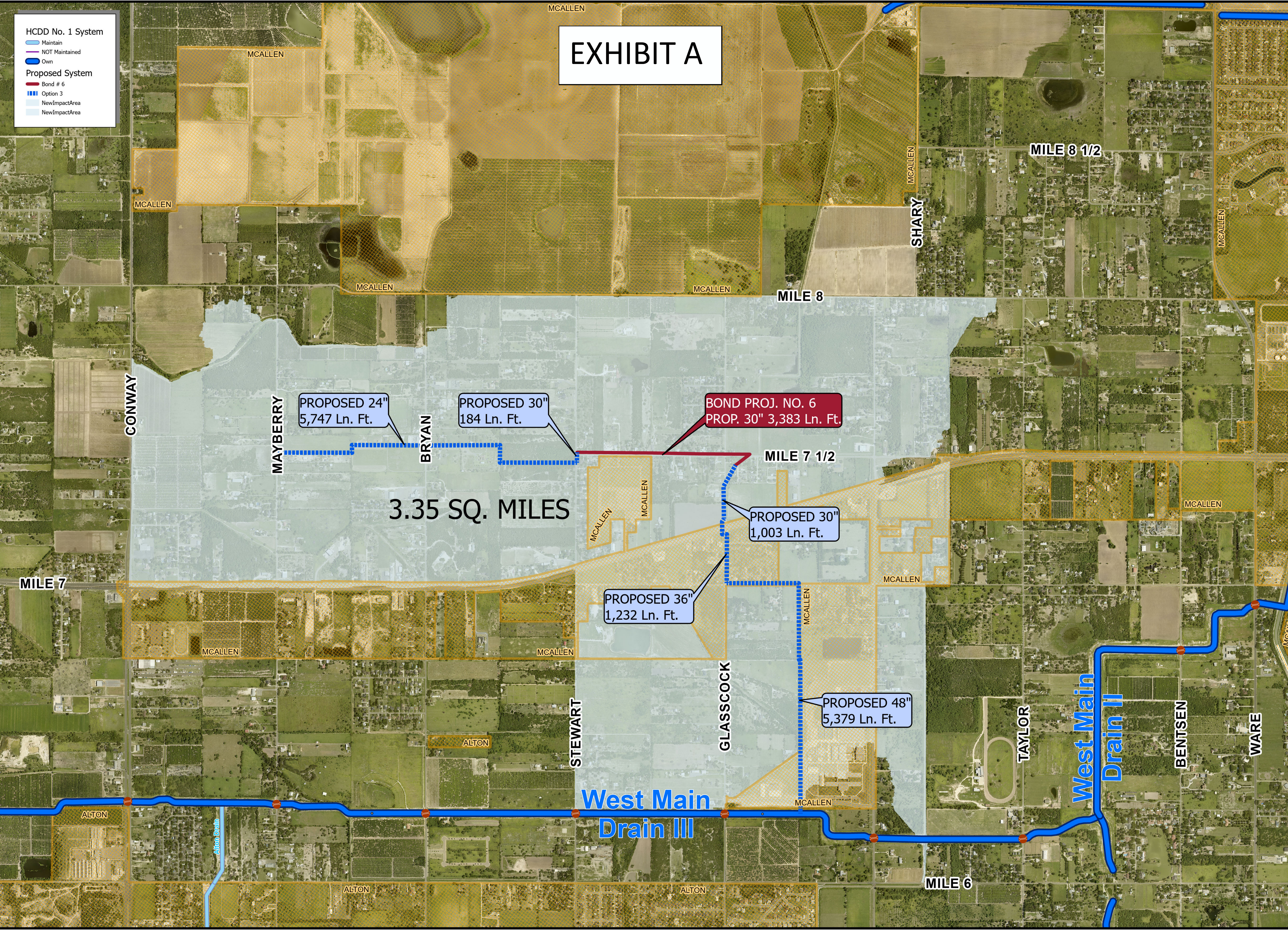
**Approved as to Form Only:**

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Isaac Tawil, City Attorney  
City of McAllen, Texas

- HCDD No. 1 System
- Maintain
  - NOT Maintained
  - Own
- Proposed System
- Bond # 6
  - Option 3
  - NewImpactArea
  - NewImpactArea

# EXHIBIT A



HIDALGO COUNTY  
DRAINAGE DISTRICT NO. 1

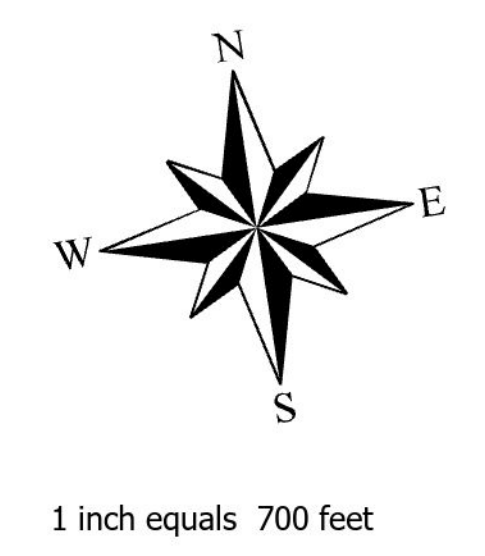
902 DOOLITTLE RD.  
EDINBURG, TX. 78542  
TEL: (956) 292-7080  
www.hcdd1.org



HIDALGO COUNTY DRAINAGE DISTRICT NO. 1

MAYBERRY RD. TO GLASSCOCK RD.

PROPOSED DRAINAGE IMPROVEMENTS



# EXHIBIT B

## PRELIMINARY ENGINEERS CONSTRUCTION COST ESTIMATE

HIDALGO COUNTY DRAINAGE DISTRICT No. 1

MAYBERRY RD TO GLASSCOCK RD PROPOSED AREA DRAINAGE IMPROVEMENTS

ESTIMATOR: RAUL E. SESIN, PE REV. DATE: 10/01/2021

PROJECT NO. E-21-031



Item No.	Estimated Quantity	Unit	Item Description	Unit Price In Figures	Total Extension In Figures
<b>STEWART ROAD - OPTION TWO</b>					
1	1	LS	TRAFFIC CONTROL	\$ 15,000.00	\$ 15,000.00
2	1	LS	EROSION CONTROL	\$ 10,000.00	\$ 10,000.00
3	5747	LF	24 IN STORM DRAIN LINE	\$ 50.00	\$ 287,350.00
4	4570	LF	30 IN STORM DRAIN LINE	\$ 75.00	\$ 342,750.00
5	1232	LF	36 IN STORM DRAIN LINE	\$ 110.00	\$ 135,520.00
6	5379	LF	48 IN STORM DRAIN LINE	\$ 210.00	\$ 1,129,590.00
7	16928	LF	TRENCH PROTECTION	\$ 3.00	\$ 50,784.00
8	30	EA	CUT AND RESTORE - DRIVEWAY	\$ 1,600.00	\$ 48,000.00
9	10	EA	CUT AND RESTORE - STREET	\$ 5,000.00	\$ 50,000.00
10	12	EA	TYPE CC INLET	\$ 4,000.00	\$ 48,000.00
11	11	EA	STORM MANHOLES (48 IN)	\$ 4,500.00	\$ 49,500.00
12	5	EA	STORM MANHOLES (72 IN)	\$ 6,000.00	\$ 30,000.00
13	1	LS	IRRIGATION CROSSINGS	\$ 50,000.00	\$ 50,000.00
14	1	LS	GAS LINE CROSSING	\$ 50,000.00	\$ 50,000.00
<b>CONSTRUCTION SUBTOTAL:</b>				<b>\$</b>	<b>2,296,494.00</b>
15	7	EA	PARCELS	\$ 7,500.00	\$ 52,500.00
16	6	AC	EASEMENT	\$ 20,000.00	\$ 120,000.00
<b>ROW SUBTOTAL:</b>				<b>\$</b>	<b>172,500.00</b>
<b>CONTINGENCY, MATERIAL TESTING &amp; UTILITY CONFLICTS (25%):</b>				<b>\$</b>	<b>574,123.50</b>
<b>ENGINEERING DESIGN SERVICES FEE (8%):</b>				<b>\$</b>	<b>183,719.52</b>
<b>SH 107 TXDOT CROSSING (36 IN):</b>				<b>\$</b>	<b>102,970.00</b>
<b>GRAND TOTAL :</b>				<b>\$</b>	<b>3,329,807.02</b>
<b>City of McAllen 30%</b>				<b>\$</b>	<b>998,942.11</b>
<b>HCDD1 35%</b>				<b>\$</b>	<b>1,165,432.46</b>
<b>HCP 3 35%</b>				<b>\$</b>	<b>1,165,432.46</b>