

STATE OF TEXAS       §  
                                  §  
COUNTY OF HIDALGO   §  
                                  §  
                                  §

**INTERLOCAL COOPERATION AGREEMENT BETWEEN CITY OF EDINBURG AND COUNTY OF HIDALGO, TEXAS (PRECINCT#4) FOR SEMINARY ROAD REPAVING**

This Agreement is made on this the \_\_\_\_ day of \_\_\_\_\_, 2023 by and between CITY OF EDINBURG, TEXAS, hereinafter referred to as "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 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**, CITY is engaging in a Project more particularly described as the repaving of Seminary Road, of which approximately Eleven Thousand Four Hundred and Three (11,403) Square Yards of said road is within the County Limits of the Hidalgo County Precinct #4 (the "Project"); and

**WHEREAS**, CITY is engaging in a Project more particularly described as the repaving of Seminary Road, of which approximately Eight Thousand and Three Hundred and Ninety Six (8,396) Square Yards 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 Seminary 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 COUNTY has agreed to assist CITY by providing funding for the re-paving for a portion of the Project within County Limits; and

**WHEREAS**, the labor, equipment and materials for the Project as outlined below is to be provided through CITY; and

**WHEREAS**, the CITY will serve as the lead agency for the Project; and

**WHEREAS**, the CITY 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. CITY agrees to provide materials, labor, equipment and fuel for the re-construction of certain portions of the Project as outlined below:
  - a. Re-Pave the portion of Seminary Road within the County Limits, Eleven Thousand Four Hundred and Three (11,403) Square Yards as indicated in Exhibit "A".
  - b. Provide Materials, Equipment, and Labor for the Project.
  - c. Overlay 2 inches with Asphalt for approximately 11,403 Square Yards of Seminary Road all within County Limits outside of City Limits.
2. CITY will serve as the lead agency for the Project and shall execute all contracts necessary to complete the Project.
3. CITY shall provide COUNTY 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.
4. CITY shall provide materials and equipment for completion of the Project at the rates and cost as shown in the attached Exhibit "A".
5. Prior to COUNTY utilizing CITY manpower, equipment and materials, COUNTY shall request and will receive the current hourly rates of CITY 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. CITY shall be solely responsible for determining the current rate of its personnel. Any request for use by COUNTY of CITY individuals shall be subject to the approval by the City Manager determining that the CITY individuals, equipment and materials so requested by the COUNTY are not required for other projects of CITY at the time requested by COUNTY.

6. CITY will provide to COUNTY invoices with supporting documentation, including but not limited to receipts and invoices for all labor, equipment and materials used or purchased by CITY for the Project in accordance with the Paragraph 8 below.
7. COUNTY agrees to pay CITY for the entire cost of materials, equipment and personnel used by CITY for the portion of the Project within County Limits. Prior to CITY commencing the Project, COUNTY shall escrow the amount of the CITY'S estimate for the Project with the City of Edinburg's Finance Department (the "Escrow"). Should COUNTY deposit such Escrow with the City's Finance Department, COUNTY agrees CITY may draw from the Escrow the costs of materials, equipment and personnel for such Project within seven (7) business days of receipt by COUNTY of an invoice and supporting documentation from CITY, the entire cost of CITY materials, equipment and personnel used for the portion of the Project within City Limits. The COUNTY's contribution to the construction cost shall be an amount not to exceed Seventy Nine Thousand Six Hundred and Fifty Five Dollars and Seventy Four Cents (\$79,655.74) which shall be reimbursed to the CITY within thirty (30) days of presentation of said charge. Any amount exceeding the COUNTY'S contribution as indicated herein must first be presented to the COUNTY 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, CITY agrees to remit such difference to COUNTY.
8. Upon a change in price for manpower for CITY personnel, equipment or materials, the CITY shall notify COUNTY within ten (10) working days during the term of the Project and before beginning any new work on the Project.
9. 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 CITY Project within 100 (days) of the date of this Agreement.
10. Upon final completion of the Project work described herein, the COUNTY agrees to repair and maintain only those improvements located within the jurisdiction of the COUNTY.
11. Upon final completion of the Project work described herein, the parties agree that CITY will be released of any and all duties imposed by this Agreement.
12. 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.
13. Pursuant to Tex. Trans. Code 251.012, the CITY authorizes the COUNTY to perform the work and services described herein within its corporate city limits.
14. Event of Default. The following shall constitute an "Event of Default" under this Agreement:

- a. **Failure to Begin or Maintain Project.** City's failure or refusal to begin the Project by December 31, 2023 shall be deemed an event of default. Upon beginning the Project, County's failure to maintain construction of the Project for a period of 1 year shall be deemed an event of default.
  - b. **Construction of Project.** City's failure to comply with its construction obligations set forth in this Agreement shall be deemed an event of default.
15. **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.
16. **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.
17. **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.
18. **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.
19. **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.

21. **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: Ramiro Garza Jr., Mayor  
                                      415 W. University Drive  
                                      Edinburg, Texas 78541

With copy to:               City of Edinburg  
                                      Attention: Myra L. Ayala, City Manager  
                                      415 W. University Drive  
                                      Edinburg, Texas 78541

If to COUNTY:               Hidalgo County  
                                      Attention: Richard Cortez, County Judge  
                                      100 E. Cano Street, Second Floor  
                                      Edinburg, Texas 78539

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.

22. **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.
23. **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.
24. **Assignment.** This Agreement shall not be assignable

25. **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.
26. **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.
27. **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.
28. **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.
29. **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.
30. **Termination.** Either party may terminate this Agreement with or without cause upon thirty (30) days written notice to the other.
31. **Liability Insurance.** Each entity will carry sufficient liability insurance at the statutorily required limits, pursuant to the Texas Tort Claims Act.
32. **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.

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

**CITY OF EDINBURG, TEXAS**

BY: \_\_\_\_\_  
Ramiro Garza, Jr., Mayor

**ATTEST:**

BY: \_\_\_\_\_  
Clarice Y. Balderas, City Secretary

**APPROVE TO FORM:**

By: Omar Ochoa Law Firm, P.C.  
Attorneys at Law

Approved by Edinburg City Council

\_\_\_\_\_  
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  
Toribio "Terry" Palacios.

By: \_\_\_\_\_  
Robert Vina, III Assistant District Attorney