

FILED
AT 10:33 O'CLOCK A M
JAN 23 2019
ARTURO GUAJARDO, JR. COUNTY CLERK
HIDALGO COUNTY, TEXAS
DEPUTY

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "Agreement") is effective, and made and entered into as of the 20th day of December, 2018, by and between Hidalgo County Irrigation District No. 2 whose address is P.O. Box 6, San Juan, Texas 78589 ("Licensor") and HIDALGO COUNTY whose address is 100 E. Cano, 2nd Floor Edinburg, Texas 78539 ("Licensee").

WITNESSETH:

1. For and in consideration of Licensee, at Licensee's sole expense, to construct a pedestrian bridge in connection with Licensee's linear park over Licensor's irrigation canal and right of way located approximately 0.34 miles west of I Road in Pharr, Texas (the "District's Canal"), a description of such pedestrian bridge being described in those certain construction plans labeled as Regional Linear Park Project at HCID #2 Canal Bridge Layout (Sheet 106), a copy of such construction plans delivered to Licensor which Licensor acknowledges (the "Bridge") and the terms and conditions herein. Licensor hereby grants to Licensee a non-exclusive license (the "**License**") in, over, and across the District's Canal to allow for the construction of the Bridge and the use of the Bridge by the general public users of Licensee's linear park and for no other purpose. The License is granted solely to the extent of Licensor's right, title and interest in District's Canal, without any express or implied warranties. **LICENSOR HAS NOT MADE AND DOES NOT HEREBY MAKE AND HEREBY SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR CHARACTER WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE DISTRICT'S CANAL OR THE BRIDGE.** Licensee has inspected the District's Canal, accepts the same "**AS IS, WHERE IS, WITH ALL FAULTS,**" and agrees that Licensor is under no obligation to perform any work or provide any maintenance, repairs or materials to the District's Canal or the Bridge for the benefit of Licensee.
2. Permitted Use, Licensor agrees to allow Licensee to construct the Bridge and allow use of the Bridge by the public as part of County's linear park (the "Permitted Use") Licensor reserves the right to fully use and enjoy the District's Canal and Bridge subject only to the terms and conditions of this License.
3. Term of License. The term of the License shall begin on the date of this Agreement and, subject to paragraph 9 below, shall continue for as long as Licensee maintains Licensee's linear park open to the public or it shall expire twenty (20) years following the effective date of this License, whichever occurs sooner, unless extended by written agreement by the parties. Following, the termination of the License, the parties shall have no further rights or obligations under this Agreement (except for those obligations that survive the termination or

expiration of the License. In the event Licensee retains possession of the Bridge or any portion thereof after the termination of the License, such possession and use shall be an unlawful detainer, and no tenancy or interest shall result from such possession.

4. **Access to Facility.** Subject to the terms and conditions of this Agreement, Licensee and/or users of Licensee's linear park shall have continuous access to the Bridge on a non-exclusive basis for the Permitted Use; provided, however, such access shall be limited to Licensee, its employees, contractors and users of Licensee's linear park. Neither Licensor nor any of its affiliates, elected officials, officers, employees, agents, representatives, licensees, or invitees (collectively, "**Licensor Parties**") shall have any responsibility or liability for the conduct or safety of any of Licensee's elected officials, agents, representatives, contractors, employees, licensees, invitees or users of Licensee's Linear Park or any other person afforded access to the Facility by or on behalf of Licensee while such parties are using any part of the Bridge, **EVEN IF ANY LIABILITY, DAMAGE, LOSS, COST, EXPENSE, CLAIM, DEMAND, OR INJURY IS CAUSED BY THE NEGLIGENCE, (BUT NOT THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT) OF ANY LICENSOR PARTY.** Licensee will keep the Facility free from all liens and claims, legal or equitable, arising out of its activities, including mechanics' and materialmen's liens. If a lien or claim is filed by anyone claiming by, through or under Licensee, Licensee will discharge same within 10 days of filing by payment or posting of a surety bond. The provisions of this paragraph shall survive the termination or expiration of the License.
5. **Maintenance of Bridge.** At all times during the term of the License, Licensee shall assume and bear all of the costs and liability of protective measures which Licensee deems necessary to safeguard the general public using the Bridge and to maintain the Bridge in a good and safe condition and shall comply with all federal, state and local laws, rules, regulations, ordinances applicable to its use of the Bridge. Licensor shall have no responsibility with regard to such measures, unless they interfere with Licensor's use of the District's canal. Without limiting the foregoing, Licensee shall obtain any permits required for the Permitted Use prior to commencing such Permitted Use and shall at all times comply with the requirements of such permits.
6. **Licensor Liability.** To the extent allowable by law, Licensor shall be saved and held harmless by Licensee, from and against any and all claims and damages of every kind, for injury to or death of any person or persons and for damage to or loss of property, personal or real, arising out of or attributed, directly or indirectly, to the existence or use of the Bridge.

In the event Licensee its employees, contractors and users of the Bridge damage the District's Canal, Licensee shall arrange for the repair or replacement thereof, which is necessary to place it in a condition as it was prior to such damages

within thirty (30) days following the damages unless extended by agreement of the parties. If such repairs are not performed by Licensee, then Licensee agrees to pay to Licensor its reasonable costs of repairing such damages.

7. Hazardous Materials. Licensee will not cause or permit the storage, use, generation or disposition of Hazardous Materials in or about the Facility without the prior written consent of the Licensor. A "**Hazardous Material**" is any substance (a) the presence of which requires notification, investigation or remediation under applicable federal, state or local laws, rules, regulations, ordinances and permits; or (b) which is defined, listed or regulated by any governmental authority as a "hazardous waste", "extremely hazardous waste", "solid waste", "toxic substance", "hazardous substance", "hazardous material" or "regulated substance", or otherwise regulated under applicable laws, rules, regulations, ordinances and permits, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and similar statutes.
8. Licensor's Operations. Licensee, by the acceptance hereof, agrees to exercise its rights under this License so that there are no interruptions of water delivery by Licensor to its customers, unless Licensor and Licensee reach a written agreement modifying this provision.
9. No Sublicense or Assignment. Licensee shall not assign its rights under this Agreement or grant any sublicense with respect to all or any portion of the Bridge without the prior written consent of Licensor. Any occupancy or use arrangement, assignment or sublease made without the prior written consent of Licensor shall be null and void.
10. No Interest in Real Property. The License, or the use of the District's Canal for the Permitted Use or otherwise shall not be construed to confer any interest or estate of any kind whatsoever in the District's Canal to Licensee or to create a partnership or joint venture between Licensor and Licensee.
11. At Termination. Upon termination of this License, Licensee shall, at its expense, remove the Bridge leaving the District's Canal in a condition as it existed prior to the construction of the Bridge within thirty (30) days following the termination of this License unless extended by agreement of the parties, and if the Bridge is not so removed, then Licensee agrees to pay to Licensor its reasonable costs of removing the Bridge.
12. Default by Licensee. It shall be a default by Licensee under this Agreement if Licensee fails to comply with any term, provision, condition or covenant of this Agreement. Upon the occurrence of such a default, Licensor shall have the option to (a) proceed to cure such failure and Licensee shall immediately reimburse Licensor for the costs thereof upon demand, (b) terminate the License by giving notice of such termination to Licensee, in which event Licensee shall

remove the Bridge as provided in Paragraph 11 and immediately surrender this License to Licensor and the parties shall have no further obligations under this Agreement (except for those obligations that survive the termination or expiration of the License) or (c) exercise any remedies that may be available to it at law or in equity.

13. Licensor Expenses. Following the effective date hereof, Licensee agrees to reimburse Licensor any expenses incurred by Licensor relating to costs of supervision of any work by Licensee hereunder, and other reasonable out-of-pocket expenses incurred by Licensor in connection with the granting and supervision of this License.
14. 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 Licensor: Hidalgo County Irrigation District No. 2
P. O. Box 6
San Juan, Texas 78589

If to Licensee: County of Hidalgo
Attention: County Judge
100 E. Cano, 2nd Floor
Edinburg, Texas 78539

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.

15. 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.
16. Authorization. Those representatives of the parties executing this License below represent one to the other that they are authorized by proper action of the governing body of each party to execute this License.

IN WITNESS WHEREOF, this Agreement is executed as of the day first written above.

LICENSOR:

HIDALGO COUNTY IRRIGATION DISTRICT NO. 2

By: Frank John Schuster
Its: President, Board of Directors

LICENSEE:

HIDALGO COUNTY

By: Ramon Garcia
Name: Ramon Garcia
Title: County Judge

ATTEST:

By: Arturo Guajardo, Jr.
Arturo Guajardo, Jr. County Clerk



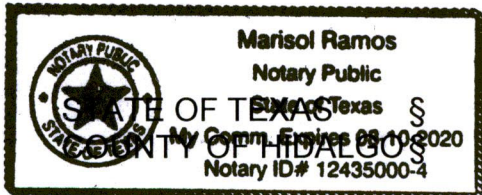
APPROVED BY
COMMISSIONERS' COURT
ON: 12/18/18 me

ACKNOWLEDGMENTS

STATE OF TEXAS §
COUNTY OF HIDALGO §

This instrument was acknowledged before me on this the 20th day of December, 2018, by Frank John Schuster President of the Board of Directors of Hidalgo County Irrigation District No. 2, to certify which witness my hand and seal of office.

mramos
Notary Public in and for the State of Texas



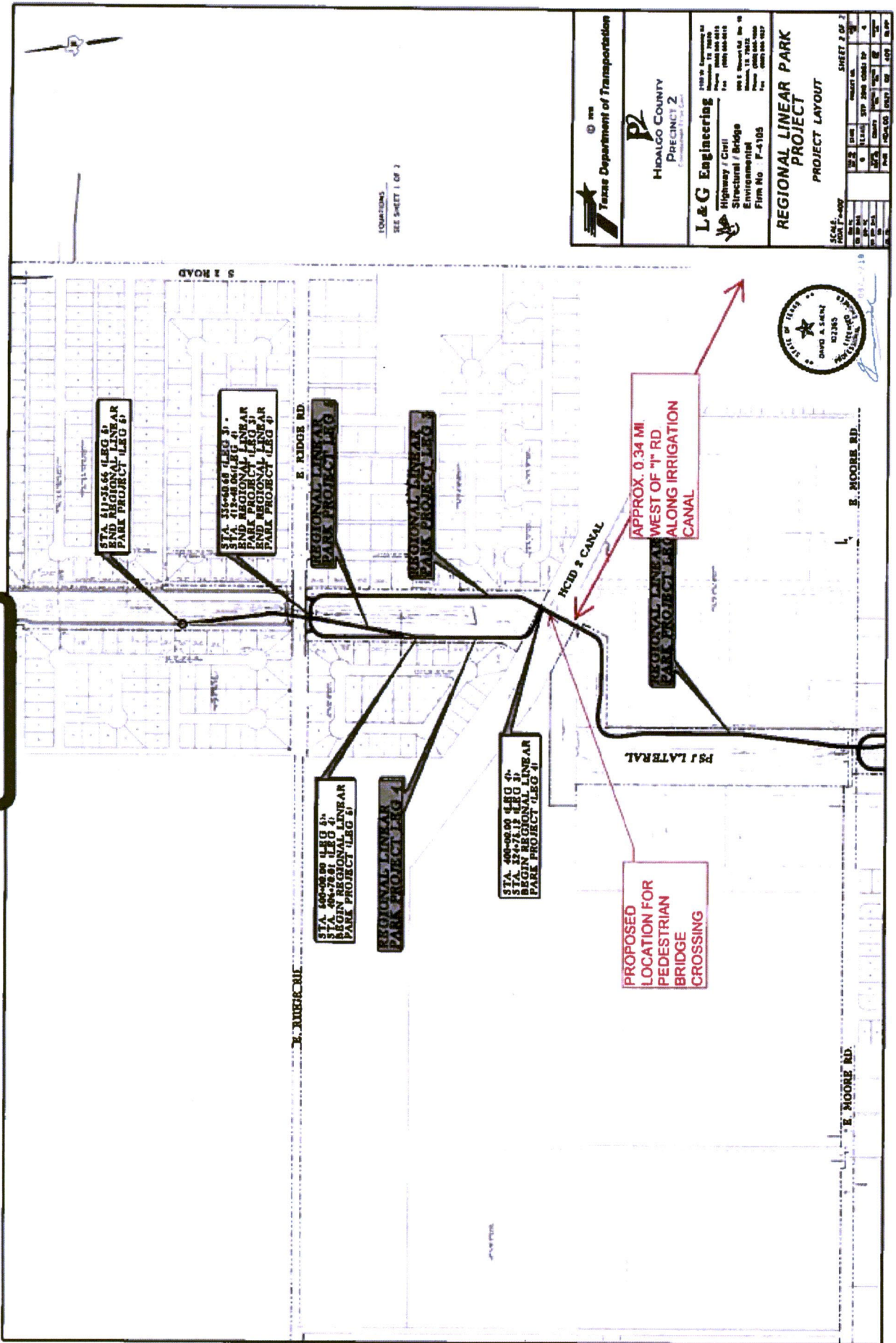
This instrument was acknowledged before me on this the 22nd day of January, 2018, by Ramon Garcia, in the capacity as stated, to certify which witness my hand and seal of office.

Monica Salinas
Notary Public in and for the State of Texas



EXHIBIT
"A"

Sheet



COMPLETION:
SEE SHEET 1 OF 2

Traffic Department of Transportation

HIDALGO COUNTY
PRECINCT 2

L & G Engineering
Highway / Civil
Structural / Bridge
Environmental
Firm No. : F-4105

REGIONAL LINEAR PARK PROJECT LAYOUT

DATE	BY	REVISION
11/11/10	DL	ISSUE FOR PERMIT
11/11/10	DL	ISSUE FOR PERMIT
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SCALE: 1" = 40'

SHEET 2 OF 2



Zimbra**erika.zamora@co.hidalgo.tx.us**

Canal Bridge

From : Steve Crain <scrain@atlashall.com>

Thu, Dec 20, 2018 09:01 AM

Subject : Canal Bridge 2 attachments**To :** armando garzajr <armando.garzajr@co.hidalgo.tx.us>**Cc :** 'erika zamora' <erika.zamora@co.hidalgo.tx.us>

Hello Mr. Garza:

Pursuant to your conversation with Mr. Crain this morning, attached is the clean copy with the Exhibit A of the License Agreement.

Thank you,

Marynel Trevino-Rodriguez, Secretary for

Stephen L. Crain & J. Joseph Vale

ATLAS, HALL & RODRIGUEZ, LLP

818 Pecan Blvd. (78501)

P. O. Box 3725

McAllen, Texas 78502

Direct Telephone Number (956) 632-8221

Office Telephone Number (956) 682-5501

Facsimile Number (956) 686-6109

Website address: www.atlashall.com**Atlas Hall
Rodriguez**

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 **License Agreement & Exhibit A.pdf**

246 KB

