

**CAMINO REAL REGIONAL MOBILITY AUTHORITY
BOARD RESOLUTION**

WHEREAS, the County of El Paso and the Camino Real Regional Mobility Authority (CRRMA) have entered into various interlocal agreements whereby the CRRMA provides support to the County for the development of its transportation programs and initiatives; and

WHEREAS, the County requests the CRRMA to assist in the design and construction of certain sidewalks identified by the County that are within El Paso County, using local non-federal funding sources.

NOW, THEREFORE, BE IT RESOLVED BY THE CAMINO REAL REGIONAL MOBILITY AUTHORITY:

THAT the CRRMA hereby authorizes its Chair to execute an Interlocal Agreement with El Paso County for the design and construction of certain sidewalks within El Paso County.

PASSED AND APPROVED THIS 11TH DAY OF MARCH 2020.

**CAMINO REAL REGIONAL
MOBILITY AUTHORITY**

Joyce A. Wilson, Chair

ATTEST:

Joe R. Fernandez, Board Secretary

APPROVED AS TO CONTENT:

Raymond L. Telles
Executive Director

**INTERLOCAL AGREEMENT
DESIGN AND CONSTRUCTION OF SIDEWALKS**

THIS INTERLOCAL AGREEMENT (the “Agreement”) is made and entered into effective as of the _____ day of _____, 2020, by and between EL PASO COUNTY, TEXAS (the “County”) and the CAMINO REAL REGIONAL MOBILITY AUTHORITY (“Authority”), (collectively, the “Parties”), for the purposes described herein.

WITNESSETH:

WHEREAS, the County is a political subdivision of the State of Texas; and

WHEREAS, the Authority is a regional mobility authority created pursuant to the request of the City of El Paso and operating pursuant to Chapter 370 of the Texas Transportation Code (the “RMA Act”) and 43 TEX. ADMIN. CODE §§26.1 *et seq.* and is a body politic and corporate and political subdivision of the State; and

WHEREAS, Chapter 791 of the Texas Government Code provides that any one or more public agencies may contract with each other for the performance of governmental functions or services in which the contracting parties are mutually interested; and

WHEREAS, Section 370.033 of the RMA Act permits the CRRMA to enter into an agreement under which the CRRMA may acquire, plan, design, construct, maintain, repair, or operate a transportation project on behalf of another governmental entity if the transportation project is located in the CRRMA’s areas of jurisdiction or in a county adjacent to the CRRMA’s area of jurisdiction; and

WHEREAS, the County requests the Authority to design and construct certain sidewalks within El Paso County, using local, non-federal funding sources; and

WHEREAS, the Parties now desire to enter into this Agreement to allow for the Authority to complete the services requested by the County.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the undersigned Parties agree as follows:

**I.
FINDINGS**

Recitals. The recitals set forth above are incorporated herein for all purposes and are found by the Parties to be true and correct. It is further found and determined that the Parties have authorized and approved the Agreement by resolution or order adopted by their respective governing bodies, and that this Agreement will be in full force and effect on the date first noted above.

II.
DUTIES AND RESPONSIBILITIES OF THE PARTIES

A. Design and Construction of Sidewalks. Subject to and in accordance with the terms of this Agreement, the Authority and its consultants shall take all actions necessary to design and construct certain sidewalks within El Paso County, Texas, as more fully enumerated below.

1) Scope of Work. Specific elements of the design and construction activities and the responsible party for such elements to be pursued through this Agreement are set forth in **EXHIBIT A** and **EXHIBIT B** of this Agreement.

2) Budget. The budget to be provided by the County for the Authority's completion of the requested services is a not to exceed amount identified within **EXHIBIT C** of this Agreement. The Parties will work together to attempt to minimize the actual costs of such services, but in no event shall any payments by the County exceed limitations noted, absent the written agreement of the Parties. In the event the County identifies additional funds for the design and construction of additional sidewalks in the future, the Parties shall amend this Agreement accordingly.

3) Invoicing and Payment. The Authority will invoice the County monthly, based on work performed, but will include the County's Director of Public Works, Director of Planning & Development and Transportation Program Engineer in the invoicing process in an effort to minimize the payment timeline. Each invoice shall state the total invoiced amount and shall be accompanied by a detailed itemization of services and expenses. The County shall pay such invoices within fifteen (15) days after the receipt of a properly submitted invoice, or sooner, if possible.

B. Authority and County Cooperation. The Parties shall cooperate in the completion of the design and construction services such that they are most effectively and efficiently developed.

1) Inspection of Records. In addition to providing the services described in **EXHIBIT A**, complete books and records of the completed services shall be maintained by the Authority. All such books and records shall be deemed complete if kept in accordance with the Governmental Accounting Standards Board's principles and in accordance with the provisions of the RMA Act. Such books and records shall be available for examination by the duly authorized officers or agents of the County during normal business hours upon request made not less than five (5) business days prior to the date of such examination.

2) Authority Performance Measures. The services being provided pursuant to this Agreement are an extension of the services being provided to the Authority under agreements with contractors or under consulting agreements with third-party professionals. As such, the Authority shall ensure, through its agreements with such contractors and third-party professionals, that the same performance measures are established and maintained for the performance of the services delivered pursuant to this Agreement as are applicable to work performed by such contractors and third parties on other Authority projects. The

Authority shall enforce such measures and standards on the County's and Authority's behalf, and the Authority shall not agree to modify performance measures, as they may relate to the services contemplated herein, without the prior written consent of the County.

C. Authority Reports to the County. The Authority shall furnish periodic information and reports concerning the performance of the Authority's obligations under this Agreement as required by **EXHIBIT B**.

D. Responsibilities of the County. The County shall be responsible for the costs incurred for the design and construction services, subject to the limitations identified herein. Subject to such limitations, the County shall bear no additional costs associated with this Agreement, unless specifically included in a written amendment approved by the County.

E. Limitations on Services. Notwithstanding anything herein to the contrary, the Authority shall not be obligated to pursue or complete the design and construction services if the funds available from the County together with other lawfully available and designated funds are insufficient to pay all costs associated with such services and the County fails to provide additional funding to cover the amount of any such deficiency.

III.

PARTY REPRESENTATIVES AND LEGAL NOTICES

A. Party Representatives. The designated representatives authorized to act on behalf of each party hereto, and the addresses to which notices due hereunder should be directed, are as follows, unless and until either party is otherwise notified in writing by the other party:

County:

Director of Planning & Development
800 E. Overland, Suite 200
El Paso, Texas 79901

Authority:

Executive Director
801 Texas Avenue
El Paso, Texas 79901.

B. Limitations on County Representative. Notwithstanding anything contained herein to the contrary, approval of the initial budget, changes to the funding source(s), actions that increase the budget, and all amendments to this Agreement shall require the action of Commissioners Court.

C. Legal Notices. Any and all notices and communications under this Agreement shall be in writing and mailed by first-class mail, or hand delivered, addressed to the following designated officials:

County:

El Paso County Judge
500 E. San Antonio, Room 301
El Paso, Texas 79901

Authority:

Executive Director
801 Texas Avenue
El Paso, Texas 79901

With a Copy to:

El Paso County Attorney
500 E. San Antonio, Ste. 503
El Paso Texas 79901.

**IV.
TERM AND TERMINATION**

Term and Termination. Subject to the following, this Agreement shall be effective as of the date first written above and shall continue in full force and effect through the completion of the design and construction activities. Notwithstanding the foregoing, and without limitation on any other remedy identified in the Agreement or available at law or in equity:

- A. either party may terminate this Agreement in the event of a material breach of its terms, which may include, but is not limited to, failure to make timely payments of amounts owed and failure of services to be provided in accordance with this Agreement, provided that the party seeking to terminate the Agreement has provided written notice to the other of the alleged default and the default has not been cured within thirty (30) days of receipt of such notice; and
- B. the parties may mutually agree to terminate this Agreement.

**V.
GENERAL AND MISCELLANEOUS**

- A. **Waiver.** Neither this Agreement nor any of the terms hereof may be waived or modified orally, but only by an instrument in writing signed by the Party against which the enforcement of the waiver or modification shall be sought. No failure or delay of any Party, in any one or more instances (i) in exercising any power, right or remedy under this Agreement or (ii) in insisting upon the strict performance by the other Party of such other Party's covenants, obligations or agreements under this Agreement, shall operate as a waiver, discharge or invalidation thereof, nor shall any single or partial exercise of any such right, power or remedy or insistence on strict performance, or any abandonment or discontinuance of steps to enforce such a right, power or remedy or to enforce strict performance, preclude any other or future exercise thereof or insistence thereupon or the exercise of any other right, power or remedy.
- B. **Other Services.** Nothing in this Agreement shall be deemed to create, by implication or otherwise, any duty or responsibility of either of the Parties to undertake or not to undertake any other service, or to provide or not to provide any service, except as specifically set forth in this Agreement or in a separate written instrument executed by both Parties.
- C. **Governmental Immunity.** Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to either of the Parties nor to create any legal rights or claims on behalf of any third party. Neither of the Parties waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

D. Amendments and Modifications. This Agreement may not be amended or modified except in writing and executed by both Parties to this Agreement and authorized by their respective governing bodies.

E. Venue. For any and all disputes arising under this Agreement, venue shall be in El Paso County, Texas.

F. Successors and Assigns. This Agreement shall bind and benefit the respective Parties and their legal successors, and shall not be assignable, in whole or in part, by any Party hereto without first obtaining the written consent of the other Party.

G. Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision(s), and the rights and obligations of the Parties shall be construed and enforced in accordance therewith. The Parties acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is their desire and intention that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this Agreement and be deemed to be validated and enforceable.

H. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall be considered fully executed as of the date first written above, when both Parties have executed an identical counterpart, notwithstanding that all signatures may not appear on the same counterpart.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed and attested this Agreement by their officers thereunto duly authorized.

EL PASO COUNTY, TEXAS

Ricardo A. Samaniego
County Judge

APPROVED AS TO FORM ONLY:

Assistant County Attorney

**CAMINO REAL
REGIONAL MOBILITY AUTHORITY**

Joyce A. Wilson
Chair

ATTEST:

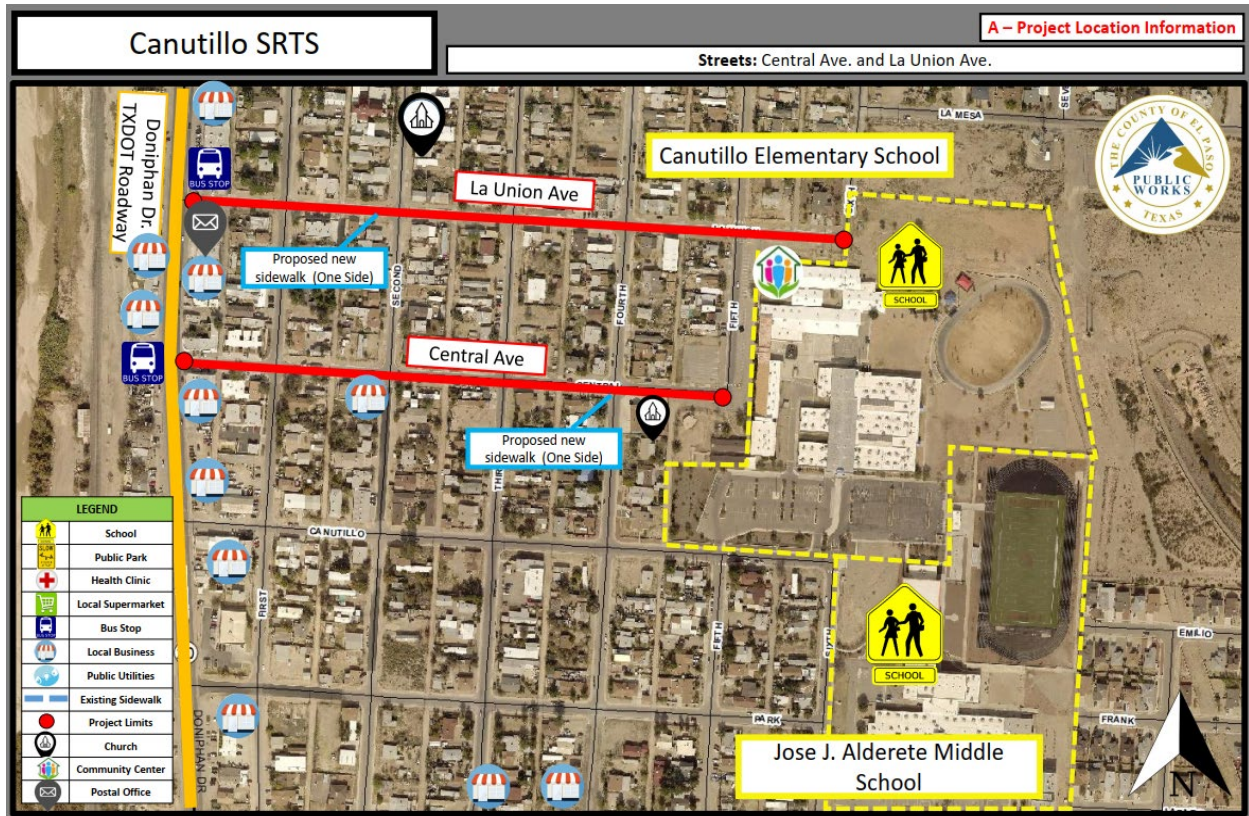
Joe R. Fernandez
Board Secretary

EXHIBIT A

DESIGN AND CONSTRUCTION OF SIDEWALKS PROJECT DESCRIPTION

The proposed scope of work consists of those activities required of the Authority to design and construct those sidewalks in El Paso County, Texas identified below that are within the available Project Budget. Such activities shall include those services reasonably expected to be utilized in the design and construction of sidewalks, including the procurement of construction and professional engineering services necessary for the placement of such sidewalks. The design plans shall be developed in coordination with the County but construction activities shall be limited by the Project Budget identified in **EXHIBIT C** of this Agreement.

The Parties recognize that the County is providing local funds for the completion of these services. Accordingly, procurement, design and construction standards shall not comply with State or Federal standards, but shall be completed in coordination with the County to maximize available project funds while meeting design and construction standards.



[END OF EXHIBIT]

EXHIBIT B

DESIGN AND CONSTRUCTION OF SIDEWALKS PARTY RESPONSIBILITIES

- 1. PLANNING: County**
- 2. DESIGN: Authority**
- 3. ENVIRONMENTAL PERMITTING: N/A**
- 4. RIGHT-OF-WAY ACQUISITION: County, if necessary**
- 5. CONSTRUCTION LETTING: Authority**
- 6. CONSTRUCTION: Authority**
- 7. FINANCIAL OBLIGATIONS: County, local funds**
- 8. REPORTING: Authority**
- 9. PERFORMANCE STANDARDS: County**
- 10. MARKETING AND PUBLIC OUTREACH: County, if any**
- 11. UTILITY RELOCATION: County, if necessary**
- 12. PROCUREMENT: Authority (design and construction)**
- 13. OTHER: N/A**

[END OF EXHIBIT]

EXHIBIT C

DESIGN AND CONSTRUCTION OF SIDEWALKS PROJECT BUDGET

DESCRIPTION	CRRMA PAYS WITH COUNTY FUNDS
ROW	\$ 0.00
UTILITY RELOCATION	\$ 0.00
PERMITS & SERVICES	\$ 0.00
DESIGN & CONSTRUCTION	\$ 448,000.00
MISCELLANEOUS	\$ 0.00
TOTAL	\$ 448,000.00

NOTES:

1. The funds being provided by the County are local funds. Therefore, the services being provided shall not comply with State or Federal requirements.
2. The Parties had previously entered into an Interlocal Agreement for Procurement and Placement of Bus Shelters [2019-0962], whereby the Authority was asked to procure and install various bus shelters using local, County funds. It is the intent of the Parties that the funds made available herein shall be combined with the bus shelter funds, such that the Authority be authorized to issue a single procurement for a contractor to install the referenced bus shelters and the sidewalks contemplated herein.

[END OF EXHIBIT]