

INTERLOCAL AGREEMENT IMPROVEMENTS ALONG ACADEMY AND WEST SESSOM DRIVE

This Interlocal Agreement is entered into by and between Texas State University ("Texas State") and the City of San Marcos, Texas (the "City") under the authority of the Texas Interlocal Cooperation Act, Chapter 791 of the Texas Government Code.

I. Recitals

1.01. Texas State and the City have a mutual interest in improving the safety of motorists, bicyclists and pedestrians near the Texas State University campus.

1.02. Texas State and the City have identified mutually beneficial road, drainage, intersection and pedestrian improvements along Academy Street and West Sessom Drive, including improvements to realign Academy Street at its intersection with West Sessom Drive, intersection signalization and sidewalk improvements as generally shown in Exhibit "A", attached hereto (the "Improvements"), and wish to jointly participate in the design and construction of the Improvements.

1.03. The purpose of this Agreement is to delineate the roles and contributions of the parties with regard to the design, construction and financing of the Improvements. The activities of the parties under this Agreement are governmental as defined in §791.003 of the Texas Government Code.

1.05. For the reasons above, the parties enter into this Agreement under the terms and conditions below.

II. Coordination and Cost Participation

2.01. Improvements Specifications. Texas State and the City will coordinate to approve any surveys prepared by the engineers and final design specifications and cost estimates for the Texas State portion of the Improvements. Each party shall be entitled to keep copies of any surveys, together with the final plans and any as-built drawings prepared by the engineers.

2.02. Bids for Construction. Texas State will review the design specifications and cost estimates for its portion of the Improvements and the City will review the design specifications and cost estimates for its portion of the Improvements. Following each party's approval of the final design specifications and cost estimates for the Improvements, the authorized representatives of the parties will coordinate and designate a date for the solicitation of bids for construction of the Improvements in accordance with such plans. The City will solicit bids for construction of the Improvements following applicable municipal bidding procedures.

- a. Cost Sharing.** Improvements and their cost sharing are as follows:
- Texas State agrees to pay 42.9 percent of the cost for the construction of Drainage Structures which will convey 42.9 percent of Texas State and 57.1 percent of the City's flows;
 - Texas State agrees to pay 50 percent of the cost for the construction of the Academy Street Realignment and signalization, and
 - Texas State Agrees to pay 100 percent of the costs for the construction of Concrete Pavers, Street Light and Removable Bollards for Read Street.

Before the City places an item on the City Council agenda for the award of a contract for the construction of the Improvements, Texas State shall deliver payment to the City in the amount of the costs allocated to Texas State under

this section.

i. Payments will be made to the contractor under the terms of the contract for construction. Subject to the requirements and deadlines for payment to the contractor under the terms of the contract for construction, the City will notify Texas State in advance of each proposed payment and provide monthly to Texas State copies of all contractor invoices paid. In conjunction with final payment under the contract for construction, the parties will reconcile the allocation of funds contributed by each party toward construction. If the final costs attributable to Texas State are less than the funds paid in advance by Texas State, the City will refund the difference to Texas State upon final payment and closeout under the construction contract.

b. Excessive Bid Price. If the lowest responsible bid price for construction of the Improvements exceeds the estimated costs agreed to by the parties under section 2.01 by more than 15 percent:

i. the parties may approve new specifications and solicit new bids based on such specifications;

ii. the City, with the agreement of Texas State to pay its share of any increased costs for the Drainage Structures, Academy Street Realignment and Signalization, Concrete Pavers and Street Light , Concrete Pavers and Removable Bollards for Read Street, may award the contract at such higher bid price; or

iii. either party may terminate this Agreement by providing written notice of termination to the other and the City will reject all bids.

c. Change Orders. Pursuant to the contract for construction of the Improvements awarded by the City under this section, the City may approve change orders, subject to approval by Texas State of change orders associated with the Drainage Structures, Academy Street Realignment and Signalization, Concrete Pavers and Street Light, Concrete Pavers and Removable Bollards for Read Street or other work where Texas State bears a direct cost under this Agreement. If a change order approved by Texas State results in costs for the Drainage Structures, Academy Street Realignment and Signalization, Concrete Pavers Street Light, and Concrete Pavers and Removable Bollards for Read Street are greater than the initial contract amount, the City may submit an invoice to Texas State for its share of the increased costs under the change order. Texas State shall pay such invoice with 30 days of receiving it.

d. Notice to Proceed. The City's award of a contract under this section will be subject to the temporary licenses and construction easements. The City shall not issue any notice to proceed under a contract for construction awarded under this section until temporary licenses and construction easements are obtained from Texas State.

2.03. Construction Schedule. The City shall include in its bid and construction contract requirements for construction phasing approved by Texas State to minimize the impact of the construction on the operations of Texas State University.

III. Remedies Upon Default

3.01. Termination of Agreement. If either party fails to perform its obligations for any reason except the other party's default or pursuant to a right to terminate expressly set forth in

this Agreement, the other party may terminate this Agreement. If the party elects to terminate the Agreement, then neither party will have any further rights or obligations, except for payment of any expenses owed to the other party for services or work properly completed for the benefit of the terminating party.

IV. General Provisions

4.01. Assignment. Neither party may assign any of its duties or obligations under this Agreement without the written consent of the other.

4.02. Choice of Law and Venue. The parties will construe this Agreement under the laws of the State of Texas and will perform all of their obligations in Hays County, Texas. The term “will” is mandatory in this Agreement.

4.03. Binding Agreement. This Agreement will be binding upon the parties and their respective legal representatives, successors, and assigns.

4.04 Severability. If any the provision of this Agreement is held to be invalid or unenforceable by a court of proper jurisdiction, the holding will not affect any other provisions of this Agreement if the Agreement can be given effect without the invalid provision. The parties will construe the Agreement as if the invalid or unenforceable provision had not been contained in this Agreement.

4.05. Only Agreement. This Agreement, once signed, will constitute the only agreement of the parties regarding this subject and it supersedes any prior understandings or written instruments signed by representatives of either party.

4.06. Notice in Writing. Any notice required or permitted to be given by one party to the other will be in writing and the same will be deemed to have been served and given if delivered in person to the respective address specified below, or placed in the United States Mail to the respective address below, return receipt requested to the addresses below.

City:
City Manager
City of San Marcos
630 E. Hopkins
San Marcos, Texas 78666

Texas State:
Vice President for Finance and Support Services
Texas State University
601 University Drive
San Marcos, Texas 78666

4.07. Performance of Further Acts. In addition to the acts expressly required to be performed by the City and Texas State under this Agreement, the parties agree to perform or cause to be performed at the closing or after closing any and all such further acts as may be reasonably necessary to consummate this Agreement.

4.08. Dispute Resolution. To the extent applicable to this Agreement, the parties will use the procedures in Chapter 2260, Subchapter B of the Texas Government Code to resolve any disputes arising under this Agreement.

4.09. Subject to Appropriation of Funds. The obligations of the parties are subject to the appropriation of funds during the fiscal year in which an obligation arises.

EXECUTED to be effective as of _____, 2020 (the "Effective Date").

CITY OF SAN MARCOS:

By: _____
Bert Lumbreras, City Manager

Date

TEXAS STATE UNIVERSITY:

By: Denise M. Trauth
Denise M. Trauth, President

3/6/2020
Date

THE TEXAS STATE UNIVERSITY SYSTEM:

Approved as to legal form:

Fernando C. Gomez
Fernando C. Gomez, JD, PhD
Vice Chancellor and General Counsel

3-9-2020
Date



PRELIMINARY—FOR INFORMATION ONLY

THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF INTERIM REVIEW AND IS NOT TO BE USED FOR CONSTRUCTION, BIDDING, OR PERMITTING PURPOSES.

Supervised By: APRIL O. SANDOVAL
P.E. Serial No. 1102558
Date: 11/4/2019

Q49. NUMBER	1. TYPE OF CONTRACT	2. DATE	3. AMOUNT



TYPE FIRM NO. 10066
3711 S MOPAC EXPRESSWAY, SUITE 330
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www.structurepoint.com

SANTITAS

CITY OF SAN MARCOS
620 E. HOPEWELL
SAN MARCOS, TX 78668
BICO FAX 833.246.9100
www.sanmarcos.tx.gov

PROJECT LAYOUT

H: 1"=100'		SHEET 1 OF 2	
DESIGN	FED. RD. DIV. NO.	FEDERAL AID PROJECT NO.	HIGHWAY NO.
RAC	STATE	DISTRICT	SHEET NO.
GRAPHICS		COUNTY	
RAC			
CHECK	CONTROL	SECTION	JOB
FC			3
CHECK			

