

**CITY COMMISSION  
AGENDA  
SPECIAL MEETING  
NOVEMBER 13, 2023,  
@ 5:30 PM  
CITY HALL, TOWN HALL MEETING  
ROOM  
2ND FLOOR, 118 E. TYLER AVENUE  
HARLINGEN, TEXAS**

Notice is hereby given that the City Commission of the City of Harlingen, Texas will hold a Special Meeting on **MONDAY, NOVEMBER 13, 2023 at 5:30 P.M.** at City Hall, Town Hall Meeting Room, 118 E. Tyler Avenue, Harlingen, Texas and provide the public the ability to view the meeting via internet live streaming at [www.harlingentx.gov](http://www.harlingentx.gov) and the City of Harlingen YouTube Page.

The public will be permitted to offer citizen communication or participate in items listed as public hearings telephonically as provided by the agenda and as permitted by the presiding officer during the meeting.

To offer citizen communication or participate in scheduled public hearings telephonically, go to [www.harlingentx.gov](http://www.harlingentx.gov) and click on "PUBLIC HEARING AND CITIZEN COMMUNICATION FORM." Fill out the form and indicate the item you wish to address, and submit the form.

Please indicate (1) the agenda item on which you wish to speak, (2) whether you prefer to speak on the item during citizen communication or at the time the agenda item is brought for consideration before the City Commission.

To submit written comments regarding an item on the agenda to the City Secretary, to go [www.harlingentx.gov](http://www.harlingentx.gov) and click on "PUBLIC HEARING AND CITIZEN COMMUNICATION FORM" write your comments (limited to 400 words or less) and submit the form.

**PLEASE SUBMIT WRITTEN COMMENTS BEFORE 3:00 P.M. THE DAY OF THE MEETING.**

A recording of the meeting will be made and will be available to the public in accordance with the Texas Open Meetings Act.

City of Harlingen meetings are available to all persons regardless of disability. If you require special assistance, please contact the City Secretary's Office at (956) 216-5001 or write Post Office Box 2207, Harlingen, Texas 78550 at least 48 hours in advance of the meeting.

The Harlingen City Commission reserves the right, pursuant to the Texas Government Code Chapter 551, Subchapter D, to enter into closed executive session on any item posted on the agenda if a matter is raised that is appropriate for closed discussion.

Call Meeting to Order

Invocation – Frank Morales

Pledge of Allegiance/Welcome

Conflict of Interest

"Under State Law, a conflict of interest exists if a council member, or certain members of that person's Family has a qualifying financial interest in an agenda item. Members with a conflict of interest cannot Participate in the discussion nor vote on the agenda item. Are there any known conflicts of interest to disclose at the time? **(City Attorney)**

#### CITIZEN COMMUNICATION

- 1) Consideration and possible action to close the following streets on Sunday, December 3, 2023, from 8:30 a.m. to 1:30 p.m. to hold the South Texas International Marathon. (This item was requested by Commissioner Frank Morales and Mayor Pro-Tem Rene Perez). This item was tabled at the last Regular Meeting of November 1<sup>st</sup>, 2023. Attachment

East old Hwy 83 from Bass Blvd. to Chester Park Road; Then North on Chester Park Road to Frontage Road, take Frontage Road East to Spur 54; take a right on Bass Pro Drive; Take a left on Spur 54/West Jefferson Valley Fair; Then North on Harlingen Heights Drive to the finish line.

#### Executive Session:

- 2) Consultation with legal counsel pursuant to TX Gov't. Code 551.071 to receive communication protected by Attorney-Client Communication Privilege.
- 3) Consultation with legal counsel pursuant to Tx. Gov't Code 551.071 to receive communication protected by Attorney-Client Communication Privilege.

#### Open Session:

- 4) Consideration and possible action to approve Item No. 2 as discussed in executive session.
- 5) Consideration and possible action to approve Item No. 3 as discussed in executive session.
- 6) Adjournment

I, the undersigned authority, do hereby certify that the above Notice of the Special Meeting of the Harlingen City Commission is a true and correct copy of said notice posted on the bulletin board at City Hall of said City of Harlingen, Texas in a place convenient and readily accessible to the general public at all times and on the City's Internet Website and said Notice was posted on November 9<sup>th</sup>, 2023 at 6:15 p.m. and remained so posted for at least 72 hours preceding the time of said meeting.

Dated this 9<sup>th</sup> day of November 2023

  
Amanda C. Elizondo, City Secretary

City of Harlingen

Agenda Item Request Form

We hereby request the following item to be added to the Special City Commission Meeting of November 13, 2023, Agenda

Consideration and possible action to close the following streets on Sunday, December 3, 2023, from 8:30 a.m. to 1:30 p.m. to hold the South Texas International Marathon. (This item was requested by Commissioner Frank Morales and Mayor Pro-Tem Rene Perez.

East Old Hwy 83 from Bass Blvd to Chester Park Road,  
Then North on Chester Park Road to Frontage Road,  
Take Frontage Road East to Spur 54,  
East on Spur 54, take a right on Bass Pro Drive,  
Take a left on Spur 54/West Jefferson Valley Fair; and  
Then North on Harlingen Heights Drive to the finish line

  
Comm. Frank Morales, Dist. No. 4

  
Mayor Pro-Tem Rene Perez, Dist. 5

STATE OF TEXAS       §

COUNTY OF TRAVIS     §

**AGREEMENT FOR THE TEMPORARY CLOSURE  
OF STATE RIGHT OF WAY**

**THIS AGREEMENT** is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State," and the City of Harlingen, a municipal corporation, acting by and through its duly authorized officers, hereinafter called the "local government."

**W I T N E S S E T H**

**WHEREAS**, the State owns and operates a system of highways for public use and benefit, including 77 Sunshine Strip (Business 77), in Cameron County; and

**WHEREAS**, the City has requested the temporary closure of 77 Sunshine Strip (Business 77) for the purpose of the 37<sup>th</sup> Annual Lighting of the Arroyo event, from 5:00 p.m. to 10:00 p.m. on Thursday, November 30, 2023, as described in the attached "Exhibit A," hereinafter identified as the "Event;" and

**WHEREAS**, the Event will be located within the local government's incorporated area; and

**WHEREAS**, the State, in recognition of the public purpose of the Event, wishes to cooperate with the City so long as the safety and convenience of the traveling public is ensured and that the closure of the State's right of way will be performed within the State's requirements; and

**WHEREAS**, on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, the \_\_\_\_\_ City Council passed Resolution/Ordinance No. \_\_\_\_\_, attached hereto and identified as "Exhibit B," establishing that the Event serves a public purpose and authorizing the local government to enter into this agreement with the State; and

**WHEREAS**, 43 TAC, Section 22.12 establishes the rules and procedures for the temporary closure of a segment of the State highway system; and

**WHEREAS**, this agreement has been developed in accordance with the rules and procedures of 43 TAC, Section 22.12;

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

**A G R E E M E N T**

**Article 1. CONTRACT PERIOD**

This agreement becomes effective upon final execution by the State and shall terminate upon completion of the Event or unless terminated or modified as hereinafter provided.

## **Article 2. EVENT DESCRIPTION**

The physical description of the limits of the Event, including county names and highway numbers, the number of lanes the highway has and the number of lanes to be used, the proposed schedule of start and stop times and dates at each location, a brief description of the proposed activities involved, approximate number of people attending the Event, the number and types of animals and equipment, planned physical modifications of any man-made or natural features in or adjacent to the right of way involved shall be attached hereto along with a location map and identified as "Exhibit C."

## **Article 3. OPERATIONS OF THE EVENT**

**A.** The local government shall assume all costs for the operations associated with the Event, to include but not limited to, plan development, materials, labor, public notification, providing protective barriers and barricades, protection of highway traffic and highway facilities, and all traffic control and temporary signing.

**B.** The local government shall submit to the State for review and approval the construction plans, if construction or modifications to the State's right of way is required, the traffic control and signing plans, traffic enforcement plans, and all other plans deemed necessary by the State. The State may require that any traffic control plans of sufficient complexity be signed, sealed and dated by a registered professional engineer. The traffic control plan shall be in accordance with the latest edition of the Texas Manual on Uniform Traffic Control Devices. All temporary traffic control devices used on state highway right of way must be included in the State's Compliant Work Zone Traffic Control Devices List. The State reserves the right to inspect the implementation of the traffic control plan and if it is found to be inadequate, the local government will bring the traffic control into compliance with the originally submitted plan, upon written notice from the State noting the required changes, prior to the event. The State may request changes to the traffic control plan in order to ensure public safety due to changing or unforeseen circumstances regarding the closure.

**C.** The local government will ensure that the appropriate law enforcement agency has reviewed the traffic control for the closures and that the agency has deemed them to be adequate. If the law enforcement agency is unsure as to the adequacy of the traffic control, it will contact the State for consultation no less than 10 workdays prior to the closure.

**D.** The local government will complete all revisions to the traffic control plan as requested by the State within the required timeframe or that the agreement will be terminated upon written notice from the State to the local government. The local government hereby agrees that any failure to cooperate with the State may constitute reckless endangerment of the public and that the Texas Department of Public Safety may be notified of the situation as soon as possible for the appropriate action, and failing to follow the traffic control plan or State instructions may result in a denial of future use of the right of way for three years.

**E.** The local government will not initiate closure prior to 24 hours before the scheduled Event and all barriers and barricades will be removed and the highway reopened to traffic within 24 hours after the completion of the Event.

**F.** The local government will provide adequate enforcement personnel to prevent vehicles from stopping and parking along the main lanes of highway right of way and otherwise prevent interference with the main lane traffic by both vehicles and pedestrians. The local government will prepare a traffic enforcement plan, to be approved by the State in writing at least 48 hours prior to the scheduled Event. Additionally, the local government shall provide to the State a letter of certification from the law enforcement agency that will be providing traffic control for the Event, certifying that they agree with the enforcement plan and will be able to meet its requirements.

**G.** The local government hereby assures the State that there will be appropriate passage

allowance for emergency vehicle travel and adequate access for abutting property owners during construction and closure of the highway facility. These allowances and accesses will be included in the local government's traffic control plan.

**H.** The local government will avoid or minimize damage, and will, at its own expense, restore or repair damage occurring outside the State's right of way and restore or repair the State's right of way, including, but not limited to, roadway and drainage structures, signs, overhead signs, pavement markings, traffic signals, power poles and pavement, etc. to a condition equal to that existing before the closure, and, to the extent practicable, restore the natural and cultural environment in accordance with federal and state law, including landscape and historical features.

#### **Article 4. OWNERSHIP OF DOCUMENTS**

Upon completion or termination of this agreement, all documents prepared by the local government will remain the property of the local government. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

#### **Article 5. TERMINATION**

**A.** This agreement may be terminated by any of the following conditions:

- (1) By mutual written agreement and consent of both parties.
- (2) By the State upon determination that use of the State's right of way is not feasible or is not in the best interest of the State and the traveling public.
- (3) By either party, upon the failure of the other party to fulfill the obligations as set forth herein.
- (4) By satisfactory completion of all services and obligations as set forth herein.

**B.** The termination of this agreement shall extinguish all rights, duties, obligations, and liabilities of the State and local government under this agreement. If the potential termination of this agreement is due to the failure of the local government to fulfill its contractual obligations as set forth herein, the State will notify the local government that possible breach of contract has occurred. The local government must remedy the breach as outlined by the State within ten (10) days from receipt of the State's notification. In the event the local government does not remedy the breach to the satisfaction of the State, the local government shall be liable to the State for the costs of remedying the breach and any additional costs occasioned by the State.

#### **Article 6. DISPUTES**

Should disputes arise as to the parties' responsibilities or additional work under this agreement, the State's decision shall be final and binding.

#### **Article 7. RESPONSIBILITIES OF THE PARTIES**

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

#### **Article 8. INSURANCE**

**A.** Prior to beginning any work upon the State's right of way, the local government and/or its contractors shall furnish to the State a completed "Certificate of Insurance" (TxDOT Form 1560, latest edition) and shall maintain the insurance in full force and effect during the period

that the local government and/or its contractors are encroaching upon the State right of way.  
**B.** In the event the local government is a self-insured entity, the local government shall provide the State proof of its self-insurance. The local government agrees to pay any and all claims and damages that may occur during the period of this closing of the highway in accordance with the terms of this agreement.

**Article 9. AMENDMENTS**

Any changes in the time frame, character, agreement provisions or obligations of the parties hereto shall be enacted by written amendment executed by both the local government and the State.

**Article 10. COMPLIANCE WITH LAWS**

The local government shall comply with all applicable federal, state and local environmental laws, regulations, ordinances and any conditions or restrictions required by the State to protect the natural environment and cultural resources of the State's right of way.

**Article 11. LEGAL CONSTRUCTION**

In case one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or nonenforceability shall not affect any other provisions hereof and this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

**Article 12. NOTICES**

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified U.S. mail, postage prepaid, addressed to such party at the following respective addresses:

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

| Local Government:                                                                                   | State:                                                                                                       |
|-----------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| City of Harlingen<br>Attn: Gabriel Gonzalez, City Manager<br>118 E. Tyler<br>Harlingen, Texas 78550 | Texas Department of Transportation<br>Pharr District<br>District Engineer<br>600 W IH2<br>Pharr, Texas 78577 |

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

**Article 13. SOLE AGREEMENT**

This agreement constitutes the sole and only agreement between the parties hereto and supersedes any prior understandings or written or oral agreements respecting the within subject matter.

Agreement No. \_\_\_\_\_

Each party is signing this agreement on the date stated beside that party's signature.

**THE CITY OF HARLINGEN**

Executed on behalf of the local government by:

By \_\_\_\_\_ Date 11/2/2023  
City Official

Agreement No. \_\_\_\_\_

Typed or Printed Name and Title: Gabriel Gonzalez  
City Manager

**THE STATE OF TEXAS**

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By \_\_\_\_\_  
District Engineer

Date \_\_\_\_\_

By \_\_\_\_\_  
Director of Maintenance

Date \_\_\_\_\_



**Road Running Technical Council  
USA Track & Field**



# **USATF Measurement Certificate**

Name of the course South Texas International Marathon Distance 42.195 km

Location (state) TX (city) Donna

Type of course: Road Race

Measuring Methods: Bicycle

Measured By Clint Mericle, 3221 Olsen Drive, Corpus Christi, TX 78411, RUNCLINT@YAHOO.COM, 361-232-7131

Race Contact Basilio Mendoza, 1213 Bella Vista Ave, Palmview TX 78572, baasmendoza65@gmail.com, 956.222.5668

Date(s) when course measured: 07/18/2023

Number of measurements of entire course: 2 Course Configuration: Point to Point

Elevation (meters above sea level) Start 12.00 Finish 28.00 Lowest 12.00 Highest 34.00

Straight line distance between start and finish 33153m Drop -0.38 m/km Separation 78.57 %

Type of surface: Paved 100 % Dirt 0 % Gravel 0 % Grass 0 % Track 0 %

Effective date of certification: July 31, 2023 Certification code: TX23033LAB

Note to Race Director: Use this Certification Code  
in all public announcements relating to your race.

## ***Be It Officially Noted That***

Based on examination of data provided by the above named measurer, the course described above and in the map attached is hereby certified as reasonably accurate in measurement according to the standards adopted by the Road Running Technical Council. If any changes are made to the course, this certification becomes void, and the course must then be recertified.

**Verification of Course** — In the event a National Open Record is set on the course, or at the discretion of USA Track & Field, a verification measurement may be required to be performed by a member of the Road Running Technical Council. If such a remeasurement shows the course to be short, then all pending records will be rejected and the course certification will be cancelled.

***This certification expires on December 31 of the year:*** **2033**

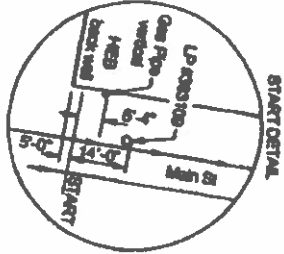
**AS NATIONALLY CERTIFIED BY:**

Date: August 10, 2023

Logan Burgess - USATF/RRTC Certifier - 614 Stillmeadow Drive, Richardson TX 75081  
(214) 803-7800 - loganaburgess@yahoo.com

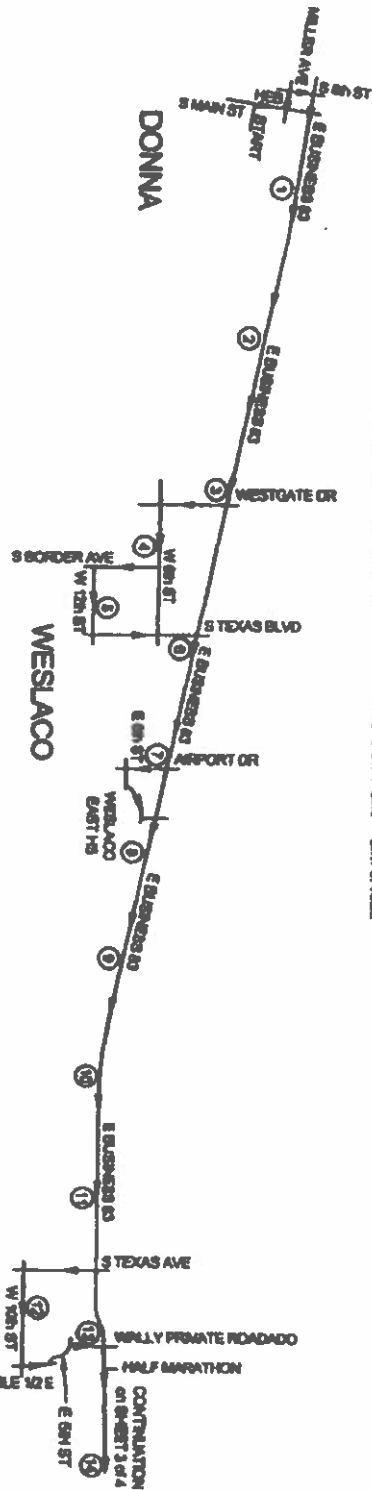
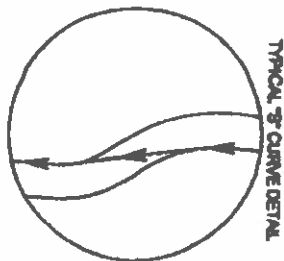
# SOUTH TEXAS INTERNATIONAL MARATHON HARLINGEN, TEXAS

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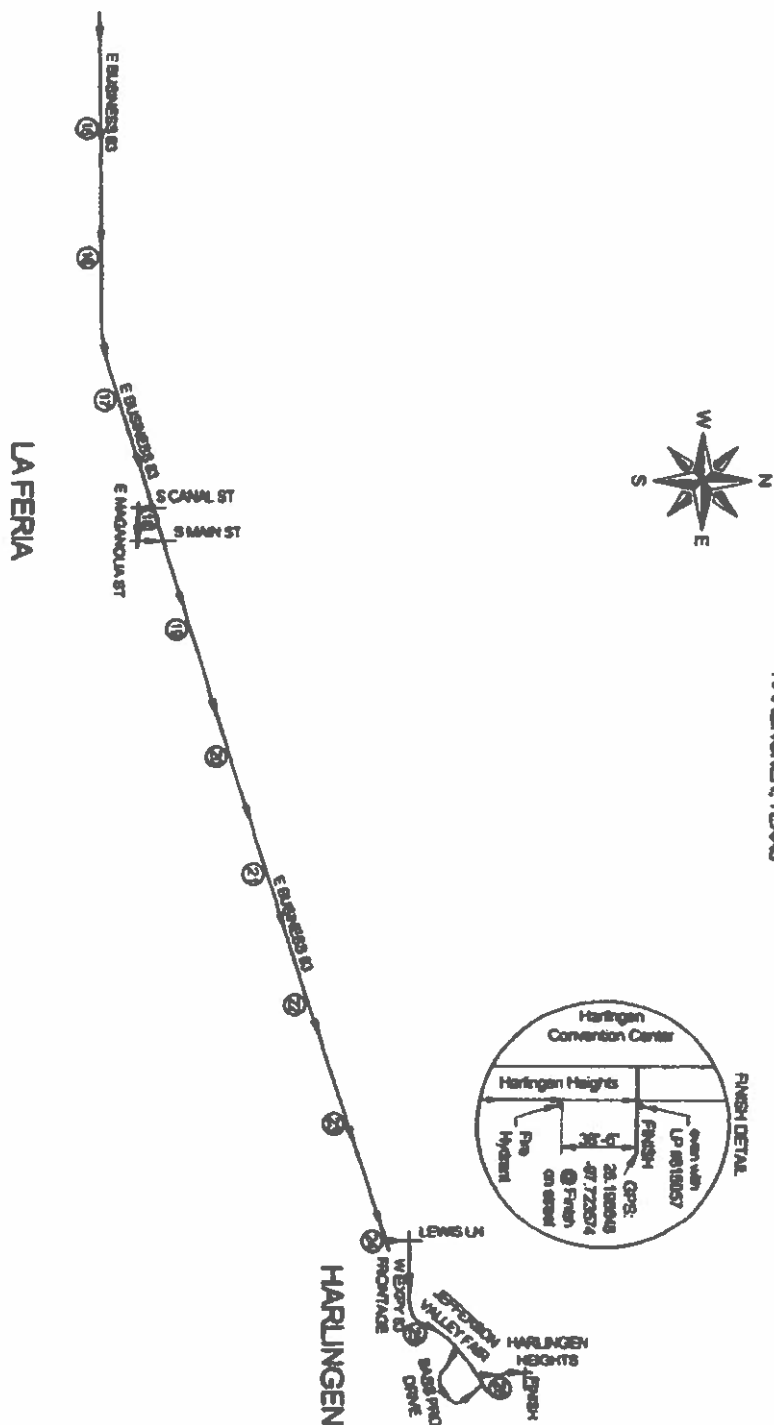
**Course Description:** Start on S Main St by HEB just north of Fortoy Ave proceed north, left on Miller Ave, right on 8th St, right on US Bus 83 in Donna proceed east on US Bus 83, right on Westgate in Weslaco, Tx, left on W 8th St, right on S Border Ave, left on 12th St, left on S Texas Blvd, right on US Bus 83, right on N Airport Dr, left on E 8th St follow perimeter on north side of Weslaco East High School turning north, right on US Bus 83/2nd St, right on S Texas Ave in Wally Private Roadado Dr, right on US Bus 83/2nd St, left on E 6th St which becomes right on W Magnolia Ave, left on S Main St, right on US Bus 83, left on Lane Lane in Harlingen, Tx, left on W Expressway 83/ Fortoy Ave, left under US 83 turning right on to Jefferson Valley Fair east bound, right on Seas Pro Dr, left on Jefferson Valley Fair west bound, right on Harlingen Heights Dr to finish across from Harlingen Convention Center

**Notes:** Course measured unrestricted with exception of US Business 83 which was measured on right hand lane going with traffic. TX DOT will close off 1 lane + arm of road



**USATF Certificate**  
TX23033LAB  
Effective: 07/31/2023  
Through: 12/31/2023

Measured by Chris Mendez  
sundance@usata.org  
301-623-7131  
July 18, 2023  
Using the width of road &  
directional Route Permitting Agency  
with exception of US Bus 83



## South Texas International Marathon References

### References

- Start: 5' north of HEB back wall or 6'4" south of vertical gas pipe or 14' north of LP #383109 on Main St
- 1 Mile: 12' east of Salinas Ave or 6' east of LP on US Business 83
- 2 Mile: 89' west of 3603 US Business 83 or 48' west of LP by 3603
- 3 Mile: 15' east of TP by 2111 US Business 83 or 6' east of the driveway
- 4 Mile: 30' east of blue yellow bollard near 1104 8th St or 102' east of 1104 on US Business 83
- 5 Mile: 6' west of fire hydrant at Oklahoma or 13' west of Oklahoma on 12th St
- 6 Mile: 16' north of 259 Texas Blvd or 69' south of US Business 83 on Texas Blvd
- 7 Mile: 30' east of 1540 or even with TP A2383 on US Business 83
- 8 Mile: 45' east of 2502 US Business 83 or 111' east of Pleasantview Dr
- 9 Mile: 105' east of Mercedes City Limit or 181' east of 2 1/2 Mile Rd on US Business 83
- 10 Mile: 57' west of guardrail opening on US Business 83 or 45' west side of opening
- 11 Miles: 6' east of Washington on US Business 83 or 70' east of wall to 800 US Business 83
- 12 Mile: Corner of Palm Dr or 5' east of sidewalk 127 West 10th St
- 13 Mile: 105' north of Orange St on Wally Private Roadado Dr or 30' south of LP north of Orange St
- Half Marathon: 72' east of 2nd St in Mercedes on US Business 83 or 60' east of LP
- 14 Mile: 66' west of 2800 US Business 83 or 42' east of drain by driveway to 2800 US Business 83
- 15 Mile: 83' to TP or 23' east of 4th drain east from Kika De La Garza on US Business 83
- 16 Mile: 45' west of second TP from Joed Rd or 86' west of 10126 US Business 83
- 17 Mile: 18' east of metal drain by Adopt sign or 66' east of TP near 5249 US Business 83
- 18 Mile: 42' north of Primrose on Canal or 32' north of TP by Primrose
- 19 Mile: TP #6212-45 34' east of 4th pole west of Citrus Dr or 24' west of gas pipe
- 20 Mile: 56' east of LP by White Ranch Rd or 20' from LP #01718 on US Business 83
- 21 Mile: 33' east of Dollar General or 30' east TP #A145 504946 on US Business 83
- 22 Mile: 3' west of TP#0764 on US Business 83
- 23 Mile: 9' east of TP or even with 6401 west wall on US Business 83
- 24 Mile: 14' east from sidewalk to 4115A US Business 83 or 120' from fire hydrant west of LP #630325
- 25 Mile: 6' west of light pole #605150 or 48' west of 3302 Jefferson Valley Fair
- 26 Mile: 6' from fire hydrant by or 24' north of Sam's Club south entrance on Harlingen Heights Dr
- Marathon Finish (42.195 kilometer): Even with LP #815057 or 38'-6" north of fire hydrant north of Horizon Dr or (GPS 26.198848 -97.723574) across from Harlingen Convention Center on Harlingen Heights Dr



**NOTICE OF AN ADDENDUM ITEM TO THE  
HARLINGEN CITY COMMISSION SPECIAL MEETING  
AGENDA OF NOVEMBER 13<sup>TH</sup>, 2023**

Notice is hereby given that the following addendum item has been added to the Harlingen City Commission Special Agenda posted on Thursday, November 9<sup>th</sup>, 2023, at 6:15 P.M. to be held on November 13, 2023, at 5:30 p.m. at City Hall, Town Hall Meeting Room, 2<sup>nd</sup> Floor, 118 E. Tyler Avenue, Harlingen, Texas. That such item will be considered during the Special Meeting of November 13, 2023.

- 1 .) Consideration and possible action to approve an Interlocal Agreement between the City of Brownsville and the City of Harlingen regarding Fire Inspection Services. Attachment *(City Manager)*

I, the undersigned authority, do hereby certify that the above Notice of this Addendum is a true and correct copy of said notice posted on the bulletin board at City Hall of said City of Harlingen, Texas in a place convenient and readily accessible to the general public at all times and on the City's Internet Website and said Notice was posted Friday, November 10<sup>th</sup>, 2023 at 11:17 a.m. and remained so posted for at least 72 hours preceding the time of said meeting.

Dated this the 10<sup>th</sup> of November 2023

  
Amanda C. Elizondo, City Secretary

**NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND CONSIDERATION PROVIDED FOR HEREIN, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY CONFIRMED, THE CITIES OF BROWNSVILLE AND HARLINGEN HEREBY AGREE TO THE FOLLOWING:**

Section 1. All matters stated above are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

Section 2. **Term.** This Agreement shall be for an initial term of one (1) year commencing on October 31, 2023, and ending November 1, 2024, (the "Initial Term") and may be extended thereafter by mutual consent of the parties hereto for two successive one (1) year terms. (The renewal terms shall be referred to as the "First Renewal Term" and "Second Renewal Term", respectively).

Section 3. **Scope of Services to be provided by HARLINGEN.** HARLINGEN agrees to provide fire inspection services under this agreement in a good and workmanlike manner, and in accordance with all applicable laws and regulations, including the following:

- a. HARLINGEN through its fire inspector will be responsible for performing fire safety plan reviews and all fire safety inspections, including assistance with fire code compliance and enforcement, within BROWNSVILLE'S corporate limits that are required by the International Fire Code as currently in effect and as may be amended, including without limitation inspections of existing occupancies and follow up inspections to ascertain if previously noted deficiencies have been corrected. The Inspector may perform joint inspections with qualified employees of BROWNSVILLE.
- b. HARLINGEN through its fire inspector will provide copies of all inspection reports to BROWNSVILLE. The report must describe all the deficiencies. If a deficiency is deemed to be life threatening, HARLINGEN must immediately notify BROWNSVILLE.
- c. HARLINGEN shall designate a contact person for the implementation of this Agreement.
- d. Upon proper request for assistance, HARLINGEN shall return acknowledgement of any available resources requested through the appropriate contact person or designee.

Section 4. **BROWNSVILLE Obligations.** BROWNSVILLE agrees to perform the following:

- a. BROWNSVILLE shall reimburse HARLINGEN for its actual cost in performing any fire inspection services.
- b. BROWNSVILLE shall make available any plans, schematics, copies of Fire Codes and policies, and reasonable access to the premises subject to a fire inspection.
- c. BROWNSVILLE shall designate a contact person for the implementation of this Agreement.
- d. BROWNSVILLE shall make any requests for assistance through the appropriate contact person or designee.

Section 5. **Termination.**

- a. This Agreement may be terminated by either Party upon 30 days' written notice to the other Party.

Section 6.       **Notices.** All notices required or provided for in this Agreement shall be sent to the following parties by certified mail – return receipt requested:

**If to City:**

**BROWNSVILLE**

c/o: Helen Ramirez, City Manager  
City of Brownsville  
1001 E. Elizabeth Street  
P.O. Box 911  
Brownsville, Texas 78522

**HARLINGEN**

c/o: Gabriel Gonzalez, City Manager  
City of Harlingen  
118 E Tyler Ave  
Harlingen, TX 78550

**With a copy to:**

**City Attorney's Office**

Guillermo (Will) S. Treviño, City Attorney  
1001 E. Elizabeth Street  
Brownsville, Texas 78522

**City Attorney's Office**

Mark E. Sossi, City Attorney  
P.O. Box 5761  
Brownsville, TX 78523-5761

Section 7.       **Dispute Resolution.** Immediate performance complaints or concerns should be addressed by communicating the problem to the Parties' authorized representative. If disputes are not resolved by the Parties within 30 calendar days of the referral, unless the Parties agree to an extension of time, the dispute will be referred to a mediator who has been mutually agreed upon by the Parties.

Section 8.       **Venue.** Venue for any legal dispute arising pursuant to this Agreement shall lie in Cameron County, Texas. No litigation shall be commenced prior to both Parties' completion of mediation in accordance with Section 7.

Section 9.       **Independent contractor.** All parties mutually agree that HARLINGEN is an independent contractor, and shall have exclusive control of performance hereunder, and that employees of HARLINGEN in no way are to be considered employees of BROWNSVILLE. The employment rights of HARLINGEN personnel assigned under this agreement will not be abridged.

Section 10.      **Indemnification.** To the extent allowed by law, BROWNSVILLE hereby agrees to indemnify and otherwise hold harmless HARLINGEN, its officers, agents and employees in both public and private capacity against all liability claims, suits, demands, losses, damages, attorney fees, including all expense of litigation or settlement, or causes of action of any kind which may arise by reason of injury to or death of any person or for a loss of, damage to, or loss of the use of any property arising out of or in any way connected to HARLINGEN'S performance of fire inspection services under this Agreement including any intentional or negligent acts or omissions of HARLINGEN'S officials, officers, agents or employees relating to or arising out of the performance of the fire inspection services.

It is expressly understood and agreed that, in the execution of this Agreement, the Parties do not waive, nor shall be deemed hereby to waive any immunity or defense that would otherwise be available to or against claims arising in the exercise of governmental functions relating hereto or otherwise. By entering into this Agreement, the Parties do not create any obligations express or

implied, other than those set forth herein, and this Agreement shall not create any rights in any parties not signatory hereto.

It is further understood and acknowledged that neither Party is obligated to levy a tax or create a sinking fund to met its obligations hereunder.

**Section 11. Entire Agreement.** This Agreement contains the entire agreement of the Parties with respect to the matters covered by this Agreement, and no other agreement, statement, or promise made by any party, or to any employee, officer, or agent of any party, which is not contained in this Agreement shall be binding or valid.

**Section 12. Construction.** In the event of a dispute between the Parties as to the meaning of terms, phrases, or specific provisions of this Agreement, the authorship of this Agreement will not be cause for this Agreement to be construed against any Party nor in favor of any Party.

**Section 13. Non-Exclusivity.** This Agreement does not create and should not be regarded as an exclusive arrangement between the Parties.

**Section 14. Nondiscrimination.** The Parties agree not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, sexual orientation, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification. The Parties will comply with all federal, state, and local laws and ordinances applicable to the work to be done under this Agreement. Violation of this section is a material breach of the Agreement and grounds for cancellation, termination, or suspension by the Parties, in whole or in part.

**Section 15. Waiver.** Failure to insist upon strict compliance with any terms, covenants, or conditions of this Agreement is not a waiver of such. A waiver by a Party of any terms or conditions of this Agreement is not deemed or construed to be a waiver of any other term or condition, nor is the waiver of any breach or default by a Party under this Agreement to be deemed or construed to constitute a waiver of any subsequent breach or default, whether of the same or any other term or condition of this Agreement. Any waiver of a breach or default under this Agreement must be done in writing and signed by the authorized representatives of the Parties.

**Section 16. Files.** All files and other documents maintained by a Party relating to this Agreement or the services provided pursuant to this Agreement belong to that Party. On request, such files will be made available for review by the other Part(ies) through a duly authorized representative during normal business hours.

**Section 17. Public Records Requests.** Each Party is responsible for timely and adequately responding to requests for records addressed to it under the Texas Public Information Act or other demand for disclosure.

**Section 18. Survival of Certain Provisions.** Any term of this Agreement that by reasonable implication contemplates continued performance, rights, or compliance beyond its expiration or termination, survives the Agreement and continues to be enforceable. Without limiting the generality of this provision, the Parties' obligation to indemnify survives for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

Section 19. **Severability.** If any term of this Agreement is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms is unaffected and, if possible, the rights and obligations of the Parties are to be construed and enforced as if the Agreement did not contain that term.

Section 20. **Modification.** This Agreement may not be altered, amended, or modified except in writing, approved by the City Managers of the City of Brownsville and City of Harlingen.

Section 21. **Funding.** This Agreement is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between Parties to this Agreement will be handled in accordance with applicable laws, regulations, and procedures. Except for requested reimbursement pursuant to Section 4(a), both Parties will provide for compensation of their own employees and operate and maintain their own equipment. Any expenditure of resources must be from current revenues available to the paying party.

Section 22. **Execution.** This Agreement is executed by each Party acting with authority granted, where required, by its governing body. This Agreement may be executed in counterpart originals. A copy of each such executed counterpart original will be delivered to each Party upon that Party's execution of a counterpart original.

IN WITNESS WHEREOF, we have hereunto set our hands this the \_\_\_\_ day of \_\_\_\_\_, 2023, in duplicate originals.

**CITY OF BROWNSVILLE, TEXAS**

**CITY OF HARLINGEN, TEXAS**

\_\_\_\_\_  
By: Helen Ramirez, AICP  
City Manager

\_\_\_\_\_  
By: Gabriel Gonzalez, CPM  
City Manager

**ATTEST:**

**ATTEST:**

\_\_\_\_\_  
By: Yolanda (Yoli) Galarza-Gomez, TRMC  
City Secretary

\_\_\_\_\_  
By: Amanda Elizondo  
City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
By: Guillermo (Will) S. Trevino  
City Attorney

\_\_\_\_\_  
By: Mark Sossi  
City Attorney