

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Department of Transportation

**AGENDA DATE:** Public Hearing: November 11, 2014

**CONTACT PERSON NAME AND PHONE NUMBER:** Ted Marquez, P.E. (915)212-7015,  
marqueztx@elpasotexas.gov

**DISTRICT(S) AFFECTED:** District 8

**SUBJECT:**

The City Manager is hereby authorized to sign a Street Improvement and Maintenance Agreement by and between the City of El Paso and St. Clement's Parish School for the design, construction, installation and maintenance of right-of-way and landscaping improvements on Yandell Drive between Campbell Street and Ochoa Street, at no cost to the City.

**BACKGROUND/DISCUSSION:**

St. Clements School is requesting for the City to design and install the right-of-way curb extensions and landscaping improvements on Yandell Drive between Campbell Street and Ochoa Street. The school has agreed to pay 100% of the cost of the project, estimated at \$197,000.00, and to maintain the improvements on City right-of-way.

The project will beautify the Yandell Drive right-of-way and provide traffic calming measures for the safety of the students, visitors to the school and area residents.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

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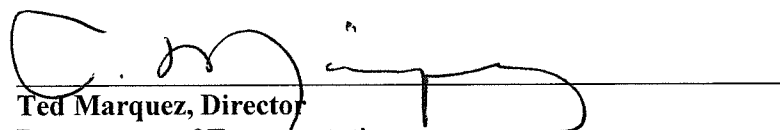
**BOARD / COMMISSION ACTION:**

N/A

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

  
Ted Marquez, Director  
Department of Transportation

*Information copy to David Almonte, Deputy City Manager*

**RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the City Manager be authorized to sign a Street Improvement and Maintenance Agreement by and between the City of El Paso and St. Clement's Parish School, Inc. for the design, construction, installation and maintenance of right-of-way and landscaping improvements on Yandell Drive between Campbell Street and Ochoa Street, at no cost to the City.

**ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.**

THE CITY OF EL PASO:

ATTEST:

\_\_\_\_\_  
Oscar Leeser  
Mayor

\_\_\_\_\_  
Richarda D. Momsen,  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Lauren Ferris  
Assistant City Attorney

\_\_\_\_\_  
Ted Marquez, P.E., Director  
Department of Transportation

THE STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

**STREET IMPROVEMENT  
AND  
MAINTENANCE AGREEMENT**

This Street Improvement and Maintenance Agreement, hereinafter the "Agreement", is made this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between the CITY OF EL PASO, a Texas municipality, hereinafter the "City" and ST. CLEMENT'S PARISH SCHOOL, INC., a nonprofit corporation, hereinafter the "School";

**WITNESSETH:**

**WHEREAS**, the School has requested the City design and install right-of-way and landscaping improvements on Yandell Drive between Campbell Street and Ochoa Street; and

**WHEREAS**, the School has agreed to pay 100% of the cost for the City to design and install the right-of-way and landscaping improvements, which is estimated to be One Hundred Ninety Seven Thousand Dollars and No/00 (\$197,000.00); and

**WHEREAS**, the School has also agreed to maintain the right-of-way and landscaping improvements at the school's sole expense, upon completion of improvements by the City; and

**WHEREAS**, the design and installation of right-of-way and landscaping improvements will beautify the right-of-way and provide traffic calming measures for the safety of the students and visitors to the School and are in the best interests to the citizens of El Paso; and

**WHEREAS**, the Parties desire to enter into an agreement whereby each will bear certain responsibilities regarding the design, installation and maintenance of the right-of-way and landscaping improvements.

**NOW, THEREFORE**, in consideration of the mutual promises and agreements contained herein, the parties hereby agree as follows:

1. The City shall design and install right-of-way and landscaping improvements on Yandell Drive between Campbell Street and Ochoa Street and the School shall pay 100% of the cost of design and installation of the right-of-way and landscaping improvements and maintain said improvements upon completion by the City.
2. The right-of-way and landscaping improvements shall be designed and installed by the City pursuant to the Conceptual Plan attached hereto as **Exhibit "A"**, hereinafter, the "Plans", and include, but are not limited to, the installation of curb extensions, the resurfacing of the asphalt pavement, the installation of new pavement markings, the relocation of school flashers, the installation and/or relocation of traffic signage, the installation of an irrigation system and installation of landscaping.
3. The Cost Estimate for the design and installation of the right-of-way and landscaping improvements is attached hereto as **Exhibit "B"**. The total cost for the project is estimated to be **One Hundred Ninety Seven Thousand Dollars and No/00 (\$197,000.00)**.

4. Within thirty (30) days from the date hereof, the School shall deliver to the City, a check in the amount of **One Hundred Ninety Seven Thousand Dollars and No/00 (\$197,000.00)** as the estimated cost for the design and installation of the right-of-way and landscaping improvements the subject of this Agreement. The City agrees that all money paid by the School, pursuant to this Agreement shall be used solely for the design, materials and installation of the right-of-way and landscaping improvements on Yandell Drive between Campbell Street and Ochoa Street pursuant to the Plans. Those costs shall include, but not be limited to, all costs for design, engineering, labor, materials, equipment, testing, inspection and all other costs reasonably related to the design and installation of the right-of-way and landscaping improvements.
5. It is the intent of this Agreement that the School shall be responsible for 100% of the cost for design and installation of the right-of-way and landscaping improvements. In the event that the total cost of the right-of-way and landscaping improvements exceed the estimated amount of **One Hundred Ninety Seven Thousand Dollars and No/00 (\$197,000.00)**, the School shall make such additional payment to the City, within thirty (30) days of its receipt of notice from the City of such additional costs. However, the School's responsibility under this Agreement, for excess/additional costs shall be capped at ten percent (10%) above the estimated cost of **One Hundred Ninety Seven Thousand Dollars and No/00 (\$197,000.00)**. In the event that the cost of the project is found to exceed the estimated projected budget by more than ten percent (10%), the City will provide written notification to the School prior to proceeding further and the School will be given the opportunity to provide the additional funds to complete the project. Should the School choose not to provide the additional funds, the City shall have the option of not completing the improvements as provided for in this Agreement.
6. If the total, actual cost of the improvements is less than **One Hundred Ninety Seven Thousand Dollars and No/00 (\$197,000.00)**, the City will refund to the School, upon the completion of the installation of the improvements, any excess funds. Such funds shall be considered excess funds when the amount submitted by the School exceeds one hundred percent (100%) of the total cost of design and installation of the right-of-way and landscaping improvements.
7. Upon payment of the funds, the City of El Paso Department of Transportation will design, construct and install the right-of-way improvements pursuant to the Plans. The City will cause all work required to be completed as soon as reasonably possible, subject to extensions for reasonable delays.
8. The right-of-way and landscaping improvements shall be designed and installed in accordance with City standards and specifications so as to provide the School and the City with the necessary and appropriate control of vehicular and pedestrian traffic, as determined by the City Engineer.
9. All materials and parts used in the construction and installation and construction of the right-of-way improvements shall be and remain the property of the City.

10. The School hereby understands and agrees that the addition of angled parking spaces in the right-of-way, made possible as a result of the narrowing of the right-of-way, are not for the exclusive use of the School, but may be used by the public without restriction.
11. The School hereby agrees, that upon completion of the right-of-way improvements by the City, the School shall maintain the improvements, including but not limited to the maintenance of the curb extensions, medians and angled parking stall striping, on both sides of the street.
12. The School also hereby agrees, that upon completion of the landscaping improvements by the City, the School shall maintain the improvements, including but not limited to maintenance of the irrigation system and irrigation and maintenance of the newly planted trees and landscaping.
13. The School understands and agrees that if the removal of the curb extensions, trees, vegetation, landscaping, irrigation system, angled parking, pavement, pavement striping, markings, and street infrastructure located on Yandell Drive, between Campbell Street and Ochoa Street is necessary due to either safety concerns or future road improvements, that the City may remove the street infrastructure without compensation to the School.
14. This document contains all of the agreements between the parties and may not be modified, except by written agreement, signed by both parties.
15. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.
16. The laws of the State of Texas shall govern the validity, performance and enforcement of this Agreement and venue shall be in El Paso County, Texas.
17. Nothing contained herein shall be construed by the parties hereto, or by an third party, as creating the relationship of principal and agent, partners, joint ventures or any similar such relationship, or to render any party liable for the debts or obligations of the other party hereto.
18. No party hereto waives or relinquishes any immunity or defense on behalf of itself, its trustees, officers, employees, and agents as a result of the execution of this Agreement and the performance of the covenants contained herein.
19. This Agreement may not be assigned by either party without prior written approval of the other.
20. The terms, provisions and licenses provided herein shall inure to the benefit of and be binding upon the heirs, legal representatives, successors and assigns of the Parties. There are no third-party beneficiaries of this contract.
21. The individual signing this Agreement on behalf of the School, acknowledges that he or she is authorized to do so and said individual further warrants that he or she has been duly authorized to commit and bind the School to the terms and conditions of this Agreement.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the day and year first written above.

**THE CITY OF EL PASO**

\_\_\_\_\_  
Tomás Gonzalez,  
City Manger

**ST. CLEMENT’S PARISH SCHOOL**

By: \_\_\_\_\_  
**NAME**  
**TITLE**

APPROVED AS TO FORM:

\_\_\_\_\_  
Cynthia Osborn  
Assistant City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Ted Marquez, P.E., Director  
Department of Transportation

**(Acknowledgments on following page)**

**ACKNOWLEDGMENTS**

**THE STATE OF TEXAS   §**  
**§**  
**COUNTY OF EL PASO   §**

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2014,  
by **Tomás González** as **City Manager** of the **City of El Paso, Texas**.

\_\_\_\_\_  
**Notary Public, State of Texas**

**THE STATE OF TEXAS   §**  
**§**  
**COUNTY OF EL PASO   §**

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2014,  
by \_\_\_\_\_ as \_\_\_\_\_ of **St. Clement’s Parish School**.

\_\_\_\_\_  
**Notary Public, State of Texas**

**EXHIBIT "A"**  
**Conceptual Plan**

**EXHIBIT "B"**  
**Cost Estimate**  
Right-of-way and Landscaping Improvements  
Yandell Drive between Campbell Street and Ochoa Street

**EXHIBIT "B"**  
**Cost Estimate**  
Right-of-way and Landscaping Improvements  
Yandell Drive between Campbell Street and Ochoa Street

Matter# 14-1036-387 PL# 327994  
St. Clement's Parish School  
Street Improvement and Maintenance Agreement  
COSB

# YANDELL Street, Road Diet--Ochoa to Campbell

## Cost Estimate

Scope:

Road Diet eliminate one travel lane: Construct curb extensions with landscaping and irrigation, resurface asphalt pavement, relocate school flashers, traffic signage and markings, within project limits

9/3/2014

STREET IMPROVEMENTS					
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SURVEY  
 DESIGN  
 LAB  
 INSPECTION  
 CONTINGENCIES

Curb Extensions and parkway improvements	\$84,660.00	<b>\$84,660.00</b>
Pavement resurfacing	\$50,575.00	<b>\$135,235.00</b>
Landscape / Vegetation / Irrigation	\$24,151.73	<b>\$159,386.73</b>
School Flasher Relocations	\$14,400.00	<b>\$173,786.73</b>
Remove Concrete Slabs	\$8,000.00	<b>\$181,786.73</b>
PAVEMENT MARKINGS	\$6,418.45	<b>\$188,205.18</b>
TRAFFIC SIGNAGE	\$5,280.00	<b>\$193,485.18</b>
TRAFFIC CONTROL	\$3,514.82	
		<b>\$197,000.00</b>