



PURCHASING DEPARTMENT  
County Of Hidalgo

MEMORANDUM

TO: THERESA NAVARRO, ELECTIONS ADMINISTRATOR  
HIDALGO COUNTY ELECTIONS

FROM: LAURA RENTERIA-MOYA  
HIDALGO COUNTY PURCHASING

SUBJECT: "Storage & Training Facility for New Election Systems Machines"

DATE: September 28, 2006

The current contract with City of Pharr for above mentioned services, is about to expire. The County has the option to extend the contract for an additional one (1) year at the same price rate upon agreement with vendor.

Depending on vendor's performance, we would like to have your recommendation as to whether or not the one year extension of this contract should be requested.

PLEASE PROVIDE FOLLOWING INFORMATION:

Seek the one year extension as specified? YES NO

COMMENTS: \_\_\_\_\_

BUDGET: Do you currently have funds available to make purchases for these services should you decide?

YES NO DOES NOT APPLY

IF YES, ENTER ACCOUNT NUMBER: 441

[Signature]  
AUTHORIZED SIGNATURE

THERESA R. NAVARRO 10-2-06  
PRINT NAME DATE

SUBMIT THIS FORM TO THE HIDALGO COUNTY PURCHASING DEPARTMENT, VIA FAX TO (956) 318-2629, NO LATER THAN 3:30 P.M. ON TUESDAY, October 3, 2006.

STATE OF TEXAS       §  
                                  §  
HIDALGO COUNTY       §

**AMENDED AND RESTATED  
INTERLOCAL COOPERATION AGREEMENT  
BETWEEN THE CITY OF PHARR AND  
THE COUNTY OF HIDALGO**

**WHEREAS**, on or about October 18, 2005 the Commissioners Court of Hidalgo County (the "County") entered into an Interlocal Cooperation Agreement (the "Agreement") with the City of Pharr ("Pharr") for the lease of certain real property by the County;

**WHEREAS**, the County and Pharr desire to amend and restate the Agreement;

**WHEREAS**, the parties desire to revise the Rent provision of the Agreement by increasing the amount paid to the City of Pharr to One Dollar and Ten Cents per square foot of rental space for a total monthly rent of Six Thousand Eight Hundred and Sixteen Dollars and Seventy Cents (\$6,816.70);

**WHEREAS**, the parties also desire to revise the Lease Term to begin upon execution of the amended and restated Agreement and end one (1) year thereafter;

**WHEREAS**, at a regular meeting held on NOVEMBER 8, 2005 of the Commissioners Court, the Commissioners amended and restated the Agreement to read as follows:

This Agreement is made this 20TH day of SEPTEMBER, 2005, by and between the of PHARR, TEXAS ("Pharr") and THE COUNTY OF HIDALGO ("County").

**WHEREAS**, Pharr has entered into an agreement with the Pharr Economic Development Corporation to lease certain real property, hereinafter classified the lease (the "Lease"), a copy of which is attached hereto Exhibit "A" and incorporated herein by reference for all purposes;

**WHEREAS**, Pharr and County have agreed that it will be mutually beneficial to Pharr and County to lease such real property on the terms and conditions herein contained;

*12-23-05  
cc: Pharr  
PERC  
original to  
County*

**WHEREAS**, Pharr and County desire to execute this Agreement in order to document the arrangements relating to the construction and the sublease;

**NOW THEREFORE**, in consideration of the foregoing and the following, City and County hereby agree as follows:

### **LEASE**

**1.01. LEASE FROM PHARR ECONOMIC DEVELOPMENT CORPORATION.** City represents and warrants that the document attached hereto as Exhibit "A" is a true and correct copy of the Lease previously entered into between City and Pharr Economic Development CORPORATION, and that, pursuant to the terms of the Lease, City is authorized to enter into this Agreement with County. For and in consideration of the rents, covenants, and promises herein contained to be kept, performed, and observed by County, Pharr does hereby sublease and demise to County and County does hereby rent and accept from City, that certain tract of land located in Hidalgo County, Texas, more particularly described in Exhibit "A", which is attached hereto and made a part hereof for all purposes (hereinafter referred to as the "Leased Premises").

### **TERM**

**2.01. LEASE TERM.** This Lease shall be for a term of one (1) year (hereinafter referred to as the "Primary Term"), commencing on November 8, 2005, and ending on November 7, 2006 (the "Termination Date"), subject however, to earlier termination as provided in this Lease, or unless renewed and extended in accordance with Paragraph 2.02.

### **RENEWAL OR TERMINATION**

**2.02.** County shall have the right and option to renew and extend the term of this Lease for one (1) consecutive one year term upon written notice to Pharr at least sixty (60) days prior to the expiration of the Lease Term. The terms and conditions during the option term shall be on the same terms and conditions contained herein.

### **HOLDING OVER**

**2.03.** If Lessee shall hold over after the expiration of the Lease Term, or any renewal or extension, such tenancy shall be from month to month on all terms, covenants, and conditions of this Lease.

### **RIGHT OF TERMINATION**

**2.04.** This Lease may be terminated by Lessee upon sixty (60) days written notice to Lessor. Notice of termination shall be delivered to the parties pursuant to Article 25.01 herein.

### **RENT**

3.01. County agrees to pay Pharr the sum of One Dollar and Ten Cents (\$1.10) per square foot each month for a sum of Six Thousand Eight Hundred and Sixteen Dollars and Seventy Cents (\$6,816.70) each month during the primary term of the Lease. Annual rental shall be paid in advance on the first day of the term during the term of this Lease.

### **TAXES**

4.01. Pharr shall pay and discharge all taxes, general and special assessments, and other charges of every description which during the term of this Lease may be levied on or assessed against the Leased Premises and all improvements and other property thereon, whether belonging to Pharr or to County. Pharr shall pay all such taxes, charges, and assessments, if any, to the public officer charged with the collection thereof not less than fifteen (15) days before the same shall become delinquent, and Pharr agrees to indemnify and save County harmless from all such taxes, charges, and assessments.

### **UTILITIES**

5.01. Pharr shall pay or cause to be paid all charges for heat, gas, electricity and trash removal and Pharr shall pay or cause to be paid all charges for water and sewer.

### **RENOVATION OF LEASED PREMISES IMPROVEMENTS BY COUNTY**

6.01. Any and all plans for any improvements of the Leased Premises shall be submitted to Pharr for approval.

### **PHARR'S OWNERSHIP OF IMPROVEMENTS AND FIXTURES**

6.02. It is expressly understood and agreed that, during the term of this Lease that any and all buildings, improvements, fixtures, of whatsoever nature at any time constructed, placed, or maintained on any part of the Leased Premises if not removed by County on or before the date of termination of the Lease shall become the property of Pharr.

### **PERMITTED USE**

7.01. County may use the Subleased Premises for any and all lawful purposes.

### **MAINTENANCE**

8.01. To the extent that Pharr is required under the Lease to maintain and repair any portion of the Subleased Premises, County agrees to perform the same maintenance and

repairs on the Subleased Premises as would be required by Pharr as lessee of the Subleased Premises under the Lease.

### **UTILITIES**

9.01. County shall not be responsible for any utility charges used in and about the Subleased Premises during the term of this Agreement.

### **ALTERATIONS**

10.01. County shall not make any alterations, additions, or improvements to the Subleased Premises without the prior written consent of Pharr, and, if applicable under the terms of the Lease, with The Pharr Economic Development Corporation.

### **EQUIPMENT AND FIXTURES**

11.01. County has, at all times, the right to erect or install shelves, temporary office partitions, bins, machinery, equipment, or other trade fixtures, in, on or about the Subleased Premises, provided that County complies with all applicable governmental laws, ordinances and regulations regarding such fixtures. County has the right to remove all such trade fixtures at the termination of this Agreement, provided that the fixtures can be removed without structural damage to the Subleased Premises or to the building. County shall repair any damage to the Subleased Premises caused by the removal of trade fixtures, and all such repairs must be completed prior to the termination of this Agreement. Any trade fixtures that have not been removed by County at the termination of this Agreement shall be deemed abandoned by County and shall automatically become the property of Pharr.

### **SIGN**

12.01. Subject to the written approval of Pharr, and to the extent necessary under the terms of the Lease, The Pharr Economic Development Corporation, and further subject to applicable laws, ordinances and regulations, County shall have the right to install signs on the Subleased Premises. County must remove all signs at the termination of this Agreement and repair any damage resulting from the erection or removal of the signs.

### **INSURANCE**

13.01. Pharr, or to the extent required under the Lease, the Pharr Economic Development Corporation, shall, at its own expense, keep all buildings and improvements on or relating to the Subleased Premises insured against loss or damage by fire with extended coverage to include direct loss by windstorm, hail, explosion, riot, or riot attending strike, civil commotion, aircraft, vehicles, and smoke, in the aggregate amounts of not less than the

full fair insurable value of the buildings and improvements. The policies shall provide that any proceeds for loss or damage to the buildings or to improvements shall be payable solely to Pharr or to The Pharr Economic Development Corporation, as appropriate, which sum the recipient shall use for repair and restoration purposes as provided herein. County shall maintain all insurance on County's personal property located within the Subleased Premises and County covenants and agrees that Pharr and the Pharr Economic Development Corporation shall have no responsibility for damage or destruction of County's personal property located within the Subleased Premises.

### **LIABILITY INSURANCE**

14.01. Pharr and/or The Pharr Economic Development Corporation shall, at its own expense, provide and maintain in force during the term of this Agreement, liability insurance in the amounts deemed adequate by Pharr and/or The Pharr Economic Development Corporation.

### **NOTICE OF DAMAGE**

15.01. If the Subleased Premises, or any structures or improvements on the Subleased Premises, should be damaged or destroyed by fire, tornado, or other casualty, County shall give immediate written notice of the damage or destruction to Pharr, including a description of the damage and, as far as known to County, the cause of the damage.

### **DAMAGE OR DESTRUCTION**

16.01. If the building on the Subleased Premises should be totally destroyed by fire, tornado, or other casualty, or if they should be so damaged that rebuilding or repairs cannot reasonably be completed within thirty (30) working days from the date of the occurrence of the damage, this Agreement, at the option of the County, shall terminate, effective as of the date of said occurrence.

### **PARTIAL DAMAGE**

17.01 If the Subleased Premises should be damaged by fire, tornado, or other casualty, but not to such an extent that rebuilding or repairs cannot reasonably be completed within thirty (30) working days from the date of the occurrence of the damage, this Agreement shall not terminate, but Pharr shall, if the casualty has occurred prior to the final twelve (12) months of the Agreement term, at Pharr's sole cost and risk proceed forthwith to rebuild or repair or cause to be rebuilt or repaired the Subleased Premises to substantially the condition in which they existed prior to such damage. If the casualty occurs during the final twelve (12) months of the Agreement term, Pharr shall not be required to rebuild or repair such damage. In the event that Pharr should fail to complete such rebuilding or repairs within thirty (30) working days from the date of the occurrence of the damage, County may at its option terminate this Agreement by written notification at such time to Pharr, whereon

all rights and obligations hereunder shall cease.

### **TOTAL CONDEMNATION**

18.01. If during the term of this Agreement all of the Subleased Premises should be taken for any public or quasi-public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or should be sold to the condemning authority under threat of condemnation, the Agreement shall terminate, effective as of the date of the taking of the premises by the condemning authority.

### **PARTIAL CONDEMNATION**

19.01. If less than all, but more than ten percent (10%) of the Subleased Premises is taken for any public or quasi-public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or should be sold to the condemning authority under threat of condemnation, County may terminate the Agreement by giving written notice to Pharr within thirty (30) days after possession of the condemned portion is taken by the entity exercising the power of condemnation.

If the Subleased Premises are partially condemned and County fails to exercise the option to terminate the Agreement under this section, or if less than ten percent (10%) of the Subleased Premises are condemned, this Agreement shall not terminate, but County may, at its sole expense, restore and reconstruct the building and other improvements situated on the Subleased Premises to make them reasonably tenantable and suitable for the uses for which the Premises are leased.

### **CONDEMNATION AWARD**

20.01. Pharr and County shall each be entitled to receive and retain such separate awards, and portions of lump sum awards, as may be allocated to their respective interest in any condemnation proceedings. The termination of this Agreement shall not affect the rights of the respective parties to such awards.

### **DEFAULT BY COUNTY**

21.01. If County shall remain in default under any condition of this Agreement for a period of thirty (30) days after written notice from Pharr, Pharr may at its option, without notice to County, terminate this Agreement or, in the alternative, Pharr may re-enter and take possession of the Premises and remove all persons and property without being deemed guilty of any manner of trespass and relet the Premises, or any part of the Premises, for all or any part of the remainder of the Agreement term, to a party satisfactory to Pharr and at such monthly rental as Pharr may with reasonable diligence be able to secure.

## **DEFAULT BY PHARR OR THE PHARR ECONOMIC DEVELOPMENT CORPORATION**

22.01. If Pharr defaults in the performance of any terms, covenants, as condition required to be performed by it under this Agreement, County may elect to do either one of the following:

- (a) After not less than thirty (30) days' notice to Pharr, County may remedy such default by any necessary action and, in connection with such remedy, may pay expenses and employ counsel. All reasonable sums expended, or obligations incurred, by County in connection with remedying Pharr's default shall be paid by Pharr to County on demand and, on failure of such reimbursement, County may, in addition to any other right or remedy that County may have, deduct these costs and expenses from rent subsequently becoming due under this Agreement.
- (b) County may terminate this Agreement by giving at least thirty (30) days notice to Pharr such intention. In the event County elects this option, the Agreement will be terminated on the date designated in County's notice, unless Pharr has cured the default to the reasonable satisfaction of the County prior to expiration of the thirty day period.

### **CUMULATIVE REMEDIES**

23.01. All rights and remedies of Pharr and County under this Agreement shall be cumulative, and none shall exclude any other right or remedy provided by law or by any other provision of this Agreement. All such rights and remedies may be exercised and enforced concurrently and whenever, and as often, as occasion for their exercise arises.

### **WAIVER OF BREACH**

24.01. A waiver by either Pharr or County of a breach of this Agreement by the other party does not constitute a continuing waiver or a waiver of any subsequent breach of the Agreement.

### **NOTICE**

25.01. 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 addressed to the parties at the addressed set forth below, or at such other address as may have been theretofore specified by written notice delivered in accordance herewith:

If to Pharr:

City of Pharr  
Attention: Fred Sandoval, City Manager

P.O. Box 1729  
Pharr, Texas 78577

If to County: Hidalgo County, Texas  
Attn: Ramon Garcia, County Judge  
100 East Cano 2nd Floor  
Edinburg, Texas 78539

With copy to: Hector "Tito" Palacios, Commissioner, Precinct No. 2  
301 E. State Street  
Pharr, Texas 78577

**COMMITMENT OF CURRENT REVENUES ONLY**

26.01. In the event that, during any term hereof, the governing body of any party does not appropriate sufficient funds to meet the obligations of such party under this Agreement, then any party may terminate this Agreement upon ninety (90) days written notice to the other party. Each of the parties hereto agrees, however, to use its best efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of each party hereto pursuant to the provisions of Tex. Loc. Govt. Code Ann. § 271.903.

**IN WITNESS WHEREOF**, Pharr and County approve the execution of this Revised and Restated Agreement by a motion duly made, seconded, and adopted by the appropriate governing bodies thereof.

**CITY OF PHARR**

By: [Signature]  
Its: [Signature]

**HIDALGO COUNTY**

[Signature]  
Ramon Garcia, County Judge

ATTEST:

[Signature]  
Eddy Trevino, Acting County Clerk

Approved by Commissioners' Court  
on 11-8-05 ah

**APPROVED AS TO FORM:**

**Atlas & Hall, L.L.P.**

  
\_\_\_\_\_  
By: **Stephen L. Crain**

STATE OF TEXAS           §  
  §  
COUNTY OF HIDALGO   §

**INTERLOCAL AGREEMENT BETWEEN  
THE CITY OF PHARR  
AND THE PHARR ECONOMIC DEVELOPMENT COUNSEL  
THE COUNTY OF HIDALGO**

This Agreement is made this 20<sup>th</sup> day of September, 2005, by and between the CITY OF PHARR, TEXAS ("City") and THE COUNTY OF HIDALGO ("County").

WHEREAS, City has entered into an agreement with The Pharr Economic Development Counsel to lease certain real property, hereinafter classified the lease (the "Lease"), a copy of which is attached hereto Exhibit "A" and incorporated herein by reference for all purposes; and

WHEREAS, City and County have agreed that it will be mutually beneficial to City and County to lease such real property on the terms and conditions herein contained.

WHEREAS, City and County desire to execute this Agreement in order to document the arrangements relating to the construction and the sublease;

NOW THEREFORE, in consideration of the foregoing and the following, City and County hereby agree as follows:

**LEASE**

**1.01. LEASE FROM PHARR ECONOMIC DEVELOPMENT COUNSEL.** City represents and warrants that the document attached hereto as Exhibit "A" is a true and correct copy of the Lease previously entered into between City and Pharr Economic Development Counsel, and that, pursuant to the terms of the Lease, City is authorized to enter into this Agreement with County. For and in consideration of the rents, covenants, and promises herein contained to be kept, performed, and observed by County, Pharr does hereby sublease and demise to County and County does hereby rent and accept from City, that certain tract of land located in Hidalgo County, Texas, more particularly described in Exhibit "A", which is attached hereto and made a part hereof for all purposes (hereinafter referred to as the "Leased Premises").

**TERM**

**2.01. LEASE TERM.** This Lease shall be for a term of one (1 ) year (hereinafter referred to as the "Primary Term"), commencing on October 26, 2005, and ending on October 25, 2006 (the "Termination Date"), subject however, to earlier termination as provided in this Lease, or unless renewed and extended in accordance with Paragraph 2.02.

## **RENEWAL OR TERMINATION**

2.02. County shall have the right and option to renew and extend the term of this Lease for one (1) consecutive one year term upon written notice to Pharr at least sixty (60) days prior to the expiration of the Lease Term. The terms and conditions during the option term shall be on the same terms and conditions contained herein.

## **HOLDING OVER**

2.03. If Lessee shall hold over after the expiration of the Lease Term, or any renewal or extension, such tenancy shall be from month to month on all terms, covenants, and conditions of this Lease.

## **RIGHT OF TERMINATION**

2.04. This Lease may be terminated by Lessee upon sixty (60) days written notice to Lessor. Notice of termination shall be delivered to the parties pursuant to Article 25.01 herein.

## **RENT**

3.01. County agrees to pay Pharr the sum of One Dollar (\$1.00) per year during the Primary term of the Lease. Annual rental shall be paid in advance on the first day of the term during the term of this Lease.

## **TAXES**

4.01. Pharr shall pay and discharge all taxes, general and special assessments, and other charges of every description which during the term of this Lease may be levied on or assessed against the Leased Premises and all improvements and other property thereon, whether belonging to Pharr or to County. Pharr shall pay all such taxes, charges, and assessments, if any, to the public officer charged with the collection thereof not less than fifteen (15) days before the same shall become delinquent, and Pharr agrees to indemnify and save County harmless from all such taxes, charges, and assessments.

## **UTILITIES**

5.01. Pharr shall pay or cause to be paid all charges for heat, gas, electricity and trash removal and Pharr shall pay or cause to be paid all charges for water and sewer.

## **RENOVATION OF LEASED PREMISES IMPROVEMENTS BY COUNTY**

6.01. Any and all plans for any improvements of the Leased Premises shall be submitted to Pharr for approval.

## **PHARR'S OWNERSHIP OF IMPROVEMENTS AND FIXTURES**

6.02. It is expressly understood and agreed that, during the term of this Lease any and all buildings, improvements, fixtures, of whatsoever nature at any time constructed, placed, or maintained on any part of the Leased Premises if not removed by County on or before the date of termination of the Lease shall be the property of Pharr.

### **PERMITTED USE**

7.01. County may use the Subleased Premises for any and all lawful purposes.

### **MAINTENANCE**

8.01. To the extent that Pharr is required under the Lease to maintain and repair any portion of the Subleased Premises, County agrees to perform the same maintenance and repairs on the Subleased Premises as would be required by Pharr as lessee of the Subleased Premises under the Lease.

### **UTILITIES**

9.01. County shall not be responsible for any utility charges used in and about the Subleased Premises during the term of this Agreement.

### **ALTERATIONS**

10.01. County shall not make any alterations, additions, or improvements to the Subleased Premises without the prior written consent of Pharr, and, if applicable under the terms of the Lease, with The Pharr Economic Development Counsel .

### **EQUIPMENT AND FIXTURES**

11.01. County has, at all times, the right to erect or install shelves, temporary office partitions, bins, machinery, equipment, or other trade fixtures, in, on or about the Subleased Premises, provided that County complies with all applicable governmental laws, ordinances and regulations regarding such fixtures. County has the right to remove all such trade fixtures at the termination of this Agreement, provided that the fixtures can be removed without structural damage to the Subleased Premises or to the building. County shall repair any damage to the Subleased Premises caused by the removal of trade fixtures, and all such repairs must be completed prior to the termination of this Agreement. Any trade fixtures that have not been removed by County at the termination of this Agreement shall be deemed abandoned by County and shall automatically become the property of Pharr.

## **SIGN**

12.01. Subject to the written approval of City, and to the extent necessary under the terms of the Lease, The Pharr Economic Development Counsel , and further subject to applicable laws, ordinances and regulations, County shall have the right to install a sign on the Subleased Premises. County must remove all signs at the termination of this Agreement and repair any damage resulting from the erection or removal of the signs.

## **INSURANCE**

13.01. Pharr, or to the extent required under the Lease, The Pharr Economic Development Counsel, shall, at its own expense, keep all buildings and improvements on or relating to the Subleased Premises insured against loss or damage by fire with extended coverage to include direct loss by windstorm, hail, explosion, riot, or riot attending strike, civil commotion, aircraft, vehicles, and smoke, in the aggregate amounts of not less than the full fair insurable value of the buildings and improvements. The policies shall provide that any proceeds for loss or damage to the buildings or to improvements shall be payable solely to Pharr or to The Pharr Economic Development Counsel, as appropriate, which sum the recipient shall use for repair and restoration purposes as provided herein. County shall maintain all insurance on County's personal property located within the Subleased Premises and County covenants and agrees that Pharr and The Pharr Economic Development Counsel shall have no responsibility for damage or destruction of County's personal property located within the Subleased Premises.

## **LIABILITY INSURANCE**

14.01. Pharr and/or The Pharr Economic Development Counsel shall, at its own expense, provide and maintain in force during the term of this Agreement liability insurance in the amounts deemed adequate by Pharr and/or The Pharr Economic Development Counsel.

## **NOTICE OF DAMAGE**

15.01. If the Subleased Premises, or any structures or improvements on the Subleased Premises, should be damaged or destroyed by fire, tornado, or other casualty, County shall give immediate written notice of the damage or destruction to Pharr, including a description of the damage and, as far as known to County, the cause of the damage.

## **DAMAGE OR DESTRUCTION**

16.01. If the building on the Subleased Premises should be totally destroyed by fire, tornado, or other casualty, or if they should be so damaged that rebuilding or repairs cannot reasonably be completed within thirty (30) working days from the date of the occurrence of the damage, this Agreement, at the option of the County, shall terminate, effective as of the date of said occurrence.

## **PARTIAL DAMAGE**

17.01 If the Subleased Premises should be damaged by fire, tornado, or other casualty, but not to such an extent that rebuilding or repairs cannot reasonably be completed within thirty (30) working days from the date of the occurrence of the damage, this Agreement shall not terminate, but Pharr shall, if the casualty has occurred prior to the final twelve (12) months of the Agreement term, at Pharr's sole cost and risk proceed forthwith to rebuild or repair or cause to be rebuilt or repaired the Subleased Premises to substantially the condition in which they existed prior to such damage. If the casualty occurs during the final twelve (12) months of the Agreement term, Pharr shall not be required to rebuild or repair such damage. In the event that Pharr should fail to complete such rebuilding or repairs within thirty (30) working days from the date of the occurrence of the damage, County may at its option terminate this Agreement by written notification at such time to Pharr, whereon all rights and obligations hereunder shall cease.

## **TOTAL CONDEMNATION**

18.01. If during the term of this Agreement all of the Subleased Premises should be taken for any public or quasi-public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or should be sold to the condemning authority under threat of condemnation, the Agreement shall terminate, effective as of the date of the taking of the premises by the condemning authority.

## **PARTIAL CONDEMNATION**

19.01. If less than all, but more than ten percent (10%) of the Subleased Premises is taken for any public or quasi-public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or should be sold to the condemning authority under threat of condemnation, County may terminate the Agreement by giving written notice to Pharr within thirty (30) days after possession of the condemned portion is taken by the entity exercising the power of condemnation.

If the Subleased Premises are partially condemned and County fails to exercise the option to terminate the Agreement under this section, or if less than ten percent (10%) of the Subleased Premises are condemned, this Agreement shall not terminate, but County may, at its sole expense, restore and reconstruct the building and other improvements situated on the Subleased Premises to make them reasonably tenantable and suitable for the uses for which the Premises are leased.

## **CONDEMNATION AWARD**

20.01. City and County shall each be entitled to receive and retain such separate awards, and portions of lump sum awards, as may be allocated to their respective interest in any

condemnation proceedings. The termination of this Agreement shall not affect the rights of the respective parties to such awards.

### **DEFAULT BY COUNTY**

21.01. If County shall remain in default under any condition of this Agreement for a period of thirty (30) days after written notice from Pharr, Pharr may at its option, without notice to County, terminate this Agreement or, in the alternative, Pharr may re-enter and take possession of the Premises and remove all persons and property without being deemed guilty of any manner of trespass and relet the Premises, or any part of the Premises, for all or any part of the remainder of the Agreement term, to a party satisfactory to Pharr and at such monthly rental as Pharr may with reasonable diligence be able to secure.

### **DEFAULT BY PHARR OR THE PHARR ECONOMIC DEVELOPMENT COUNSEL**

22.01. If Pharr defaults in the performance of any terms, covenants, as condition required to be performed by it under this Agreement, County may elect to do either one of the following:

- (a) After not less than thirty (30) days' notice to Pharr, County may remedy such default by any necessary action and, in connection with such remedy, may pay expenses and employ counsel. All reasonable sums expended, or obligations incurred, by County in connection with remedying Pharr's default shall be paid by Pharr to County on demand and, on failure of such reimbursement, County may, in addition to any other right or remedy that County may have, deduct these costs and expenses from rent subsequently becoming due under this Agreement.
- (b) County may terminate this Agreement by giving at least thirty (30) days notice to Pharr such intention. In the event County elects this option, the Agreement will be terminated on the date designated in County's notice, unless Pharr has cured the default to the reasonable satisfaction of the County prior to expiration of the thirty day period.

### **CUMULATIVE REMEDIES**

23.01. All rights and remedies of City and County under this Agreement shall be cumulative, and none shall exclude any other right or remedy provided by law or by any other provision of this Agreement. All such rights and remedies may be exercised and enforced concurrently and whenever, and as often, as occasion for their exercise arises.

### **WAIVER OF BREACH**

24.01. A waiver by either Pharr or County of a breach of this Agreement by the other party does not constitute a continuing waiver or a waiver of any subsequent breach of the

Agreement.

**NOTICE**

25.01. 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 addressed to the parties at the addressed set forth below, or at such other address as may have been theretofore specified by written notice delivered in accordance herewith:

If to Pharr: City of Pharr  
Attention: Fred Sandoval, City Manager  
P.O. Box 1729  
Pharr, Texas 78577

If to County: Hidalgo County, Texas  
Attn: Ramon Garcia, County Judge  
100 East Cano 2nd Floor  
Edinburg, Texas 78539

With copy to: Hector "Tito" Palacios, Commissioner, Precinct No. 2  
301 E. State Street  
Pharr, Texas 78577

**COMMITMENT OF CURRENT REVENUES ONLY**

26.01. In the event that, during any term hereof, the governing body of any party does not appropriate sufficient funds to meet the obligations of such party under this Agreement, then any party may terminate this Agreement upon ninety (90) days written notice to the other party. Each of the parties hereto agrees, however, to use its best efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of each party hereto pursuant to the provisions of Tex. Loc. Govt. Code Ann. § 271.903.

**IN WITNESS WHEREOF**, Pharr and County approve the execution of this Agreement by a motion duly made, seconded, and adopted by the appropriate governing bodies thereof.

COUNTY OF HIDALGO  
By: *Ramon Garcia*  
Printed Name: **RAMON GARCIA**  
Its: **Hidalgo County Judge**

CITY OF PHARR  
By: *Fred Sandoval*  
Printed Name: **Fred Sandoval**  
Its: **City manager**

APPROVED AS TO FORM:  
ATLAS & MALL, L.L.P.

By: *Stephen L. Crain*  
STEPHEN L. CRAIN

**ATTEST:**

*Eddy Trevino*  
\_\_\_\_\_  
**Eddy Trevino, County Clerk**



**LEASE AGREEMENT**

**STATE OF TEXAS** §

**COUNTY OF HIDALGO** §

THIS LEASE, made and entered into this 26th day of October, 2005,

by and between the and Pharr Economic Development Corporation of Texas hereinafter called "LESSOR" and City of Pharr, Texas hereinafter called "LESSEE."

**WITNESSETH**

In consideration of this writing and the terms and provisions herein contained, the parties hereto agree among themselves as follows:

1. LESSOR does hereby lease unto LESSEE and LESSEE does hereby take from LESSOR, the premises located at and described as follows:

**1100 E. Bus. Hwy. 83  
Pharr, Texas 78577**

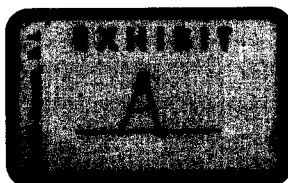
**Legal Description: El Chaparral Lot 1**

2. Should the LESSEE at anytime fail to pay said rent within ten (10) days after the time herein stipulated, or if default be made in any other provision, the Lessor may, at its option and upon thirty (30) days written notice to LESSEE, terminate this Lease Agreement.
3. LESSOR may enter premises at any reasonable hour for the purpose of examining the same or making such repairs or alterations as LESSOR may see fit.

I.

**LEASE AND TERMS**

1.01. The term of this Lease shall be for 1 year, beginning on the 25th day of October, hereinafter called the "Initial Term", during which time the rental fee shall be \$1.00 for the year payable upon the signing of this agreement. Should the LESSEE at anytime fail to pay said rent within ten (10) days after the time herein stipulated, or if default be made in any other provision, the LESSOR may, at its option and upon thirty (30) days written notice to terminate this Lease Agreement. Further, the LESSOR has the option to terminate this lease at any time by providing the LESSEE ten (10) days notice. LESSOR has option to renew for one year by providing the LESSOR notice within sixty (60) days prior to the expiration of this lease contract.



If the property that is the subject of this lease is sublet by the LESSEE to a subLESSEE, any and all rental fees collected by the LESSEE from the subLESSEE will be immediately transferred to the LESSOR (PHARR ECONOMIC DEVELOPMENT CORPORATION) upon collection by the LESSEE from the subLESSEE.

1.02 Any and all notice required shall be sent Certified Mail to the LESSOR or the LESSEE, as shown below:

**AS TO LESSOR:**

Name P.E.D.C.  
Street Number  
& Name: 1215 S. CAGE BLVD.  
City & State: PHARR, TEXAS 78577

**AS TO LESSEE:**

Name CITY OF PHARR, CITY MANAGER  
Street Number  
& Name: P.O. Box B  
City & State: PHARR, TEXAS 78577

1.03 The cost of all water, gas, electricity and other utilities used on the premises during the term of the lease shall be paid for by LESSOR.

1.04 LESSEE shall not use said premises for any purpose other than as a government related purpose, and LESSEE agrees to comply with the laws, statutes and ordinances of the City and State where located.

1.05 **Holding Over.** Subject to the lease renewal option set forth herein, LESSEE shall vacate the Property upon the expiration or earlier termination of this Lease. LESSEE shall reimburse LESSOR for and indemnify LESSOR against all damages incurred by it from any delay by LESSEE in vacating the Property. If LESSEE does not vacate the Property upon the expiration or earlier termination of the Lease, LESSEE's occupancy of the Property shall be a "month-to-month" tenancy, subject to all of the terms of this Lease applicable to a month-to-month tenancy.

1.06 **Early Termination.** LESSOR reserves the right to terminate this lease agreement or any extensions of same after providing 30 (thirty) days notice to cancel same.

1.07 **Re-letting Charge.** LESSEE will be liable to LESSOR for a re-letting charge of 85% percent of the highest monthly rent during the Lease Contract a month, if the LESSEE:

- A. moves out without LESSOR's written approval and without paying rent in full for the entire Lease Contract term or renewal period; or
- B. moves out at LESSOR's demand because of LESSEE's default; or
- C. judicially evicted.

The re-letting charge is not a cancellation fee and does not release you from your obligations under the Lease Contract.

**2.01 Acceptance of Premises.** LESSEE acknowledges that it has fully inspected the Property and accepts the Property in its condition as of the execution of this Lease as suitable for the purposes for which it is leased. LESSEE acknowledges that, except as stated in the following sentence or as otherwise set forth in this Lease, neither LESSOR nor any agent of LESSOR has made any representation as to the condition of the Property or the suitability of the Property for LESSEE's intended use. LESSOR represents that on the commencement Date, the plumbing, electrical system and exterior doors, and any fire protection sprinkler system, heating system, air conditioning equipment, elevators, roof repairs and repairs existing on the date of this Lease, are or will be in good operating condition.

**2.02 Condition upon Termination.** Upon the termination of this Lease, LESSEE shall surrender the Property to LESSOR, in the same condition as received except for ordinary wear and tear and any and all structure, equipment, fixtures and other items the LESSOR may determine were purposely destroyed by LESSEE, except, for alterations or improvements made to the Property pursuant to this Lease. However, LESSEE shall not be obligated to repair any damage which LESSOR is required to repair under "Damage or Destruction" section of this contract. All such alterations, additions, fixtures and improvements which LESSOR has not required LESSEE to remove shall become LESSOR's property and shall be surrendered to LESSOR upon the termination of the Lease. In no event, however, shall LESSEE remove any of the following materials or equipment without LESSOR's prior written consent: any power wiring or power panel; lighting or lighting fixtures; wall coverings; drapes, blinds or other window coverings; carpets or other floor coverings; heaters, air conditioners or any other heating or air conditioning equipment; fencing or security gates; or other similar building operating equipment and decorations.

**2.03 Alterations or repairs desired by LESSEE to interior of said premises** are to be made at LESSEE's expense and with permission of the LESSOR. LESSEE shall return premises to LESSOR at expiration or termination of term or extension thereof in like condition reasonable wear and tear expressly excepted. LESSOR agrees to maintain the exterior of premises, including the roof, gutters, outer walls, and downspouts. It is agreed that any signs, trade fixtures, office furniture, fixtures and equipment, may be removed by Lessee at the expiration, termination, or any renewal of this Lease Agreement. However, if damage will occur in removing said sign, trade fixtures, office furniture, fixtures and equipment, the Lessee will be responsible for the cost of repairing damage caused to the Lessor's property at the time the Lessee removed said item. Further, if the removal of the item will cause sever damage to the Lessor's property, the item will not be removed. The Lessor will be solely responsible for determining whether the removal of an item will cause sever damage to its property.

### III.

#### DAMAGE OR DESTRUCTION

**Notice.** If the building or other improvements situated on the Property should be damaged or destroyed by fire, tornado or other casualty, LESSEE agrees to notify LESSOR by written notice of such damage within ten (10) of the damage occurring.

**Partial Damage.** If the building or other improvements situated on the "leased premises" at the center of this contract should be damaged by fire, tornado or other casualty but not to such an extent that rebuilding or repairs cannot reasonably be completed within 120 days from the date, LESSOR receives written notification by LESSEE of the happening of the damage, this Lease shall not terminate, but LESSOR shall, at its sole cost and risk, proceed forthwith and use reasonable diligence to rebuild or repair such building and other improvements on the Property (other than leasehold improvements made by LESSEE or any assignee, sub LESSEE or other occupant of the Property) to substantially the condition in which they existed prior to such damage; provided, however, if the casualty occurs during the final 18 months of the Lease Term (or any renewal thereof), LESSOR shall not be required to rebuild or repair such damage unless LESSEE shall exercise its renewal option (if any is contained herein) within fifteen (15) days after the date of receipt by LESSOR of the notification of the occurrence of the damage. If LESSEE does not elect to exercise its renewal option or if there is no renewal option contained herein or previously unexercised at such time, this Lease shall terminate at the option of LESSOR and rent shall be abated for the unexpired portion of this Lease, effective from the date of actual receipt by LESSOR of the written notification of the damage. If the building and other improvements are to be rebuilt or repaired and are unforeseeable in whole or in part following such damage, the rent payable hereunder during the period in which they are unforeseeable shall be adjusted equitably.

**Substantial or Total Destruction.** If the building or other improvements situated on the Property should be substantially or totally destroyed by fire, tornado or other casualty, or so damaged that rebuilding or repairs cannot reasonably be completed within 120 days from the date LESSOR receives written notification by LESSEE of the happening of the damage, this Lease shall terminate at the option of LESSOR and rent shall be abated for the unexpired portion of this Lease, effective from the date of receipt by LESSOR of such written notification. If this Lease is not terminated, the building and the improvements shall be rebuilt or repaired and rent abated to the extent provided under Section 7.02.

### IV.

#### CONDEMNATION

If during the term of this Lease, or any extension or renewal thereof, all or a substantial part of the Property should be taken for any public or quasi-public use under any governmental law,

ordinance or regulation or by right of eminent domain, or should be sold to the condemning authority under threat of condemnation, this Lease shall terminate and the rent shall be abated during the unexpired portion of this Lease, effective from the date of taking of the Property by the condemning authority. If less than a substantial part of the demised premises is taken for public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or is sold to the condemning authority under threat of condemnation, LESSOR, at its option, may by written notice terminate this Lease or shall forthwith at its sole expense restore and reconstruct the buildings and improvements (other than leasehold improvements made by LESSEE or any assignee, subLESSEE or other occupant of the Property) situated on the Property in order to make the same reasonably foreseeable and suitable for the use for which the Property is leased. The rent payable hereunder during the unexpired portion of this Lease shall be adjusted equitably. LESSOR and LESSEE shall each be entitled to receive and retain such separate awards and portions of lump sum awards as may be allocated to their respective interests in any condemnation proceedings. The termination of this Lease shall not affect the rights of the respective parties to such awards.

## V.

### DEFAULT AND REMEDIES

**Default.** The following events shall be deemed to be events of default under this Lease:

- (a) Failure of LESSEE, its employees, subLESSEE's, licensees or LESSEE's or any other person entering the property under the express or implied invitation of LESSEE, to pay any installment of the rent or other sum payable to LESSOR hereunder on the date that same is due and such failure shall continue for a period of five (5) days from such due date;
- (b) Failure of LESSEE to comply with any term, condition or covenant of this Lease, other than the payment of rent or other sum of money, and such failure shall not be cured within thirty (30) days after written notice thereof to LESSEE;
- (c) LESSEE or any guarantor of LESSEE's obligations hereunder shall generally not pay its debts as they become due or shall admit in writing its inability to pay its debts, or shall make a general assignment for the benefit of creditors;
- (d) LESSEE or any guarantor of LESSEE's obligations hereunder shall commence any case, proceeding or other action seeking reorganization arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property;
- (e) Any case, proceeding or other action against LESSEE or any guarantor of LESSEE's obligations hereunder shall be commenced seeking to have an order for relief entered

against it as debtor, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any Law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property, and LESSEE (i) fails to obtain a dismissal of such case, proceeding, or other action within sixty (60) days of its commencement or (ii) converts the case from one chapter of the Federal Bankruptcy Code to another chapter or (iii) is the subject of an Order of Relief which is not fully stayed within seven business days after the entry thereof; or

(f) Abandonment by LESSEE of any substantial portion of the Property or cessation of the use of the Property for the purpose leased; and/or

(g) LESSEE allows a mechanic's lien to be placed on the property that is the subject of this contract;

(h) The LESSEE does not complete improvements listed within 12.14 within six months of the LESSEE signing this lease.

**Remedies.** Upon the occurrence of any of the events of default listed in Section 10.01, LESSOR shall, as its sole exclusive remedies, have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

(i) Terminate this Lease, in which event LESSEE shall immediately surrender the Property to LESSOR. If LESSEE fails to so surrender such premises, LESSOR may, without prejudice to any other remedy which it may have for possession of the Property or arrearage in rent, enter upon and take possession of the Property and expel or remove LESSEE and any other person who may be occupying such premises or any part thereof, by force if necessary, without being liable for prosecution or any claim for damages therefor. LESSEE shall pay to LESSOR on demand the amount of all loss and damage which LESSOR may suffer by reason of such termination, whether through inability to re-let the Property on satisfactory terms or otherwise;

(j) Enter upon and take possession of the Property, by force if necessary, without terminating this Lease and without being liable for prosecution or for any claim for damages therefor, and expel or remove LESSEE and any other person who may be occupying such premises or any part thereof. LESSOR may re-let the Property and receive the rent therefor. LESSEE agrees to pay to LESSOR monthly or on demand from time to time any rent deficiency that may arise by reason of any such re-letting.

(k) Enter upon the Property, by force, if necessary, without terminating this Lease and without being liable for prosecution or for any claim for damages therefor, and do whatever LESSEE is obligated to do under the terms of this Lease. LESSEE agrees to pay LESSOR on demand for expenses which LESSOR may incur in thus effecting compliance with LESSEE obligations under this Lease, together with interest thereon at the rate of ten percent (10%) per annum from the date expended until paid. LESSOR shall not be liable for any damages resulting to LESSEE from such action, whether caused by negligence of LESSOR or otherwise.

(l) If LESSEE defaults, LESSOR may end LESSEE's right of occupancy by giving 24 hours' notice to vacate. Notice may be by: (1) regular mail; (2) certified mail, return

receipt requested; (3) personal delivery to any resident; (4) personal delivery at the premises to any occupant over 16 years old; or (5) affixing the notice to the inside of the premises' main entry door. Termination of LESSEE 's possession rights or subsequent re-letting does not release LESSEE from liability of future rent. After giving notice to vacate or filing an eviction suit, LESSOR may still accept rent or other sums due; the filing or acceptance dose not waive or diminish LESSOR~s right of eviction or any other contractual or statutory right. Accepting money at any time does not waive LESSOR's right to damages; past or future rent, or other sums.

**Notice of Default.** LESSEE shall give written notice of any failure by LESSOR to perform any of its obligations under this Lease to LESSOR. LESSOR shall not be in default under this Lease unless LESSOR (or such ground LESSOR, mortgagee or beneficiary) fails to cure such non-performance within thirty (30) days after receipt of LESSEE's notice. However, if such non-performance reasonably requires more than thirty (30) days to cure, LESSOR shall not be in default if such cure is commenced within such thirty (30) day period and thereafter diligently pursued to completion.

LESSOR's or LESSEE's waiving breach of this lease by the other party does not constitute a continuing waiver or waive of any subject breach.

## VI

### LESSOR'S LIEN

In addition to the statutory LESSOR's lien, LESSEE hereby grants to LESSOR a security interest to secure payment of all rent and other sums of money becoming due hereunder from LESSEE , upon all goods, wares, equipment, fixture, furniture and other personal property of LESSEE situated in or upon the Property, together with the proceeds from the sale or lease thereof. Such property shall not be removed without the consent of LESSOR until all arrearage in rent and other sums of money then due to LESSOR hereunder shall first have been paid and discharged. Upon the occurrence of an event of default, LESSOR may, in addition to any other remedies provided herein or by law, enter upon the Property and take possession of any and all goods, wares, equipment, fixtures, furniture and other personal property of LESSEE situated on the Property without liability for trespass or conversion, and sell the same at public or private sale, with or without having such property at the sale, after giving LESSEE reasonable notice of the time and place of any such sale. Unless otherwise required by law, notice to LESSEE of such sale shall be deemed sufficient if given in the manner prescribed in this Lease at least ten (10) days before the time of the sale. Any public sale made under this Article shall be deemed to have been conducted in a commercially reasonable manner if held on the Property or where the property is located, after the time, place and method of sale and a general description of the types of property to be sold have been advertised in a daily newspaper published in the county, where the Property is located for five consecutive days before the date of the sale. LESSOR or its assigns may purchase such property at a public sale and, unless prohibited by Law, at a private sale. The proceeds from any disposition dealt with in this Article, less any and all expenses connected with the taking of possession, holding and selling of the property (including reasonable attorney's fees and legal expenses), shall be applied as a credit against the indebtedness secured by the security interest granted herein. Any surplus shall be paid to LESSEE or as otherwise required by law; LESSEE shall pay any deficiencies forthwith.

Upon request by LESSOR, LESSEE agrees to execute and deliver to LESSOR a financing statement in form sufficient to perfect the security interest of LESSOR in the aforementioned property and proceeds thereof under the provisions of the Uniform Commercial Code in force in the State of Texas. The statutory lien for rent is expressly reserved; the security interest herein granted is in addition and supplementary thereto.

## VII. MECHANICS LIEN

LESSEE will not permit any mechanic's lien to be placed on the premises or on improvements on them. If a mechanic's lien is filed on the premises or on improvements on them, LESSEE will promptly pay the lien. If default in payment of the lien continues for 20 days after LESSOR's written notice to LESSEE, LESSOR may, at its option, pay the lien or any portion of it without inquiring into its validity. Any amounts LESSOR pays to remove a mechanic's lien caused by LESSEE to be filed against the premises or against improvements on them, including expenses and interest, shall be immediately due to the LESSOR upon written notice to LESSEE, along with interest at 10% percent annually until repaid.

## VIII. INSURANCE

**Casualty Insurance.** During the Lease Term, LESSEE shall maintain policies of insurance covering loss of or damage to the Property at the center of this lease, in the amount of \$500,000.00 per occurrence. Such policies shall provide protection against all perils included within the classification of fire and extended coverage and any other perils which LESSEE and LESSOR deem necessary. LESSEE shall also obtain insurance coverage for LESSEE's inventory, fixtures, equipment or building improvements installed by LESSEE in or on the Property. LESSEE shall, in addition, at LESSEE's expense, maintain such primary or additional insurance on its fixtures, equipment and building improvements as LESSEE deems necessary to protect its interest. LESSEE shall not do or permit to be done anything which invalidates any such insurance policies. Any casualty insurance which may be carried by LESSOR or LESSEE shall be for the sole benefit of the party carrying such insurance and under its sole control.

**Liability Insurance.** During the Lease Term, LESSEE shall maintain a policy of comprehensive public liability insurance, at LESSEE's expense, insuring LESSOR against liability arising out of the ownership, use, occupancy or maintenance of the Property, in the amount of \$1,000,000. Such policy shall contain a provision which prohibits cancellation or modification of the policy except upon thirty (30) days' prior written notice to LESSOR. LESSEE may discharge its obligations under this Section by naming LESSOR as an additional insured under a policy of comprehensive liability insurance maintained by LESSEE and containing the coverage and provisions described in this Section. LESSEE shall deliver a copy of such policy or certificate (or a renewal thereof) to LESSOR prior to the Commencement Date and prior to the expiration of any such policy during the Lease Term. If LESSEE fails to maintain such policy, LESSOR may elect to maintain such insurance at LESSEE's expense. LESSEE shall, at LESSEE's expense, maintain such other liability insurance as LESSEE deems necessary to protect LESSEE. If the LESSEE's insurance

lapses for any reason, LESSEE is solely liable for any damages and/or injuries resulting from the ownership, use, occupancy or maintenance of property and the LESSEE shall indemnify and hold harmless the LESSOR for any expenses including but limited damages, attorneys fees, court costs incurred by LESSOR as a result of LESSEE's lack of liability insurance. LESSEE must furnish LESSOR with certificates of all insurance required by this article.

**Indemnity.** LESSOR shall not be liable to LESSEE or to its employees, agents or visitors, or to any other person whomsoever, for any injury to persons or damage to property on or about the Property or any adjacent area owned by LESSOR caused solely by the negligence or misconduct of LESSEE, its employees, subLESSEEs, licensees or concessionaires or any other person entering the Property under express or implied invitation of LESSEE, its employees, subLESSEEs, licensees or concessionaires or arising solely out of the use of the Property by LESSEE its employees, subLESSEEs, licensees or concessionaires and the conduct of its business therein, or arising solely out of any breach or default by LESSEE in the performance of its obligations hereunder, and LESSEE hereby agrees to indemnify LESSOR and hold it harmless from any loss, expense or claims arising out of such damage or injury. LESSEE shall not be liable for any injury or damage caused in whole or in part by the negligence or misconduct of LESSOR, or its employees or agents, and LESSOR agrees to indemnify LESSEE and hold it harmless from any loss, expense or damage arising out of such damage or injury.

## IX.

### TAXES

**Payment by LESSOR.** LESSOR shall pay all real estate taxes on the Property during the Lease Term.

**Improvements by LESSEE.** In the event the real estate taxes levied against the Property for the real estate tax year in which the Lease Term commences are increased as a result of any alterations, additions or improvements made by LESSEE or by LESSOR at the request of LESSEE, LESSEE shall pay to LESSOR upon demand the amount of such increase. For the purposes of the calculations under Section 4.02, the amount of the real estate taxes during the real estate tax year in which the Lease Term commences shall not include any taxes resulting from any such alterations, additions or improvements made in or to the Property. LESSOR shall obtain from the tax assessor or assessors a written statement of the total amount of such increase.

**Joint Assessment.** If the real estate taxes are assessed against the Property jointly with other property not constituting a part of the Property, the real estate taxes for such years shall be equal to the amount bearing the same proportion to the aggregate assessment that the total square feet of building area in the Property bears to the total square feet of building area included in the joint assessment.

**Personal Property Taxes.** LESSEE shall pay all taxes charged against trade fixtures, furnishings, equipment or any other personal property belonging to LESSEE. LESSEE shall try to have its personal property taxed separately from the Property, but if any of LESSEE's personal property is taxed with the Property, LESSEE shall pay the taxes for the personal property within fifteen (15) days after LESSEE receives a written statement for such personal property taxes.

**Proof of Payment of Taxes.** The LESSEE will pay all taxes owed by LESSEE by January 1 of each year, and will show proof of such payment to LESSOR by January 15 of each year.

## XI

### ASSIGNMENT AND SUBLETTING

LESSEE shall, without the prior written consent of LESSOR, assign this Lease or sublet the Property or any portion thereof. Any assignment or subletting shall be expressly subject to all terms and provisions of this Lease, including the provisions pertaining to the use of the Property. In the event of any assignment or subletting, LESSEE shall remain fully liable for the full performance of all LESSEE's obligations under this Lease. In the event of the occurrence of an event of default while the Property is assigned or sublet, LESSOR, in addition to any other remedies provided herein or by law, may at LESSOR's option, collect directly from such assignee or subLESSEE all rents becoming due under such assignment or subletting and apply such rent against any sums due to LESSOR hereunder. No direct collection by LESSOR from any such assignee or subLESSEE shall release LESSEE from the performance of its obligations hereunder.

## XII

### MISCELLANEOUS

**Force Majeure.** In the event performance by either party hereto of any term, condition or covenant in this Lease is delayed or prevented by any act of God, strike, lockout, shortage of material or labor, restriction by any governmental authority, civil riot, flood, or any other cause not within the control of such party, the period for performance of such term, condition or covenant shall be extended for a period equal to the period such party is so delayed or hindered.

**Interpretation.** The captions of the Articles or Sections of this Lease are to assist the parties in reading this Lease and are not a part of the terms or provisions of this Lease. Whenever required by the context of this Lease, the singular shall include the plural and the plural shall include the singular. For convenience, each party hereto is referred to in the neuter gender, but the masculine, feminine and neuter genders shall each include the other. In any provision relating to the conduct, acts or omissions of a party, the term 'LESSEE' or 'LESSOR, as the case may be, shall include such party's agents, employees, contractors, invites, successors or others using the Property with such party's expressed or implied permission.

**Waivers.** All waivers must be in writing and signed by the waiving party. A party's failure to enforce any provisions of this Lease or its acceptance of rent shall not be a waiver of any other provision of this Lease, and shall not prevent such party from enforcing that provision or any other provision of this Lease in the future.

**Severability.** A determination by a court of competent jurisdiction that any provision of this Lease or any part hereof is illegal or unenforceable shall not cancel or invalidate the remainder of such provision or this Lease, which shall remain in full force and effect.

**Incorporation of Prior Agreements; Modifications.** This Lease is the only agreement between the parties pertaining to the lease of the Property and no other agreements are effective. All

amendments to this Lease shall be in writing and signed by all parties. Any other attempted amendments shall be void.

**Notices.** All notices required or permitted under this Lease shall be in writing and shall be personally delivered or shall be deemed to be delivered, whether actually received or not, when deposited in the United States mail, postage pre-paid, registered or certified mail, return receipt requested, addressed to City Manager, City of Pharr, P.O. Box B, Pharr, Texas 78577. Notices to LESSEE shall be delivered to the address specified in Section 1.03 above. Notices to any other party hereto shall be delivered to the address specified in Article One as the address for such party. Any party hereto may change its notice address upon written notice to the other parties.

**Attorneys' Fees.** If on account of any breach or default by any party hereto in its obligations to any other party hereto, it shall become necessary for the non-defaulting party to employ an attorney to enforce or whether or defend any of its rights or remedies hereunder, the defaulting party agrees to pay the non-defaulting party its reasonable attorneys' fees, whether or not suit is instituted in connection therewith.

**Survival.** All obligations of any party hereto not fulfilled at the expiration or the earlier termination of this Lease, and all representations and warranties contained herein, shall survive the termination of this Lease.

**Binding Effect.** This Lease shall inure to the benefit and be binding upon each of the parties hereto and their respective legal representatives, successors and assigns.

**LAW.** Any disputes arising under this agreement and/or any renewal terms must be resolved in a state district court in Hidalgo County, Texas.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be executed and delivered on the date first above mentioned.

Witnesses as to Lessor:

Mary P. Murray  
City Clerk

LESSOR:

Raul Garza  
(as per PG)

Witnesses as to Lessee:

Mary P. Murray  
City Clerk

LESSEE:

Fred Sandoral (DG)  
Acting City Manager

SWORN TO BEFORE ME THIS

26th DAY OF October, 2005.

Mary P. Munoz (LS)

My Commission Expires 4-27-2009

