

STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE COUNTY OF HIDALGO
AND THE HIDALGO COUNTY REGIONAL MOBILITY AUTHORITY**

This Interlocal Agreement (the "Agreement") is entered into between **HIDALGO COUNTY, TEXAS** a political subdivision of the State of Texas (the "County"), by and through the Hidalgo County Commissioners Court ("Commissioners Court"), and the **HIDALGO COUNTY REGIONAL MOBILITY AUTHORITY** ("HCRMA"), by and through its Board of Directors ("Board of Directors").

WITNESSETH:

WHEREAS, V.T.C.A., Government Code, Chapter 791, the Texas Interlocal Cooperation Act, provides that one or more agencies may contract with each other for the performance of governmental functions or services for the promotion and protection of the health and welfare of the inhabitants of this State and the mutual benefits of the parties;

WHEREAS, the County is authorized by state law to construct and maintain roads and bridges within Hidalgo County;

WHEREAS, on October 26, 2004, the Commissioners Court, at a special meeting approved a petition to the Texas Department of Transportation (the "Commission") requesting the authorization to form the Hidalgo County Regional Mobility Authority (the "HCRMA") as required by TAC Chapter 26 (the "RMA Rules");

WHEREAS, at regular meetings of the Commissioners Court held on March 29, 2005 and July 19, 2005, the Commissioners Court amended and restated the HCRMA petition to the Commission;

WHEREAS, the Commission, as required by V.T.C.A. Transportation Code, Chapter 370, the Regional Mobility Authority Act (the "Act") and the RMA Rules, by Minute Order No. 110315 dated November 17, 2005 authorized the creation of the HCRMA;

WHEREAS, the HCRMA has agreed pursuant to its application to the Commission to study the feasibility of establishing a network of roads within Hidalgo County;

WHEREAS, the HCRMA is seeking funds to pay for its initial start up and operating expense, until such time as the HCRMA can obtain sufficient revenues to fund its own operations internally;

WHEREAS, the County has agreed to provide a loan to the HCRMA in order to pay for expenses associated with creating the HCRMA and its initial funding;

WHEREAS, the HCRMA's and Board of Directors have been appointed and the HCRMA is now operational;

WHEREAS, the HCRMA's Board of Directors have passed a resolution dated _____ wherein the Board authorized the HCRMA to enter into this Agreement;

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

ARTICLE 1 PURPOSE

1.01 The HCRMA is authorized to fund its operations, *inter alia*, through the acceptance of grants and loans, the issuance of revenue bonds, gifts and other contributions for any purpose of the Act.

1.02 The purpose of this Agreement is to memorialize an understanding under which the County will assist the HCRMA by making available a loan of funds to support the HCRMA 's organization efforts. The funds to be loaned to the HCRMA by the County are permitted under the authority of the Act and pursuant to Texas Constitution Article III, Section 52.

ARTICLE 2 FINANCIAL ASSISTANCE

2.01 In order to provide the HCRMA with initial operating funds prior to the HCRMA obtaining other sources of financing or revenue as provided for in the Act, to finance a "Transportation Project" as that term is defined in the Act, the Commissioners Court on October 24, 2006, determined that the establishment of the HCRMA within Hidalgo County serves a valid public purpose, and accordingly approved an initial loan of funds to the HCRMA in the amount of **FIVE THOUSAND DOLLARS AND NO/100 (\$5,000.00)** in 2006 an amount not to exceed **TWO HUNDRED THOUSAND AND NO/100 (\$200,000.00)** (collectively the "Initial Loans"), for the purpose of assisting the HCRMA in its organization efforts. In the event that the parties agree at a later date that additional funding is necessary for ongoing operations, the parties shall execute new agreements evidencing that indebtedness. Should the HCRMA request additional funding, the request shall be submitted as part of the County's annual budget process.

2.02 HCRMA shall establish a "Hidalgo County Loan Account" at its depository bank. The date the Loan proceeds are transferred from the County to the Hidalgo County Loan Account is hereinafter referred to as the "Deposit Date." HCRMA's depository bank shall not commingle funds in the Hidalgo County Loan Account with any other funds held by the depository bank. If, during the course of this Agreement, the HCRMA changes its depository bank, the HCRMA shall cause the transfer of any remaining funds in the Hidalgo County Loan Account into an equivalent account in the new depository bank, subject to the same security and fund segregation requirements prescribed in this paragraph.

2.03 Interest on the amount of the Loan shall accrue from the Deposit Date at the rate of 8.25% simple interest per annum, and, if not paid, shall compound at the rate of 8.25% per annually on the Deposit Date of each succeeding year, until such time as the Loan amount and any accrued interest thereon is paid.

2.04 The parties to this Agreement agree that the Loan provided for herein shall be reimbursed in total from the proceeds of the first available revenues received by the HCRMA to construct the Transportation Project, or from any other lawful funds of the RMA. If bonds are issued for the acquisition and construction of the first Transportation Project undertaken by the HCRMA, a portion of the proceeds from the bonds shall be used to retire the Loan and any interest accrued thereon in full upon their issuance. In the event a third party builds the Transportation Project, the County shall receive as part of the agreement between the third party and the HCRMA funds sufficient to pay the Loan amount and any interest thereon in its entirety, within sixty (60) days of the execution of the agreement between HCRMA and the third party. In the event the Transportation Project referenced above is never undertaken by the HCRMA, the parties agree to negotiate in good faith the repayment of the Loan advanced to the HCRMA pursuant to this Agreement.

2.05 Any partial payments made to the County by the HCRMA in payment of the Loan shall first be applied to reduce the amount of any accrued interest thereon and then to the principal amount of the Loan.

2.06 The Loan to be made available to HCRMA by the County under the provisions of this Agreement is contingent upon an appropriation by County to cover the provisions of this Agreement. Neither County, its elected officials, employees, agents, attorneys, nor any other individual acting on behalf of County makes any representation or warranty as to whether any appropriation will, from time to time, be made by the governing body of County. The failure of County to appropriate sufficient funds will not cause County to be in default under this Agreement, and HCRMA's sole and exclusive remedy shall be to terminate this Agreement.

ARTICLE 3 HCRMA 'S RESPONSIBILITIES

3.01 The Hidalgo County Treasurer's Office will, upon request, process payroll for the HCRMA. If the Hidalgo County Treasurer's Office processes payroll for the HCRMA, the HCRMA prior to each pay period agrees to deposit with the County funds sufficient to cover all the HCRMA's salary and benefits expense.

3.02 HCRMA agrees to perform and comply in accordance with all federal, state, and local laws and ordinances applicable to the work or services performed pursuant to this Agreement and the operation of the HCRMA.

3.03 HCRMA shall on a quarterly basis submit a report detailing how the HCRMA has expended any and all of the Loan funds received under this Agreement during the past quarter. The County reserves the right to audit any and all of the HCRMA's records pertaining to the Loan funds received pursuant to this Agreement. HCRMA shall use generally accepted state and federal accounting procedures to account for the entire Loan funds. HCRMA will make all of its accounting records available at reasonable times to the County for audit and inspection throughout the term of this Agreement and the Hidalgo County Commissioners Court or the Hidalgo County Auditor's Office may request during the term of this Agreement, at their sole discretion, any additional reporting documents they deem appropriate. In addition, HCRMA agrees to maintain and preserve the accounting records pertaining to the Loan funds for a period of two years after the termination of the Agreement, and the County shall have the right to audit and review these records at reasonable times, during this period. This provision shall survive the termination of this Agreement.

ARTICLE 4 DEFAULT

4.01 Should HCRMA not repay the Loan as set forth in Article II, the County shall declare HCRMA in default. HCRMA shall be responsible for reimbursing the County for all costs or other losses of funds resulting from any default or failure to perform by HCRMA. HCRMA acknowledges and agrees that the County has no adequate remedy at law to enforce this Agreement and therefore equitable relief (including mandatory injunctions requiring HCRMA to perform its obligations hereunder) will be appropriate upon a default by HCRMA under this Agreement.

ARTICLE 5 TERM & TERMINATION

5.01 The parties understand and agree that this Agreement shall remain in full force and effect until such time as any Loan funds advanced to the HCRMA by the County under this arrangement are repaid in full, or such earlier time if terminated by

County. In order to accomplish this in accordance with the requirements of Chapter 791 of the Government Code, this Agreement will be for a term of one (1) year and shall automatically renew itself annually thereafter, unless the County terminates it earlier. County may terminate this Agreement at any time by providing reasonable advance written notice to HCRMA. Upon termination the Loan shall be due and payable in full.

ARTICLE 6 INDEMNIFICATION

6.01 HCRMA, to the extent permitted by law, agrees that it is solely responsible for all losses, costs, expenses, penalties, claims, and liabilities due to activities of the HCRMA and its agents, employees, officers, or contractors performed under this Agreement, and which result from an error, omission, or negligent act of the HCRMA or any agent, employee, official, or contractor of the HCRMA. Notwithstanding anything in this Agreement to the contrary, this provision shall survive any termination of this Agreement.

ARTICLE 7 LEGAL CONSTRUCTION

7.01 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 unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

ARTICLE 8 AMENDMENTS

8.01 Any changes in the character, agreement, terms, or responsibilities of the parties must be made through a written amendment. No amendment to this Agreement shall be of any effect unless in writing and executed by both parties.

ARTICLE 9 SUCCESSORS & ASSIGNS

9.01 This Agreement shall bind, and shall be for the sole and exclusive benefit of, the respective parties and their legal successors, including, without limitation, any successor agency, of a party. HCRMA is prohibited from assigning any of the rights or obligations conferred by this Agreement to any third party without the advance written approval of the County. Any attempted assignment or other transfer of the rights or obligations of this Agreement without the County shall be void and may be grounds for termination of this Agreement.

**ARTICLE 10
RELATIONSHIP OF THE PARTIES**

10.01 Nothing in this Agreement shall be deemed or construed by the parties, or any third party, as creating the relationship of principal and agent between the State and the County.

**ARTICLE 11
INTERPRETATION**

11.01 No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party having or being deemed to have drafted, prepared, structured, or dictated such provision.

**ARTICLE 12
SIGNATORY AUTHORITY**

12.01 Each party to this Agreement represents to the other that it is fully authorized to enter into this Agreement and to perform its obligations hereunder, and that no waiver, consent, approval, or authorization from any third party is required to be obtained or made in connection with the execution, delivery, or performance of this Agreement. Each signatory on behalf of the State and the County, as applicable, is fully authorized to bind that entity to the terms of this Agreement.

**ARTICLE 13
NOTICES**

13.01 Any notice, notification instrument, document, or information (collectively, a "Notice") which is required, provided, or permitted to be sent, furnished, or delivered pursuant to the provisions of this Agreement, must be in writing. If a Notice is sent by telecopier, it must be properly addressed, reflecting the telecopier telephone number of the addressee(s), and must be transmitted by a telecopier which produces a dated confirmation message. If a Notice is sent by other than a telecopier, the Notice must be enclosed in a sealed wrapper, properly addressed, and either (i) delivered to and receipted for by a messenger or overnight delivery service, with instructions for delivery on the same day or the next day which is not a Saturday, Sunday or legal holiday, or (ii) deposited with the domestic mail service of the United States Postal Service at post office or official depository under the care and custody of the United States Postal Service with sufficient postage prepaid, sent by United States registered or certified first class mail, return receipt requested. The addresses and telecopier telephone numbers to which any Notice is to be sent are as follows:

HCRMA: Executive Director, HCRMA
c/o LRGCDC
311 N. 15th St.
McAllen, Texas 78501
Fax No. (956)631-4670

COUNTY: Hidalgo County Judge
100 E. Cano
Edinburg, Texas 78539
Fax No. (956) 318-2699

ARTICLE 14 PRIOR WRITTEN AGREEMENTS

14.01 This Agreement is without regard to any and all prior written or oral contracts or agreements between the County and HCRMA regarding any other subject or matter and does not modify, amend, ratify, confirm or renew any such prior contract or agreement between the parties and this Agreement contains all agreements between the parties, and the parties shall not recognize any agreement not contained herein.

ARTICLE 15 OTHER SERVICES

15.01 Anything contained herein notwithstanding, the County shall not be obligated to fund additional monies or provide any additional services other than as stated in the Agreement.

ARTICLE 16 GOVERNMENTAL IMMUNITY

16.01 Nothing in this Agreement shall, be deemed or construed to waive, modify or amend any legal defense available at law or in equity to either party, nor to create any legal rights or claim on behalf of any third party. Neither the County nor HCRMA waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

ARTICLE 17 MULTIPLE COUNTERPARTS

17.01 This Agreement may be executed by the parties hereto on separate counterparts, and each counterpart, when so executed and delivered, shall constitute an original instrument, and all such separate counterparts shall constitute but one and the same instrument.

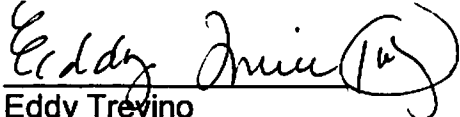
This Agreement is entered into this ____ day of _____, 2006.

HIDALGO COUNTY



Ramon Garcia
Hidalgo County Judge

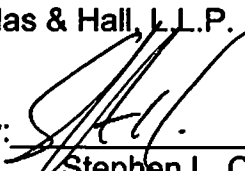
ATTEST:



Eddy Trevino
County Clerk

APPROVED AS TO LEGAL FORM

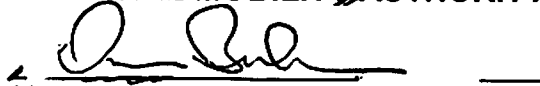
Atlas & Hall, L.L.P.

By: 
Stephen L. Crain

APPROVED AS TO FINANCIAL CONTENT


Valde Guerra
Budget Officer

**HIDALGO COUNTY
REGIONAL MOBILITY AUTHORITY**



Name: Dennis Burleson
Chairman, Board of Directors

ATTEST:

Secretary

APPROVED BY
COMMISSIONERS' COURT
ON: DEC 12 2006 