

**STATE OF TEXAS           §**  
**§**  
**HIDALGO COUNTY         §**

**MEMORANDUM OF UNDERSTANDING BETWEEN  
HIDALGO COUNTY AND  
TEXAS DEPARTMENT OF PUBLIC SAFETY  
(Fraud Investigation Unit)**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into between **HIDALGO COUNTY** (“County”) and **TEXAS DEPARTMENT OF PUBLIC SAFETY** (“DPS”) for the purpose of providing office space for the DPS. The County and the DPS are sometimes, hereinafter collectively referred to as the “Parties”.

**WHEREAS**, DPS is a political subdivision of the State of Texas, operating under the general laws of the State of Texas;

**WHEREAS**, County is a county in Texas;

**WHEREAS**, COUNTY and DPS recognize that each possesses certain prescribed duties and functions under the laws of the State of Texas including the requirement to provide police protection to the citizens of Texas and Hidalgo County; and

**WHEREAS**, DPS provides a valuable service to the citizens in Hidalgo County by providing police protection, street and highway patrol and response to accidents and emergencies when applicable;

**WHEREAS**, DPS desires to place more patrol officers and administration staff in Hidalgo County and County would greatly benefit by DPS’s added presence;

**WHEREAS**, DPS desires to lease space in County-owned and County-leased facilities in order to provide a greater presence in the area and County has such space available for DPS’s use;

**NOW, THEREFORE**, in consideration of the mutual promises, conditions and covenants passing between the parties hereto, it is understood and agreed by and between the parties to this MOU as follows:

1. County and DPS mutually warrant that they possess adequate legal authority to enter into this MOU and that the parties’ governing bodies have authorized the signatory officials to enter into this MOU to bind the parties to the terms of this MOU.

2. County agrees to make certain space available to DPS for their use as office space in County-owned or County-leased facilities more particularly described in Exhibit "A" (the "Office Spaces") at no cost to DPS.
3. In exchange for the use of the Office Spaces described in Exhibit "A", and other good and valuable consideration described herein, DPS agrees to increase its patrol and police protection of County roads and highways and to increase its overall presence in County for the benefit of the citizens of County.
4. **Term.** The term of this MOU shall be for a period of five (5) year(s), commencing on November 15, 2008, and terminating on \_\_\_\_\_, 2013. The parties have the option to renew this MOU for five (5) additional one (1) year terms.
5. County shall provide all cleaning of Office Spaces, including common areas and shall be responsible for payment of all utilities in the Office Spaces. County shall also provide furniture and office equipment to accommodate the reasonable needs of DPS.
6. County shall provide telephone services including equipment and internet drops to accommodate the reasonable needs of DPS and DPS will be responsible for installation and maintenance of any upgrades for networking capabilities, as approved by the County IT Department.
7. County shall comply with the American with Disabilities Act (42 U.S.C. §12101 *et. seq.*) at each of the Office Spaces.
8. DPS may not make any alteration, additions, or improvements to the occupied space without the prior written consent of the County. All alterations, additions, or improvements made by the DPS shall become the property of the County at the termination of this MOU; if the COUNTY so elects, however, the DPS shall, at County's request, promptly remove all alterations, additions, and improvements, and any other property placed in the space by the DPS and shall repair any damage caused by such removal. No physical modification shall be made to the property without the prior written approval of the County.
9. DPS shall secure each Office Space from entry by unauthorized persons during non-business hours.
10. DPS shall be responsible for securing each Office Space and all personal property located therein.
11. DPS agrees not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin. DPS agrees to comply with all state and federal laws regarding affirmative action as applied to all employees in the designated space.

12. DPS shall take good and tenant-like care of the space and shall not permit waste or any illegal use thereof by itself or its employees, and shall not permit the operations of any activity contributing to or causing air, water, or soil pollution, constituting a danger to the safety of human life or structures, and on notice by the County, shall remedy any condition causing danger, harm, or pollution to air, soil, or water.
13. **Title and Scope of Use.** DPS shall have no right, title or interest in any of the Office Spaces, except the right to use as detailed herein.
14. **Termination.** Either party shall have the right to cancel and terminate this entire MOU, by giving the other party written notice of such cancellation at least sixty (60) days prior to the desired cancellation date. Either party shall also have the right to cancel and terminate the leasing of any specific Office Space described in Exhibit "A", by giving the other party written notice of such cancellation at least sixty (60) days prior to the desired cancellation date.
15. **Automatic Termination.** This MOU shall automatically terminate upon the occurrence of any of the following: (1) failure of the DPS to perform its duties under this MOU and to cure such failure within ten (10) days after receiving notice; (2) a substantiated allegation of criminal wrongdoing by the DPS involving the occupied space or activities in the space.
16. County or its authorized agent shall have the right, at any reasonable time, to enter the premises for the purpose of making repairs, alterations, improvements or inspections, as it deems necessary and advisable
17. **Warranties.** **DPS ACKNOWLEDGES THAT HIDALGO COUNTY IS PROVIDING DPS WITH THE RIGHT TO USE THE OFFICE SPACES "AS IS" WITH ANY AND ALL FAULTS, INCLUDING BUT NOT LIMITED TO ANY AND ALL POLLUTANTS, ASBESTOS, UNDERGROUND STORAGE TANKS AND/OR ANY OTHER HAZARDOUS MATERIALS, AND THAT HIDALGO COUNTY HAS NOT MADE ANY REPRESENTATIONS OR WARRANTIES AS TO THE CONDITIONS OF SUCH OFFICE SPACES. DPS HEREBY WAIVES ANY AND ALL CAUSES OF ACTION, CLAIMS, DEMANDS, DAMAGES AND LIENS BASED ON ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF SUITABILITY FOR A PARTICULAR PURPOSE, ANY AND ALL WARRANTIES OF HABITABILITY, AND ANY OTHER IMPLIED WARRANTIES OF HABITABILITY, AND ANY OTHER IMPLIED WARRANTIES NOT EXPRESSLY SET FORTH IN THIS CONTRACT. DPS ACKNOWLEDGES AND AGREES THAT DPS HAS FULLY EXERCISED THE RIGHT TO INSPECT THE OFFICE SPACES FOR ANY DEFECTS AS TO THE SUITABILITY OF SUCH PROPERTY FOR THE PURPOSE TO WHICH DPS INTENDS TO USE THE OFFICE SPACES. THIS CONTRACT IS SUBJECT TO ALL COVENANTS, EASEMENTS, RESERVATIONS, RESTRICTIONS, AND OTHER MATTERS OF RECORD APPLICABLE TO THE PREMISES.**

EACH PARTY TO THIS CONTRACT AGREES THAT IT SHALL HAVE NO LIABILITY WHATSOEVER FOR THE ACTIONS AND OMISSIONS OF AN INDIVIDUAL EMPLOYEE BY ANOTHER PARTY, REGARDLESS OF WHERE THE INDIVIDUAL'S ACTIONS OR OMISSIONS OCCURRED. EACH PARTY IS SOLELY RESPONSIBLE FOR THE ACTIONS AND/OR OMISSIONS OF ITS EMPLOYEES, OFFICERS, AND AGENTS. WHERE INJURY OR PROPERTY DAMAGE RESULT FROM THE JOINT OR CONCURRING ACTS AND/OR OMISSIONS OF THE PARTIES, LIABILITY, IF ANY, SHALL BE SHARED BY EACH PARTY IN ACCORDANCE WITH THE APPLICABLE LAWS OF THE STATE OF TEXAS, SUBJECT TO ALL DEFENSES, INCLUDING GOVERNMENTAL IMMUNITY. THESE PROVISIONS ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT FOR THE BENEFIT OF ANY PERSON OR ENTITY NOT A PARTY HERETO; NOR SHALL ANY PROVISION HEREOF BE DEEMED A WAIVER OF ANY DEFENSES AVAILABLE BY LAW.

18. **DPS's Liabilities.** DPS shall assume all liability for damages to property and injury or death to persons as a result of or arising out of DPS's, its employee's, its agent's, its representative's, and/or contactor's use of, construction on and maintenance, repair and/or replacement of the premise and the improvements in connection therewith and located thereon.
19. **Assignment.** No other assignment or transfer of this space to any other party is allowed without the prior written consent of the County.
20. **Breach.** If either party fails to carry out any provisions of this MOU, the other party shall notify the offending party of such breach and the breach shall be corrected within ten (10) days. Upon failure to correct, this MOU is thereafter automatically terminated. Nothing contained herein constitutes a waiver of the right to either party to damages occasioned by such breach. Provided further that no promises herein shall be deemed to constitute a waiver of any immunity available to the County.
21. **Amendments.** This MOU shall constitute the entire understanding of the parties with respect to the subject matter and supersedes any prior understandings or written or oral agreement between the parties respecting the subject matter within. Further, no amendment, modification or alteration of terms shall be binding unless the same is in writing, and duly executed by the parties.
22. **Texas Law to Apply.** The provisions of this MOU will be construed under and in accordance with the provisions of the laws of the State of Texas, and all obligations of the parties created hereunder and performable in Hidalgo County, Texas.
23. **Notice.** Except as may be otherwise specifically provided in this MOU, all notices, demands, requests or communications required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to DPS: Texas Department of Transportation  
Attention:  
Sam Perez, Trooper-Investigator  
100 E. Cano, 4<sup>th</sup> Floor  
Edinburg, Texas 78539

If to County: County of Hidalgo  
Attention: J.D. Salinas, III, County Judge  
P.O. Box 758  
Edinburg TX 78540-0758

Each notice demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

EXECUTED on this \_\_\_\_\_ day of \_\_\_\_\_ 2008, to be effective as of September 1, 2008.

**TEXAS DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**COUNTY OF HIDALGO**

\_\_\_\_\_  
Juan D. Salinas, III, County Judge

ATTEST:

\_\_\_\_\_  
Arturo Guajardo, Jr., County Clerk

APPROVE AS TO FORM:

ATLAS & HALL, LLP

\_\_\_\_\_

By: Stephen Crain

**EXHIBIT A**

**DPS-FRAUD INVESTIGATION UNIT**

**OFFICE SPACES**

Two (2) 10 X 10 office spaces located in the 4<sup>th</sup> Floor in the Hidalgo County Administration Building, 100 E. Cano St., Edinburg, Texas 78539.