

STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE COUNTY OF HIDALGO AND
THE CITY OF MERCEDES, TEXAS**

THIS Agreement is made on this the 1st day of September, 2009, by and between the **CITY OF MERCEDES, TEXAS**, hereinafter referred to as "City" and **COUNTY OF HIDALGO, TEXAS**, hereinafter referred to as "County" pursuant to the provisions of the Texas Interlocal Cooperation Act, as follows:

WITNESSETH:

WHEREAS, City is home rule municipality, located in Hidalgo County, Texas;

WHEREAS, County is a county in the State of Texas;

WHEREAS, the Texas Department of Transportation ("TxDOT") has deemed it necessary to make certain highway improvements to Mile 2 West from US-83 to Mile 12 North (the "Project"), a section of which is within the city limits of City and its Extra Territorial Jurisdiction ("ETJ");

WHEREAS, County has been designated by TxDOT as an entity eligible to receive Federal and State partial reimbursement for work related to the Project;

WHEREAS, the Project will require the acquisition of certain right-of-way, environmental documentation, engineering design, construction and construction management within the city limits and ETJ of City and as such, City has requested that County provide all necessary services required for the Project on its behalf;

WHEREAS, City and County are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Tex. Gov't Code 791.001 et. seq., which authorizes local governments to contract with each other to perform governmental functions and services under the terms of the Act.

NOW, THEREFORE, City and County, in consideration of the mutual covenants expressed hereinafter, agree as follows:

1. County agrees to undertake the acquisition of right-of-way for the Project within the city limits and ETJ of City, including but not limited to, required title reports, title

policies, appraisals, recording fees, closing costs, the cost of land and condemnation of rights-of-way which cannot be acquired by agreement of the landowner on a reimbursement basis.

2. City further agrees to reimburse County for any and all expenses not reimbursed directly to County by TxDOT for the right-of-way acquisition including but not limited to the cost of land, title policies, appraisals, recording fees, closing costs and any necessary legal services and any other associated expenses incurred by County related to acquisition or condemnation of such right-of-way within the city limits and ETJ of City.
3. County agrees to invoice City for all expenses incurred on City's behalf for the Project for work performed within the city limits and ETJ except for those expenses paid directly by TxDOT to County on City's behalf, and City agrees to make such payments to County within thirty (30) days of receipt of invoices.
4. City further agrees to at its sole cost and expense to incur all costs associated with utility design, construction costs for utility relocation and all related items within the corporate city limits and the ETJ of City which may be necessary to complete the Project described herein.
5. County and City will coordinate work schedules in order to provide for minimal disruption of traffic and operation during the construction of the Project as described herein.
6. Each party agrees to conform to its own applicable purchasing laws, regulations, policies, and procedures with respect to the portion of the work under this Agreement performed by each party.
7. **Conflict of Applicable Law.** Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between and provision of their Agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provision of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the times such conflict exists.
8. **No Waiver.** No waiver by any party hereto of any breach of any provision of the Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.
9. **Entire Agreement.** This Agreement contains the entire contract between the parties

hereto and each party acknowledges that neither has made (either directly or through any agent or representative) any representation or agreement in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by County and City and not otherwise.

10. **TEXAS LAW TO APPLY.** THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATION OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN HIDALGO COUNTY, TEXAS. THE PARTIES HEREBY CONSENT TO PERSONAL JURISDICTION IN HIDALGO COUNTY, TEXAS.

11. **Notice.** 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 (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 City: City of Mercedes, Texas
 Attention: Joel Quintanilla, Mayor
 P. O. Drawer 837
 Mercedes, Texas 78570

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

with copy to : Honorable Sylvia S. Handy,
 Commissioner for Hidalgo County Precinct No. 1
 1902 Joe Stephens Ave.
 Weslaco, Texas 78596

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.

12. **Additional Documents.** The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.

13. **Successors.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.
14. **Assignment.** This Agreement shall not be assignable.
15. **Headings.** The headings and captions contained in this Agreement are solely for convenience reference and shall not be deemed to affect the meaning or interpretation of any provision or paragraph hereof.
16. **Gender and Number.** All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and singular shall include the plural whenever and so often as may be appropriate.
17. **Authority to Execute.** The execution and performance of this Agreement by City and County have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of City and County in accordance with its terms.
18. **Governmental Purpose.** Each party hereto is entering into this Agreement for the purpose of providing for governmental services or functions and will pay for such services out of current revenues available to the paying party as herein provided.
19. **Commitment of Current Revenues Only.** 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.

WITNESS THE HANDS OF THE PARTIES effective as of the day and year first written above.

CITY OF MERCEDES

Joel Quintanilla, Mayor

ATTEST:

Arcie, Felix, City Secretary

HIDALGO COUNTY

Juan D. Salinas, III, County Judge

ATTEST:

Arturo Guajardo, County Clerk

**APPROVED AS TO FORM:
ATLAS & HALL, L.L.P.**

BY: _____
Stephen L. Crain, Attorney