

STATE OF TEXAS

§

COUNTY OF HIDALGO

§

§

**INTERLOCAL COOPERATION AGREEMENT  
BETWEEN THE CITY OF SAN JUAN, TEXAS, HIDLAGO COUNTY, TEXAS  
AND HIDLAGO COUNTY DRAINAGE DISTRICT NO. 1**

THIS Agreement is made on this the \_\_\_\_ day of \_\_\_\_\_, 2010, by and between the **CITY OF SAN JUAN, TEXAS** hereinafter referred to as "San Juan", the **COUNTY OF HIDALGO, TEXAS**, hereinafter referred to as "County" and **HIDALGO COUNTY DRAINAGE DISTRICT NO. 1**, hereinafter referred to as the "Drainage District," pursuant to the provisions of the Texas Interlocal Cooperation Act, as follows:

**WITNESSETH:**

**WHEREAS**, San Juan is a home rule municipality located in Hidalgo County, Texas;

**WHEREAS**, County is a political subdivision in the State of Texas;

**WHEREAS**, Drainage District is a political subdivision in the State of Texas;

**WHEREAS**, the parties desire to make drainage improvements to an area encompassed by Raul Longoria Road on the west, Nolana Loop on the south, Owassa Road on the north and Cesar Chavez Road on the east as is more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes;

**WHEREAS**, the parties, each pursuant to its statutory and constitutional authority, are desirous that the necessary drainage improvements be done in order to alleviate the existing flood problems within their respective territorial jurisdictions;

**WHEREAS**, the drainage improvements to the area shall include, but not be limited to, construction of a storm sewer pipe, inlets, manholes, safety end treatments and construction of an open channel drainage ditch, concrete riprap, culverts and headwalls and the necessary engineering (collectively the "Drainage Improvements");

**WHEREAS**, the parties are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Tex. Govt 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**, the County, Drainage District and San Juan, in consideration of the mutual covenants expressed hereinafter, agree as follows:

1. San Juan, pursuant to Tex. Trans Code 251.012, authorizes County to make the Drainage Improvements described herein within its corporate city limits.
2. County shall be responsible for the engineering, specifications, surveys, plans and maps necessary to construct the Drainage Improvements.
3. The County shall also be responsible for the acquisition of right of way and/or easement as may be necessary for the Drainage Improvements, including but not limited to, the actual cost for payment to persons owning or having an interest in the property acquired, engineering fees and costs associated with right of way mapping, title reports, appraisal fees, fees for experts, attorneys fees and court costs. All right of way and/or easement required for the open channel drainage ditch shall be in acquired in the name of the County and all right of way and/or easement required for the storm sewer pipe shall be acquired in the name of San Juan.
4. The County shall also be responsible for constructing the Drainage Improvements described herein, either through its own labor, equipment or materials, or through its agents, contractors or subcontractors.
5. The County's costs for the work and services described in paragraphs 2, 3, and 4 above shall not exceed One Million Forty-Two Thousand Two Hundred Fifty Eight Dollars and 91/100<sup>th</sup> (\$1,042,258.91) as is more particularly described in Exhibit "B" attached hereto and incorporated herein for all purposes.
6. San Juan agrees to reimburse the County an amount not to exceed Six Hundred Thousand Dollars and No/100ths (\$600,000.00) of TDRA Disaster Recovery funds for the Drainage Improvements within thirty (30) days of receipt of invoice from County by San Juan.
7. San Juan shall be responsible for the maintenance and operation of the storm sewer pipe or any portion thereof so long as such storm sewer pipe remains within the city limits of San Juan.
8. County, through the services of the Drainage District, shall be responsible for the maintenance and operation of the open channel drainage ditch.
9. The Drainage District has determined it is in its best interest to participate in this Agreement and to maintain and operate the open channel drainage ditch as it adjoins/ is part of the Drainage District's master plan and will benefit the operations of the Drainage District.
10. San Juan shall at its sole cost and expense, make any adjustments to utilities which may be necessary for the construction of the Drainage Improvements.

11. County shall cooperate with the City of San Juan in the development of the plans and specifications for the Drainage Improvements. However, all design, plans, specifications and construction for the open channel drainage ditch shall at a minimum, be designed at a level acceptable to the Drainage District.
12. San Juan shall be invited to attend all project meetings and shall be provided reasonable notice of such meetings held by the County or Drainage District or by the County's contractors pertaining to the Drainage Improvements.
13. The parties shall use their best efforts to complete the Drainage Improvements within two (2) years from the effective date of this Agreement.
14. The parties agree it is in their best interest to make the Drainage Improvements as described herein because the Drainage Improvements will serve to alleviate flooding and water overflow that occurs within their respective jurisdictions.
15. **Hold Harmless Clause.** The parties agree to hold each other harmless from any and all liability that may arise and result from either party's performance under this Agreement.
16. **Conflict with Applicable Law.** Nothing in this Agreement shall be construed to require the commission of any act contrary to law, and whenever there is any conflict between any provision of this Agreement and any (applicable law,) 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 provisions of this Agreement. The Agreement shall be modified only to the extent as necessary to conform the agreement to the applicable law bring them within the legal requirements and only during the time such conflicts exists.
17. **No Waiver.** No waiver by any party hereto of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.
18. **Entire Agreement.** This Agreement contains the entire contract among the parties hereto, and each party acknowledges that no other party has made (either directly or through any agent or representative) any representation or agreements in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by San Juan, County and the Drainage District, and not otherwise.
19. **Texas Law to Apply.** This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas. The parties hereby consent to personal jurisdiction in Hidalgo County, Texas.

**20. Notice.** Except as may be otherwise specifically provided in this Agreement, 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 San Juan:                   City of San Juan  
  Attention: Mayor Pedro Contreras  
  709 S. Nebraska  
  San Juan, Texas 78589

If to County:                     Hidalgo County  
  Attention: Rene Ramirez, County Judge  
  P.O. Box 758  
  Edinburg, Texas 78540-0758

If to Drainage District:       Hidalgo County Drainage District No. 1  
  Mr. Godfrey Garza  
  902 N. Doolittle  
  Edinburg, TX 78541

With copy to:                   Commissioner, Precinct Number 2  
  Hector "Tito" Palacios  
  301 East State  
  Pharr, Texas 78577

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.

**21. 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.

**22. 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.

**23. Assignment.** This Agreement shall not be assignable.

24. **Headings.** The headings and captions contained in this Agreement are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any provision of paragraph hereof.
25. **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.
26. **Authority to Execute.** The execution and performance of this Agreement by each of the parties have been duly authorized by all necessary laws, resolutions, ordinances or government body action, and this Agreement constitutes the valid and enforceable obligations of the parties hereto in accordance with its terms.
27. **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
28. **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 thirty (30) 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.
29. **Severability.** Should any phrase, clause, sentence or section of this Agreement be judicially declared to be invalid, unenforceable or void, such decision will not have the effect of invalidating or voiding the remainder of this Agreement, and such part of this Agreement will be deemed to have been stricken herefrom and the remainder of this Agreement will have the same force and effect as if such part or parts had never been included herein.
30. The approval of this Interlocal Cooperation Agreement in accordance with Texas Government Code 791.014 is evidenced by Exhibit "C" attached herein.

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

**CITY OF SAN JUAN, TEXAS**

\_\_\_\_\_  
Pedro Contreras, Mayor

**ATTEST:**

\_\_\_\_\_  
City Secretary

**HIDALGO COUNTY, TEXAS**

\_\_\_\_\_  
Rene Ramirez, County Judge

**ATTEST:**

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

**HIDALGO COUNTY DRAINAGE DISTRICT NO. 1**

\_\_\_\_\_  
Godfrey Garza, Executive Director

**APPROVE AS TO FORM:**

**ATLAS & HALL, L.L.P.**

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

# CITY OF SAN JUAN DRAINAGE IMPROVEMENTS



**R. Gutierrez**  
 Engineering Corporation  
 Professional Engineers & Land Surveyors  
 1300 C PARK AVENUE - FORT WORTH, TEXAS 76177  
 (TEL) 817-339-7822 • (FAX) 817-339-7828

