

STATE OF TEXAS §

COUNTY OF HIDALGO §

**INTERLOCAL COOPERATION AGREEMENT BETWEEN THE COUNTY OF HIDALGO AND CITY OF PEÑITAS, TEXAS CONCERNING CERTAIN IMPROVEMENTS TO TOM GILL/LIBERTY ROAD CORRIDOR FROM US 83 IN PEÑITAS TO FM 2221**

THIS agreement is made on this the 31<sup>st</sup> day of JULY, 2012 by and between the CITY OF PEÑITAS, TEXAS, hereinafter referred to as "CITY" and the COUNTY OF HIDALGO, TEXAS hereinafter referred to as "COUNTY", pursuant to the provisions of the Texas Interlocal Cooperation Act as follows:

**WITNESSETH:**

**WHEREAS;** the CITY is a municipality located in Hidalgo County, Texas;

**WHEREAS;** the COUNTY is a county in the State of Texas;

**WHEREAS,** Tom Gill and/or Liberty Road corridor from US 83 to 3 Mile Road, within the city limits and ETJ of the CITY, is in need of expansion to a four lane roadway facility;

**WHEREAS,** Tom Gill Road from 3 Mile Road to FM 2221, within the jurisdiction of the COUNTY, is also in need of improvements;

**WHEREAS,** the COUNTY is currently coordinating efforts with the Hidalgo County Metropolitan Planning Organization (MPO) to secure funding for the planning and construction funds needed for this corridor;

**WHEREAS,** the COUNTY and the CITY desire to cooperate toward the completion of the project development activities of this corridor within the city limits and ETJ of the CITY;

**WHEREAS,** the COUNTY and CITY are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Texas Government Code 790.001 et. Seq. which authorizes local governments to contract with each other to perform governmental functions and services under the terms of the Act;

**WHEREAS,** the CITY agrees to support the proposition that the COUNTY be the fiduciary agent for all the Preliminary Engineering associated with the Public Involvement, Environmental Assessment, Schematic, Hydrology & Hydraulic Studies, and TxDOT coordination at 100% cost to the COUNTY within the city limits and ETJ of the CITY subject to close coordination with the CITY's Engineers;

**WHEREAS**, upon completion of the approved schematics by the COUNTY, the CITY will complete the surveys, Right Of Way (ROW) Map, and Plans, Specifications, & Estimates (PS&E) for the portions of Tom Gill Road and/or Liberty Road within the city limits and ETJ of the CITY;

**NOW, THEREFORE**, COUNTY and CITY, in consideration of the mutual covenants expressed hereinafter, agree as follows:

1. The COUNTY agrees to undertake the Preliminary Engineering duties, including but not limited to, Public Involvement, Environmental Assessment, Schematic, Hydrology & Hydraulic Studies, and TxDOT coordination within the city limits and ETJ of the CITY.
2. Upon completion of the approved schematics by the COUNTY, the CITY will complete the surveys, Right Of Way (ROW) Map, and Plans, Specifications, & Estimates (PS&E) for the portions of Tom Gill Road and/or Liberty Road within the city limits and ETJ of the CITY.
3. The Road at various points, passes through the jurisdiction of the CITY and COUNTY and forms a connecting link or integral part of the COUNTY road system.
4. 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.
5. 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 any 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 provisions of the Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.
6. 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.
7. 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 agreement or representative) and 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 the City and County, and not otherwise.

8. This Agreement may be terminated by either party without cause on thirty (30) days notice to the other party.

9. 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.

10. Notice: Except as maybe 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 Peñitas  
Attention: Marcos Ochoa, Mayor  
1 Mile South FM 1427  
Peñitas, Texas 78576

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

With copy to: Joe Flores, Commissioner, Precinct No. 3  
724 N. Breyfogle  
Mission, Texas 78574

11. 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 the convenience reference and shall not be deemed to affect the meaning or interpretation of any provision of 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 as often as may be appropriate.
17. **Authority to Execute.** The execution and performance of this Agreement by the 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 the City and County in accordance with its terms.
18. **Governmental Purpose.** Each party hereto is entering into the 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 or 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 PEÑITAS

By: \_\_\_\_\_  
Hon. Marcos Ochoa, Mayor

ATTEST:

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

COUNTY OF HIDALGO

By: \_\_\_\_\_  
Ramon Garcia, County Judge

