

STATE OF TEXAS §  
COUNTY OF HIDALGO §

**INTERLOCAL COOPERATION AGREEMENT  
BETWEEN HIDALGO COUNTY AND  
HIDALGO COUNTY DRAINAGE DISTRICT NO. 1**

THIS AGREEMENT is made on this the 04th day of February 2015, by and between HIDALGO COUNTY DRAINAGE DISTRICT NO 1, hereinafter referred to as "Drainage District", and HIDALGO COUNTY, TEXAS, acting by and through its Urban County Program hereinafter referred to as "County", pursuant to the provisions of the Texas Interlocal Cooperation Act, as follows:

**WHEREAS**, the Hidalgo County Urban County Program (the "Program") received funding from the Texas General Land Office in 2009 to improve and expand certain drainage structures known as the Penitas Lateral which are more particularly described in Exhibit A attached hereto (the "Penitas Lateral");

**WHEREAS**, the Penitas Lateral is included in Drainage District's Master Plan;

**WHEREAS**, the Penitas Lateral is an integral part of the drainage system of both County and District;

**WHEREAS**, the improvements to the Penitas Lateral will benefit the residents of county;

**WHEREAS**, being the Penitas Lateral is in Drainage District's Master Plan Drainage District shall contribute the sum up to One Million Five Hundred Thousand Dollars for construction of the improvements to the Penitas Lateral;

**WHEREAS**, the Drainage District and the County are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Texas Government Code Section 791.001 et. seq., (the "Act") which authorizes local governments to contract with each other to perform governmental functions and services under the terms of the Act.

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

1. Drainage District within ten (10) days following the date of the last party to execute this Agreement shall up to One Million Five Hundred Thousand Dollars to Program to be utilized by Program solely for construction of the improvements to the Penitas Lateral as described in the Program's Management Plan, a copy of which is attached hereto as Exhibit B.
2. The term of this Agreement shall be twelve (12) months commencing on the date both County and Drainage District approve and execute this Agreement. The

term of this agreement may be extended by mutual agreement of the parties hereto.

3. Within one hundred twenty days following completion of the construction of the improvements to the Penitas lateral, County shall convey its interest in the Penitas Lateral to Drainage District for the sole consideration of the contribution by the Drainage District herein. Following such conveyance Drainage District shall maintain the Penitas Lateral so conveyed.
4. Each party agrees to conform to its own applicable purchasing laws, regulations, policies, and procedures with respect to any Services providing under this Agreement.
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 this 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 later shall prevail, but in such event the affected provision or provisions of this 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 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 Drainage District and County, and not otherwise.
8. **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.
9. **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 Drainage District No. 1

Drainage District No. 1  
Attention: Chair Board of Directors  
902 N. Doolittle Road  
Edinburg, Texas 78539

If to Hidalgo County:

Hidalgo County, Texas  
Attention: Ramon Garcia, County Judge  
302 W. University Drive  
Edinburg, Texas 78539

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.

10. **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.
11. **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.
12. **Assignment.** This Agreement shall not be assignable.
13. **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 of paragraph hereof.
14. **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.
15. **Authority to Execute.** The execution and performance of this Agreement by Drainage District and County have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of Drainage District and County in accordance with its terms.
16. **Governmental Purpose.** Each party hereto is entering into this Agreement for the purpose of providing governmental services or functions and will pay for such services out of current revenues available to the paying party as herein provided.
17. **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 sixty (60) 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.

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1

By: Ramon Garcia  
Ramon Garcia, Chair Board of Directors

HIDALGO COUNTY

By: Ramon Garcia  
Ramon Garcia, County Judge

ATTEST:

Arturo Guajardo, Jr.  
Arturo Guajardo, Jr., County Clerk

APPROVED AS TO FORM:

ATLAS, HALL & RODRIGUEZ, LLP

By: SLC  
Stephen L. Crain

APPROVED BY HIDALGO  
COUNTY DRAINAGE DISTRICT  
NO. 1 BOARD OF DIRECTORS  
ON: 2/4/15



**ATTACHMENT 1**  
**Additional Information Regarding**  
**PROJECT 1 – Penitas Drain**



**Additional Information Regarding Project Description:**

Outfall for the Penitas Drain area has been primarily served by existing irrigation drainage ditches and depression areas. There are no natural or major man-made outfall systems within the watershed. This created an inadequate drainage condition during Hurricane Dolly. The existing irrigation drainage ditches failed to function due to the fact that they are shallow, narrow, as well as they catch a lot of debris from the storm. The watershed area drains north to south. At US 83, concentrated runoffs are currently conveyed by two 36-inch pipe culverts and/or the roadway to a ditch downstream, then a large depressed area, and finally to the Mission Inlet Floodway. The size of the ditches, the restriction at US 83, and the depressed area, limits flow capacity and creates back-up of storm water and flooding. The proposed project includes the widening of an existing irrigation drainage ditch (to be known as the Penitas Drain), as well as the installation of an 8-foot x 6-foot box culvert at US 83, as well as a 72-inch reinforced concrete pipe at Tom Gill Road. Additionally at the extreme upstream end (starting at Rodriguez Road) of this project area, it is proposed to construct a storm sewer system within the colonias of Puerta Blanca, Daniel Ozuna, Reina, and Ramona. A connectivity drain will outfall the stormwater from the colonias to a detention facility (constructed at a caliche pit); from the detention facility another connectivity drain will carry the stormwater to the proposed Penitas Drain.

**Failure to Function Due to Hurricane Dolly:**

In this area, insufficient and inadequate drainage infrastructure were key contributors to the failure to function resulting in flooding and damage; the existing ditches did not have the flood control capacity to handle the significant rain events produced by Hurricane Dolly. The rate of storm water flow over-taxed the ditches. More importantly, there is no major ditch to collect the storm water and convey it to the closest outfall channel (the Mission Inlet Floodway).

**Impact to the Community Due to Failure:**

The colonias do not have storm sewer to collect the storm water, and they do not have connectivity to drain. There is no major lateral to collect storm water in this project's target area, so during Hurricane Dolly, there was an inability to channel the storm water and flow of water away from homes, subdivisions, and businesses. This resulted in devastation to property, displacement of residents, and damage to roads and infrastructure.

**Proposed Improvements:**

Improvements and repairs will include the following:

- Storm Sewer within the colonias of Puerta Blanca, Daniel Ozuna, Reina, and Ramona;
- Connectivity to a detention area;
- Connectivity from the detention area to a major outfall (Penitas Drain);
- Ditch Excavation / Widening of an Existing Irrigation Ditch to be known as the Penitas Drain – a minimum of 8-foot channel depth, 10 to 14 feet usual; channel slope of .001 ft/ft; trapezoidal section with maintenance bench each side; bottom width 6 to 10 feet; side slopes 3:1; 20-foot maintenance bench.

**Texas Community Development Block Grant Program  
2008 Supplemental Disaster Recovery Fund: Hurricane Dolly and Ike  
Non-Housing Activities Application, Round 2**

- Box Culvert – 8-foot x 6-foot box culvert across / under Expressway 83 and the Irrigation District No. 6 canal.

**How the Proposed Improvements Address the Failure to Function:**

Although the first phase, this proposed improvement will put a drainage system into a better operating condition as the primary lateral outfall of the target area. With the construction of this major lateral there will be an ability to channel the storm water and flow of water away from homes, subdivisions, and businesses, minimizing and/or eliminating devastation to property, displacement of residents, and damage to roads and infrastructure.

**Areas Affected by the Proposed Project / Basis and Reasoning Used for Identifying the Target Area:**

This project provides for the construction of a major lateral outfall and addresses community-level drainage infrastructure needs of the protected classes (colonias); it meets the goals of the LRGVDC, Advisory Committees, and public regarding regional approach to storm-related drainage. The project covers a service area comprised of City of Penitas. A map is attached that shows the projects drainage area, overlaid with the Census Blocks and beneficiaries.

**Service Area:**

A map is attached that shows the projects drainage area, overlaid with the benefited Census Blocks and beneficiaries.

STATE OF TEXAS       §  
                                  §  
COUNTY OF HIDALGO   §

**APPROVAL OF  
INTERLOCAL COOPERATION AGREEMENT  
PROJECT**

In accordance with Texas Government Code §791.014, Hidalgo County, Texas, acting by and through the Hidalgo County Urban County Program received funding from the Texas General Land Office in 2009 to improve and expand certain drainage structures known as the Penitas Lateral which are more particularly described in Exhibit A attached hereto (the "Penitas Lateral"); however due to an increase in construction costs Hidalgo County Drainage District No. 1 agrees to assist the Hidalgo County Urban County Program in the improvements to the Penitas Lateral as Hidalgo County will convey the Penitas Lateral to the Hidalgo County Drainage District No. 1 upon completion of such improvements.

By vote on Feb. 04, 2015, the Hidalgo County Drainage District No. 1 Board of Directors and Hidalgo County Commissioners Court has approved the Project identified above.

Ramon Garcia  
By: Ramon Garcia, County Judge

**ATTEST:**

Arturo Guajardo  
Arturo Guajardo, County Clerk

APPROVED BY HIDALGO  
COUNTY DRAINAGE DISTRICT  
NO. 1 BOARD OF DIRECTORS  
ON: 2/4/15

**APPROVED AS TO FORM:**

ATLAS, HALL & RODRIGUEZ, LLP

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