

STATE OF TEXAS

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COUNTY OF HIDALGO

INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF WESLACO, TEXAS, AND HIDALGO COUNTY, TEXAS CONCERNING CERTAIN PHASE III IMPROVEMENTS TO MILE 6 WEST ROAD FROM MILE 9 NORTH TO MILE 11 NORTH.

THIS agreement is made on this ____ day of _____, 2017 by and between the City of Weslaco, 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, COUNTY and CITY entered into a Phase I and Phase II Interlocal Cooperation Agreement dated May 30, 2017 in which the County and City agreed to complete Phase I and Phase II of improvements to the Mile 6 West Road.

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

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

WHEREAS, CITY and COUNTY, each pursuant to its statutory and constitutional authority, are responsible for maintenance and improvements of certain public roadways within their boundaries;

WHEREAS, Mile 6 West (Westgate Drive) is an important and critical integral infrastructure connecting link corridor within the City of Weslaco and Hidalgo County;

WHEREAS, Texas Department of Transportation ("TxDOT"), Hidalgo County Metropolitan Planning Organization (HCMPO), CITY and COUNTY have identified the need to widen and reconstruct Mile 6 West (Westgate Drive) from Mile 9 North to Mile 11 North from an existing two-lane rural roadway to a four-lane urban roadway (the "Road");

WHEREAS, TxDOT, HCMPO, CITY and COUNTY have allocated Federal, State and local funds to fully fund engineering, environmental, survey, the acquisition of right of way, adjustment of utilities and construction of the Road;

WHEREAS, COUNTY will be the fiduciary agent for this project and assume the role of project development lead;

WHEREAS, COUNTY and CITY desires to complete the remaining project development activities in Phase III for this project as follows:

- Phase III – shall include Design of Intersection Improvements and Drainage Outfalls as well as required Right-of-Way Acquisition / Compensable Utility Services and Construction Management Services including but not limited to Construction Inspection / Construction Material Testing;

WHEREAS, COUNTY desires to complete Phase III of the project development in this Agreement:

WHEREAS, the segment of the Road from Mile 9 to Mile 10 is within the current corporate limits of the CITY, while the segment North from Mile 10 to Mile 11 is within the Extraterritorial Jurisdiction (ETJ) of the CITY and within COUNTY jurisdiction as outlined in Exhibit A;

WHEREAS, the Road serves as a connecting link and as an integral part of the county road system and such road improvements are in the best interest of the COUNTY and CITY;

WHEREAS, the CITY and COUNTY desire to equally share the total estimated project development costs for Phase III.

WHEREAS, the estimated total Phase III project development costs will be \$ 1,065,544.72 as identified in Exhibit B;

WHEREAS, the CITY's estimated share is \$532,772.36 for Phase III;

WHEREAS, the CITY desires to cooperate by contributing \$532,772.36 upon execution of this agreement. Any over runs and / or under runs will be shared equally between the CITY and COUNTY for this Phase III development cost;

WHEREAS, the COUNTY's estimated share is \$532,772.36 for Phase III project development cost;

WHEREAS, CITY and COUNTY are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Texas Government 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 will be the fiduciary agent for this project and assume the role of project development lead;
2. COUNTY and CITY desires to complete the remaining project development activities in Phase III for this project as follows:
 - Phase III – shall include Design of Intersection Improvements and Drainage Outfalls as well as required Right-of-Way Acquisition / Compensable Utility Services and Construction Management Services including but not limited to Construction Inspection / Construction Material Testing;
3. COUNTY will complete Phase III of the project development in this Agreement, and use County's contracted consulting engineering firm for this project to complete the work under Phase III.
4. The Road serves as a connecting link and is an integral part of the county road system and such road improvements are in the best interest of the COUNTY and CITY.
5. The CITY and COUNTY desire to equally share the total estimated project development costs for Phase III that is not paid by Hidalgo County Drainage District #1;
6. The estimated total Phase III project development cost is \$1,065,544.72 as identified in Exhibit B.
7. The CITY's estimated share of Phase III project development cost is \$532,772.36.
8. The CITY shall pay the COUNTY the sum of \$532,772.36 upon execution of this Agreement. Any over runs and/or under runs will be shared equally between the CITY and COUNTY for this Phase III development cost;
9. The COUNTY's estimated share is \$532,772.36 for Phase III project development cost.
10. 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.

11. **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 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.
12. **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.
13. **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 Weslaco and County and not otherwise.
14. **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.
15. **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 Weslaco: City of Weslaco
 Attention: Honorable David Suarez, Mayor
 225 S. Kansas Ave.
 Weslaco, Texas 78596

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

 Copies to: Honorable David Fuentes, Commissioner, Precinct No. 1
 1902 Joe Stephens Ave.
 Weslaco, Texas 78596
16. 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.
17. **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.
18. **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.

19. Assignment: This Agreement shall not be assignable.
20. 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.
21. 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.
22. Authority to Execute: The execution and performance of this Agreement by Weslaco and County have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of Weslaco and County in accordance with its terms.
23. 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.
24. 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.
25. Following completion of construction of the Road each party hereto shall maintain the road within their respective jurisdictions where applicable.

EXHIBIT "B"

MILE 6 ESTIMATED PROJECT COSTS

ROADWAY PROJECT:	MILE 6		
LIMITS:	From Mile 9 to Mile 11		
EXISTING ROADWAY SECTION:	2 - Lane Rural		
EXISTING ROW WIDTH:	65' to 80' Varies		
PROPOSED ROADWAY SECTION:	4 Lane Divided Roadway		
PROPOSED ROW WIDTH:	104.4'		
ESTIMATED CONSTRUCTION COST - (22' F F URBAN ROADWAY ONLY)	\$	39,900,000.00	
ESTIMATED CONSTRUCTION COST - (CLEAN 2 EXISTING OUTFALLS (130'-ft each))	\$	408,000.00	
ESTIMATED CONSTRUCTION COST - (2-8X Conc Irrigation Structure w/bypass)	\$	500,000.00	
ESTIMATED CONSTRUCTION COST - (1-8X Conc Irrigation structure w/bypass)	\$	300,000.00	
LENGTH FOR 4-LANE ROADWAY	2.2 Miles		
ESTIMATED PROJECT COSTS	ESTIMATED % LPA COST SHARE	TOTAL ESTIMATED PROJECT COST	TOTAL ESTIMATED LPA COST
PHASE I - AS PER APPROVED AGREEMENT - (DATED AUGUST 6, 2013)			
PHASE I - EA, PUBLIC INVOLVEMENT & SCHEMATIC DESIGN			
Delient of Local Costs vs State Cost/Fees, Study and Agmt. AFA w/ TxDOT/PA coord. Etc.	100%	\$	\$
Environmental Document with TxDOT	100%	\$	\$
Public Involvement for the project with stakeholders and 1 Public Meeting	100%	\$	\$
Archaeological and Historical Research	100%	\$	\$
Engineering Technical Support at Public Meetings with Layouts etc.	100%	\$	\$
Schematic for Roadway & options	100%	\$	\$
Traffic Signal Warrants (Locations)	100%	\$	\$
Hydrological Map for 3 Outlet Drain Ditches outfalls & capacities	100%	\$	\$
Office Surveys for Subm. (Phil. Owner ident. and Comp. Property Rights), ROWY & Outfalls	100%	\$	\$
Utilities Schem. based on comments as provided by TxDOT/PA and EA update w/ PHWA	100%	\$	\$
Engineering Technical Support to address Public Hearing with Layouts etc.	100%	\$	\$
Etc/or Address the Public or hold 1 Public Hearing	100%	\$	\$
PHASE I SUB-TOTAL (TEDSI WORK AUTH. NO. 2 PAID TO TEDSI & APPROVED BY TxDOT)		\$ 497,281.98	\$ 81,456.40
PHASE II - INTERLOCAL COOPERATION AGREEMENT			
PHASE II - ROW Map, Surveys, PS&E, ROW Acquisition, Utility Management			
TEDSI WORK AUTH. NO. 3 (Not approved by TxDOT) (LPA Cost is amount of money paid to date)	68%	\$ 1,515,115.00	\$ 1,046,740.00
TEDSI WORK AUTH. NO. 4 (Approved by TxDOT & WA Co-rolled by Phil. No. 1) (LPA Cost is amount of money paid to date - with no TxDOT Reimbursement Feb 2017)	59%	\$ 628,951.20	\$ 373,434.00
Additional Costs to Complete ROW Map (Estimated 38 Parcels)	100%	\$ 15,000.00	\$ 15,000.00
Additional Costs of Evaluation of the Environmental Assessment to include Outfalls in Project Construction	100%	\$ 49,500.00	\$ 49,500.00
Additional Costs to Complete Field Surveys for Design and Construction OF ROADWAY	100%	\$ 10,000.00	\$ 10,000.00
Additional Costs to Complete PS&E Development Roadway (8% Engineering Fee)	100%	\$ 359,296.00	\$ 359,296.00
Additional Costs to Complete Sub-Surface Utility Engineering (SUE) 50 per hectare	100%	\$ 13,750.00	\$ 13,750.00
Additional Costs to Complete Permanent Signal Designs (Mile 9, Mile 10, Mile 11)	100%	\$ 36,000.00	\$ 36,000.00
Additional Costs to Complete Temporary Signal Designs during Construction	100%	\$ 18,000.00	\$ 18,000.00
Additional Costs to Complete Final 1 set of Plans and Book through TxDOT	100%	\$ 46,000.00	\$ 46,000.00
Additional Costs to Complete Permitted Utilities Coordination to adjust	100%	\$ 109,000.00	\$ 109,000.00
Additional Costs to Complete Right-of-Way Costs - Acquisition Services (est. 68 Parcels) FOR ROADWAY	100%	\$ 844,560.00	\$ 844,560.00
Est. Comp. Utility Mgmt for Acq. of Property Rights and Compensation for Utility Adjusts) FOR ROADWAY	100%	\$ 94,500.00	\$ 94,500.00
SUB-TOTAL		\$ 3,749,862.20	\$ 3,034,780.00
Phil. Engineering Direct State Costs for State Review and Oversight (Est. 1.2% of Constr.)	100%	\$ 154,726.00	\$ 154,726.00
Est. County Attorney Costs for Contamination (\$15,000/Parcel based on 20% total of parcels)	100%	\$ 204,000.00	\$ 204,000.00
Right-of-Way State District Review and Oversight (1.2% of combined const. and ROW costs)	100%	\$ 206,798.40	\$ 206,798.40
Est. Roadway Right-of-Way Costs (EST. 100 ft each on each side for 2.2 miles @ \$450 ea ft)	20%	\$ 1,890,000.00	\$ 378,000.00
COMPENSABLE UTILITY COSTS	25%	\$ 300,000.00	\$ 75,000.00
SUB-TOTAL		\$ 2,698,094.40	\$ 811,266.40
PHASE II SUB-TOTAL		\$ 6,450,776.60	\$ 4,095,026.40
PHASE III REVISED COST ESTIMATE			
PHASE III - ESTIMATE AS PER ICA APPROVED ON MAY 30, 2017			
PHASE III - Construction Oversight, ROW Mapping, ROW Acquisition, Surveying, Utility Coordination, etc.			
Additional costs to complete Right-of-Way Costs - Acquisition Services (est. 7 Parcels) FOR OUTFALLS	100%	\$ 96,600.00	\$ 96,600.00
Estimated Compensable Utility Management for Acquisition of Property Rights and Compensation for Utility Adjusts) FOR OUTFALLS	100%	\$ 100,000.00	\$ 100,000.00
Eng. Consultant Construction Management (18 Months)	100%	\$ 151,200.00	\$ 151,200.00
ROADWAY plus OUTFALLS AND SPOHNS CONSTRUCTION COST	1.4%	\$ 11,278,000.00	\$ 158,292.00
TxDOT/PA Construction Inspection (11% of construction)	1.4%	\$ 1,235,080.00	\$ 17,281.12
PHASE III SUB-TOTAL		\$ 12,810,880.00	\$ 822,283.12
PHASE III - ADDITIONAL COSTS IDENTIFIED SINCE ICA APPROVAL ON MAY 30, 2017			
Estimate Costs to Complete the Right-of-Way Map - Estimated 7 Parcels	100%	\$ 26,870.00	\$ 26,870.00
Roadway Additional Parcels & ROW Map - Additional 4 Parcels	100%	\$ 19,200.00	\$ 19,200.00
Roadway Additional Right-of-Way Costs - Eng. Support for 4 additional parcels	100%	\$ 50,200.00	\$ 50,200.00
Est. Compensation Utility Mgmt for Acq. of Property Rights and Compensation for Utility Adjusts)	100%	\$	\$
Eng. Consultant Construction Management (18 Months)	100%	\$	\$
Eng. Support for Design and Construction of Outfalls	100%	\$ 60,727.77	\$ 60,727.77
Survey ROW for existing existing ROW for outfalls	100%	\$ 12,200.00	\$ 12,200.00
Subsurface Development for Outfalls	100%	\$ 10,480.00	\$ 10,480.00
PS&E Development Outfalls (8% Engineering Fee)	100%	\$ 42,240.00	\$ 42,240.00
Sub-Surface Utility Engineering (SUE) 50 per hectare (4 Outfalls)	100%	\$ 200,000.00	\$ 200,000.00
Engineering Fee to Update 1 set of Plans and Submit Outfalls through TxDOT	100%	\$ 19,200.00	\$ 19,200.00
Permitted Utilities Coordination to adjust	100%	\$	\$
Property Additional Parcels & ROW Map - Estimated 7 Parcels (4 Outfalls & 3 ROW)	100%	\$ 9,800.00	\$ 9,800.00
Right-of-Way Costs - Acq. Services (47 Parcels) (8 Outfalls & 3 ROW)	100%	\$ 27,000.00	\$ 27,000.00
ROW Agreement/Agreement Review - North Arroyo Valley Supply Corp. - 17 Parcels @ \$4,000/EA	100%	\$ 68,000.00	\$ 68,000.00
Est. County Attorney Costs for Contamination (\$15,000/Parcel based on 20% total of parcels)	100%	\$ 19,200.00	\$ 19,200.00
ROWY plus OUTFALLS Acquisition & Construction Costs (EST. 100 ft each on each side for 2.2 miles @ \$450 ea ft)	20%	\$ 1,890,000.00	\$ 378,000.00
TxDOT/PA Const. Insp. (11% of construction) (reduces 1.4% shown above due to changes in ESCO)	1.4%	\$ 25,761.50	\$ 361.28
PHASE III ADDITIONAL COSTS SUB-TOTAL		\$ 724,278.87	\$ 724,278.87
PHASE III SUB-TOTAL		\$ 13,535,158.87	\$ 1,546,562.00
ESTIMATED PROJECT COSTS		\$ 20,399,315.45	\$ 5,334,142.79

TOTAL ESTIMATED LPA COST \$ 5,334,142.79
 COMBINED TOTAL ESTIMATED PROJECT COST \$ 20,399,315.45
 ESTIMATED LPA COSTS NOT INCLUDED IN WORK AUTHORIZATION(S) \$ 1,145,728.92
 LPA PROJECT COST IN PERCENTAGE COMPARED TO TOTAL COST 26%

MILE 6 PHASE II - LPA PARTICIPATION COSTS
 ESTIMATED CITY OF WESLACO PARTICIPATION COST FOR PHASE I & II OF THIS PROJECT \$ 2,043,741.40
 ESTIMATED COUNTY PARTICIPATION COST FOR PHASE I & II OF THIS PROJECT \$ 2,043,741.40

MILE 6 PHASE III - LPA PARTICIPATION COSTS
 ESTIMATED CITY OF WESLACO PARTICIPATION COST FOR PHASE III OF THIS PROJECT \$ 532,772.38
 ESTIMATED COUNTY PARTICIPATION COST FOR PHASE III OF THIS PROJECT \$ 532,772.38

THESE COSTS WILL BE BORNE BY THE HCDOM#1 \$ 181,115.27

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

CITY OF WESLACO

By: David Suarez
David Suarez, Mayor

ATTEST:

[Signature]
City Secretary
12/19/17

COUNTY OF HIDALGO

By: _____
Ramon Garcia, County Judge

ATTEST:

County Clerk

APPROVED AS TO FORM:

By: [Signature]
Weslaco City Attorney

APPROVED AS TO FORM:
Atlas, Hall & Rodriguez, L.L.P.

By: _____
Stephen L. Crain

STATE OF TEXAS

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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 Commissioners Court, has been advised of a proposed project to desire to widen and reconstruct Mile 6 West between Mile 9 and Mile 11 through a Phase III Interlocal Cooperation Agreement to be entered into with the City of Weslaco, Texas, and Hidalgo County.

By vote on _____ 2017, the Hidalgo County Commissioners Court has approved the Project identified above.

By: Ramon Garcia, County Judge

ATTEST:

Arturo Guajardo, County Clerk

APPROVED AS TO FORM:

Atlas, Hall & Rodriguez, L.L.P.

By: _____
Stephen L. Crain