

STATE OF TEXAS

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COUNTY OF HIDALGO

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

THIS Agreement is made on this the _____ day of _____, 2018, by and between the **CITY OF PHARR, 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, City is a home rule municipality located in Hidalgo County, Texas;

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

WHEREAS, On October 24, 2017, the City approved an Interlocal Cooperation Agreement with the County for a linear park;

WHEREAS, pursuant to said Interlocal Cooperation Agreement, County is in the process of constructing a linear park, a part of which is located in the City (the "Park");

WHEREAS, the City has raised concerns over several aspects of the Park construction and expressed the need for tunnels to ensure pedestrian safety while crossing non-signalized intersections;

WHEREAS, County has requested assistance in the relocation of City water and sewer appurtenances to accommodate the Park;

WHEREAS, the City has adopted water and wastewater master plans and has identified a need for efficiency in operations of its water and wastewater systems by the elimination of lift stations and replacing them with gravity flow sewer lines;

WHEREAS, following those adopted master plans will lead to sustainability in the water and wastewater systems by making them as cost effective and maintenance free as possible;

WHEREAS, the necessary South Veterans Road Tunnel for the Park will conflict with a sewer forcemain, sewer gravity flow sewer line and water line that is currently within City of Pharr Right of Way;

WHEREAS, as a result of this conflict there are no suitable alternatives to keep the gravity flow sewer line in service and will need to be replaced by a lift station system which will be directly against the City of Pharr Master Wastewater Plan;

WHEREAS, these conflicts will require the City's taxpayers to allocate money to engineer, construct, and maintain a system to accommodate the Park;

WHEREAS, the estimated costs to the City's taxpayers to accommodate the Park is as follows:

• Engineering	\$ 34,000.00
• Geotechnical boring	\$ 2,000.00
• Mobilization/Demobilization	\$ 5,000.00
• Waterline Relocation	\$ 15,000.00
• Forcemain Relocation	\$ 75,000.00
• Lift Station	\$ 250,000.00
• Contingency	<u>\$ 34,500.00</u>

Total Construction & Engineering \$ 415,500.00

Estimated Operation and Maintenance (O&M)

• Electricity	\$ 1,500.00
• Labor	\$ 7,000.00
• Materials	<u>\$ 3,000.00</u>

Total Yearly O&M \$11,500.00

NOW, THEREFORE, City and County in consideration of the mutual covenants expressed above, agree between each other as follows:

1. The County agrees to:

- a. Reimburse the City the actual costs for the Total Construction & Engineering (estimated to be approximately \$415,000) to accommodate the Park. Actual costs will be identified by invoice to the County; OR
- b. Contribute materials (Project and material to be approved by the City) equal to the value of the Total Cost of Construction & Engineering currently estimated to be approximately \$415,000 (per unit values shall be the prevailing values of TXDOT); and
- c. Pay or reimburse the City the annual Operation and Maintenance of the new lift station for the life of the lift station on a yearly basis; and
- d. All payments or reimbursements shall be made within 30 days of the submittal of final invoice from the City.

2. The City agrees to:

- a. Construct, test and bring online a new lift station with a new forcemain to accommodate the tunnel location; and
- b. Relocate the sewer forcemain and water line, test and bring it back in service.

3. To the extent allowed by law, County shall defend and indemnify and hold harmless the City and its directors, officers, employees, agents, affiliates, subcontractors and customers from and against all allegations, claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including without limitation attorneys' fees and costs) which arise out of, relate to or result from any act or omission of this Interlocal or the Park Project.

4. City, pursuant to Tex. Tans. Code § 251.012, authorizes County to perform the work described herein.

5. **Conflict with 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.

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 City 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 Pharr: City of Pharr
 Attention: Mayor Ambrosio "Amos" Hernandez
 P. O. Box 1729
 Pharr, TX 78577-1632

If to County: County of Hidalgo
 Attention: County Judge Ramon Garcia
 100 E. Cano, 2 Floor
 Edinburg, Texas 78539

With copy to: Commissioner, Precinct 2
 Eduardo "Eddie" Cantu
 300 West Hall Acres, Suite G
 Pharr, Texas 78577

10. 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.
11. **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.

12. **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.
13. **Assignment.** This Agreement shall not be assignable.
14. **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.
15. **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.
16. **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.
17. **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.
18. **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.
19. **No Waiver of Rights:** Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or equity to a Party, including the defense of sovereign immunity, nor to create any legal rights or claims on behalf of a person not a party to this Agreement.

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**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 whereby City and County desire to build a linear park with TAP funds and other funds with pedestrian tunnels under Veteran Road (I Road), Ridge Road, East Moore Road, West Moore Road and Cage Boulevard (Highway 281) and with County agreeing to maintain the Park within the City of Pharr's jurisdiction and upon City of Pharr's property and right of way through an Interlocal Cooperation Agreement to be entered into with Hidalgo County and City of Pharr, Texas.

By vote on _____ 2018 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, LLP

By: _____
Stephen L. Crain

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

THE CITY OF PHARR

ATTEST:

Ambrosio "Amos" Hernandez, Mayor

City Secretary

COUNTY OF HIDALGO

ATTEST:

Ramon Garcia, County Judge Garcia

Arturo Guajardo, Jr. County Clerk

APPROVED AS TO FORM:

ATLAS, HALL & RODRIGUEZ, LLP

By: _____
Stephen L. Crain