

STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

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

This Agreement is made on this the 31 day of July, 2012, by and among the City of Pharr, hereinafter referred to as "Pharr", City of Edinburg, hereinafter referred to as "Edinburg", and County of Hidalgo, hereinafter referred to as "County", acting by and through Hidalgo County Precinct # 2, hereinafter referred to as Precinct # 2, and Hidalgo County Precinct # 4, hereinafter referred to as Precinct # 4 pursuant to the provisions of the Texas Interlocal Cooperation Act, as follows:

WITNESSETH:

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

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

WHEREAS, Pharr is listed on Hidalgo County Metropolitan Planning Organization (MPO) Transportation Improvement Program (TIP) for FY 2011-2014 for the widening of West Owassa Road from Jackson to US 281 frontage road;

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

WHEREAS, Pharr and Edinburg desire to improve and expand West Owassa Road which such project will consist of reconstruction and widening of West Owassa Road from Jackson Road to US 281 frontage road (the "Road") to four (4) lanes with a center turning lane (62 feet pavement width);

WHEREAS, Pharr, Edinburg and County desire to improve and install approximately 11, 520 feet of roadway drain facilities on the Road;

WHEREAS, Pharr, Edinburg and County agree to participate in acquisition of sufficient right of way, the design and construction of the improvements to Road;

WHEREAS, Edinburg, Pharr and County have determined that each will receive benefit from the future improvements to the Road; and

WHEREAS, Edinburg, Pharr, and County are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Texas Govt. Code 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 and pursuant to the County Road and Bridge Act which authorizes counties to improve roadways within the city limits of a city with the city's consent.

NOW, THEREFORE, Edinburg, Pharr and County in consideration of the mutual covenants expressed hereinafter, agree as follows;

1. Edinburg and Pharr, pursuant to Tex. Trans. Code 251.012, authorizes County to perform the work and services described herein within their corporate limits.
2. Pharr will, within its corporate and extra territorial jurisdiction limits, undertake the acquisition of rights of way and road drainage for the Road, including but not limited to, title reports, appraisals, acquisitions of right of way, and condemnation of right of way, which cannot be acquired by agreement of the landowner. Pharr agrees to identify the parcels needed for right of way and negotiate with parcel owners to acquire such right of way. Any grant funding received for such right of way acquisition shall be received by Pharr.
3. County, through Precinct # 2 will contribute staff, if needed, to assist Pharr in the acquisition of ROW or easements within the corporate limits or extra territorial jurisdiction of Pharr.
4. Pharr will be the lead entity for this Agreement and will retain and contract with competent engineering firm(s) to prepare all engineering design for construction, environmental documents and right of way plans and maps necessary for the construction of the Road and drainage. Pharr will also procure competent contractor(s) for the construction of drainage and improvements to the Road.
5. Pharr and Edinburg will each contribute twenty-five percent (25%) of the cost of the design, engineering services, environmental services and construction costs for the Road. Edinburg shall pay Pharr, Edinburg's contribution as stated herein against invoice from Pharr.

6. In addition, to the costs in numbered paragraph 5 Pharr will contribute twenty-five percent (25%) of local match cost of the construction of the Road project estimated at \$ 3,511,655; which comprises, engineering services and construction costs, plus twenty five percent of any cost overruns from the construction project and in addition one-half of cost overruns if the County Cap, as hereinafter defined, is exceeded.
7. Edinburg agrees to contribute twenty-five percent (25%) local match cost of the construction of the improvements to the Road estimated at \$3,511,655; which comprises, engineering services and construction costs plus twenty-five percent of any cost overruns from the construction project and in addition one-half of cost overruns if the County Cap, as hereinafter defined is exceeded. Edinburg shall pay such costs to Pharr against invoice from Pharr.
8. County agrees to assist Pharr and Edinburg in contributing (a) fifty percent (50%) local match cost of the costs for the design, engineering services, environmental services; (b) fifty percent of local match cost of the construction of the Road project estimated at \$3,511,655; which comprise, engineering services and construction cost and (c) one half (1/2) of any cost overruns from the Road construction. Notwithstanding anything to the contrary herein County's total contribution costs for this numbered paragraph 8 and any other provisions of this Agreement will not in any event exceed \$400,000.00 (the "County Cap"). County shall pay such costs to Pharr against invoice from Pharr.
9. County agrees it is in the best interest to provide such assistance to Pharr and Edinburg as described herein, as such Road serves as a connecting link and integral part of the County road system.
10. Pharr and Edinburg each agrees at their sole cost and expense, to make all adjustments to utilities which are necessary for the construction of the improvements to the Road which lies within their corporate limits or their extra territorial jurisdiction.

11. The parties agree that County will be released of any and all duties imposed by this Agreement, following completion of the work and services described in this Agreement.
12. Each party agrees to conform its own applicable purchasing laws, regulations, policies, and procedures with respect to the portion of the work and services under this Agreement performed by each party.
13. If the Road project described herein is declared Economically Disadvantaged (EDC), and /or any reimbursement funding is received from a third party such reimbursement will be shared prorata among the parties hereto based on funds contributed by each party hereto.
14. **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.
15. **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.
16. **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.
17. **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.

18. 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 City: City of Pharr
 Attention: Mayor
 118 S. Cage Blvd.
 Pharr, Texas 78577

If to City: City of Edinburg
 Attention: Mayor
 P.O. Box 1079
 210 W. McIntyre
 Edinburg, TX 78540

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

With copy to: Commissioner Hector "Tito" Palacios, Precinct No.2
 300 W. Hall Acres, Suite G
 Pharr, Texas 78577

With copy to: Commissioner Joseph Palacios
 1051 Doolittle Road
 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.

19. 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.

20. 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.

21. Assignment. This Agreement shall not be assignable.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

ATLAS, HALL & RODRIGUEZ, LLP

APPROVED AS TO FORM:

APPROVED BY
COMMISSIONERS COURT
DATE: 7/21/12

Arturo Guajardo, County Clerk

Arturo Guajardo

ATTEST:

Ramon Garcia, County Judge

Ramon Garcia

HIDALGO COUNTY

City Secretary

[Signature]

ATTEST:

Richard Garcia, Mayor

[Signature]



CITY OF EDINBURG

City Secretary

[Signature]

ATTEST:

Leopoldo "Polo" Palacios, Mayor

[Signature]

CITY OF PHARR

[SIGNATURE PAGE TO FOLLOW]

written above.

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

BY: Stephen L. Crain

SLC

STATE OF TEXAS §
 §
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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 to improve and expand West Owassa Road which will consist of the reconstruction and widening of West Owassa Road from Jackson Road to US 281 frontage road (the "Road") to four (4) lanes with a center turning lane (62 feet pavement width), improving and installing approximately 11, 520 feet of roadway drain facilities on the Road and to participate in acquisition of sufficient right of way, the design and construction of the Road, through an Interlocal Cooperation Agreement to be entered into with the City of Pharr, the City of Edinburg and Hidalgo County.

By vote on July 31, 2012, the 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
COMMISSIONERS COURT
ON: 7/31/12**

APPROVED AS TO FORM:

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

By: Stephen L. Crain
Stephen L. Crain