

STATE OF TEXAS       §  
                                  §  
COUNTY OF HIDALGO §

**INTERLOCAL COOPERATION AGREEMENT BETWEEN THE  
COUNTY OF HIDALGO AND CITY OF PEÑITAS, TEXAS  
CONCERNING CERTAIN IMPROVEMENTS TO  
LIBERTY ROAD FROM US83 TO MILE 3**

THIS agreement is made on this the \_\_\_\_\_ day of \_\_\_\_\_ 2021 by and between the CITY OF PEÑITAS, TEXAS, hereinafter referred to as the "CITY" and the COUNTY OF HIDALGO, Texas hereinafter referred to as "COUNTY", pursuant to the provisions of the Texas Interlocal Cooperation Act (the "Act"), Chapter 791 et seq., Texas Government Code, as follows:

**WITNESSETH:**

**WHEREAS**, the City is a municipality defined as a "Local Government" under the Act, and a political subdivision organized under the laws of the State of Texas, within the boundary of Hidalgo County, Texas; and

**WHEREAS**, the County is defined as a "Local Government" under the Act, and a political subdivision organized under the laws of the State of Texas; and

**WHEREAS**, the City and County desire to cooperate in making needed transportation improvements to Liberty Road from US83 to Mile 3 as outlined in Exhibit A (the "Project"); and

**WHEREAS**, the City and County, each pursuant to its statutory and constitutional authority, are responsible for maintenance and improvements to certain public roadways within their boundaries; and

**WHEREAS**, the City and County desire to jointly undertake road reconstruction and improvements for the Project of Liberty Road from US 83 to Mile 3; and

**WHEREAS**, the County finds the Project of Liberty Road from US 83 to Mile 3 is a major public thoroughfare that serves as a connecting link of the County road system and such improvements and reconstruction are in the public interest of the City and County; and

**WHEREAS**, the City and County agree it is essential to develop this very important corridor, which is in much need of improvements, specifically in need of adding capacity for increased safety; and

**WHEREAS**, the City and County are authorized to enter into this Agreement pursuant to the Act, which authorizes local governments to contract with each other and with agencies of the state, to perform governmental functions and services under the terms of the Act; and pursuant to Section 251.012 of the Texas Transportation Code which authorizes counties to improve roadways within the limits of a City with the City's consent; and

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

**WHEREAS**, the City and County desires to proceed and complete Phase II & III of the road as outlined below;

- Phase II: ROW Map, Surveys and PS&E
- Phase III: ROW Acquisition and Construction Oversight; and

**WHEREAS**, the City and County will cooperatively seek to fund the construction and right of way (“ROW”) costs of this Project through the Rio Grande Valley Metropolitan Planning Organization (RGVMPO) and TxDOT; and

**WHEREAS**, the City desires to cooperate by agreeing that the grant identified in Exhibit B and B-1 (the "Grant") be utilized for the project costs associated with the ROW land costs, compensable utility costs and any remaining funds be designated for the construction of this Project; and **WHEREAS**, the City agrees that County will assume the role of project sponsor to develop the Phase II and III of the project, which includes the ROW Map, Surveys, PS&E, ROW Acquisition and Construction Oversight for Liberty Road from US83 to Mile 3 within the City limits.

**NOW, THEREFORE**, County and City, in consideration of the mutual covenants expressed hereinafter, agree to enter into this agreement as follows:

1. The County shall complete Phase II and III of the project development, which includes the ROW Map, Surveys, PS&E, ROW Acquisition and Construction Oversight services more particularly described in that portion of Exhibit C attached hereto and incorporated by reference for all purposes that relates to said Phase II and III.
2. The total remaining project development activities required to be completed by the County in order to receive bids is estimated to cost \$800,000, which will be the responsibility of the City. This amount is to be submitted by the City to the County upon execution of this agreement.
3. Construction cost overruns, above and beyond the available Federal and State funds of \$9,448,858.00 (currently estimated to be \$1,044,000.00) either at the time of construction award to the successful low bidder or during the construction project will be the responsibility of the City. These overrun funds shall be submitted to the County within 30 days of County providing written notification of same.
4. County finds no proceeds of bonds issued or taxes levied pursuant to article III, Section 52(b) or (c) of the Texas Constitution shall be used for the Project.
5. The City shall commit the \$560,000.00 of Federal Grant funds awarded towards the project costs associated with the Right-of-Way Land costs, Compensable Utility costs and any remaining funds be designated for the construction of this project.
6. 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.
7. 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.

8. 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.
9. 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.
10. 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.
11. 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: Hon. Rodrigo "Rigo" Mayor  
1111 S. Main Street  
Peñitas, Texas 78576

If to County: Hidalgo County, Texas  
Attention: Hon. Richard F. Cortez, County Judge 100 E  
Cano St., Second Floor  
Edinburg, Texas 78539

With copy to: Hon. Everardo "Ever" Villareal, Commissioner Pct. #3  
724 N. Breyfogle  
Mission, Texas 78572

12. 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.

13. Either party may terminate this Agreement with or without cause upon thirty (30) days written notice to other.
14. 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.
15. 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.
16. Assignment: This Agreement shall not be assignable.
17. 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.
18. 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.
19. 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.
20. 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.
21. In the event that, during any term hereof, the Commissioners Court does not appropriate sufficient funds to meet the obligations of County under this Agreement, County may terminate this Agreement upon ninety (90) days written notice to Company. County agrees, however, to use reasonable 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 County. *Agreements for the acquisition, including lease of real or personal property under Tex. Loc. Govt. Code §271.903*: In the event that, during any term hereof, the Commissioner's Court does not appropriate sufficient funds to meet the obligations of County under this Agreement, County may terminate this Agreement upon ninety (90) days written notice to Company, County agrees, however, to use a best efforts attempt to obtain and appropriate funds for payment of the Agreement. The parties intend this provision, if applicable, to be a continuing right to terminate this at the expiration of each budget period of County in accordance with Tex. Loc. Govt. Code §271.903 (Vernon Supp. 1996).
22. Nondiscrimination. Company, including subcontractors, assignees and successors in interest, ensures that no person shall on the grounds of race, religion, color, national

origin, sex, age, or disability, or any other protected class under law, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation in any federally or non-federally funded program or activity when providing any services described herein under this contract/agreement. Applicable nondiscrimination statements and provisions of Title VI of the Civil Rights Act of 1964, as amended, were provided as part of the initial procurement packet and are incorporated herein and made a part of this agreement for all purposes.

23. Required Contract Provision for Contracts Subject to Federal Award (if applicable): Pursuant to 2 CFR 200.326, a non-federal entity's contracts must contain the applicable provisions described in appendix II to 2 CFR 200-Contract Provisions for non-Federal Entity Contracts under Federal Awards. Additionally, County contracts under Federal award which are subject to assistance from the Federal Emergency Management Agency (FEMA) are also required to contain additional contract clauses. The applicable required contract clauses were provided as part of the initial procurement packet and are incorporated herein and made part of this agreement for all purposes.

*[SIGNATURE PAGE TO FOLLOW]*

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

COUNTY OF HIDALGO

BY: \_\_\_\_\_  
Richard F. Cortez, County Judge

ATTEST:

\_\_\_\_\_  
Arturo Guajardo, Jr., County Clerk

CITY OF PEÑITAS

BY: \_\_\_\_\_  
Hon. Rodrigo "Rigo" Lopez, Mayor

ATTEST:

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

**APPROVED AS TO FORM:**

Office of the Criminal District Attorney  
Ricardo Rodriguez, Jr.

BY: \_\_\_\_\_  
Assistant District Attorney

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 regarding certain road improvements to Liberty Road from US83 to Mile 3, a section which is in part within the city limits of Penitas and in part within County jurisdiction through an Interlocal Cooperation Agreement to be entered into with the City of Penitas, Texas, and Hidalgo County.

By vote on \_\_\_\_\_ 2021, the Hidalgo County Commissioners Court has approved the Project identified above.

\_\_\_\_\_  
BY: Richard F. Cortez, County Judge

ATTEST:

\_\_\_\_\_  
Arturo Guajardo, Jr., County Clerk

**APPROVED AS TO FORM:**

Office of the Criminal District Attorney  
Ricardo Rodriguez, Jr.

BY: \_\_\_\_\_  
Assistant District Attorney