

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 20th day of August, 2013 by and between the HIDALGO COUNTY hereinafter referred to as "County" and the HIDALGO COUNTY DRAINAGE DISTRICT NO. 1, hereinafter referred to as "District", pursuant to the provisions of the Texas Interlocal Cooperation Act, as follows:

WHEREAS, under the terms of an engineering contract dated April 27, 2010 and amended November 22, 2011, a copy of which is attached hereto as Exhibit A (the "Contract") Assignor engaged the services of S&B Infrastructure, LTD (the "Engineer") for the purpose of designing a storm drainage facility commonly referred to as the Raymondville Drain;

WHEREAS, as of the date hereof, approximately Ninety- Two percent (92%) of the scope of work under the Contract has been tendered to Assignor, approved and paid, in the sum of Five Million Five Hundred Eighteen Thousand Eight Hundred Eighty Three Dollars (\$5,518,883.00);

WHEREAS, Assignee has received the proceeds of its Series 2013 Bonds, part of such proceeds are allocated for the Raymondville Drain; and

WHEREAS, Assignor and Assignee are desirous of Assignee taking over the responsibility for contracting for the engineering design of the Raymondville Drain.

NOW THEREFORE, Hidalgo County and Hidalgo County Drainage District No. 1 in consideration the mutual terms and in consideration herein contained agrees to as follows:

1. County agrees on payment received from District in the sum of Five Million Five Hundred Eighteen Thousand Eight Hundred Eighty Three Dollars (\$5,518,883.00); to execute that certain Assignment of Contract and Engineer Work Product from County to District a copy of which attached hereto as Exhibit A assigning all of County's right, title and interest in and to the Contract to District together with all of Engineer's work completed in accordance with the completed scope of work including but not limited to all surveys, maps, tests, calculations, budgets, photographs, engineering design work, accounting records, and work product of the Engineer developed in connection with Engineer's performance of the scope of work.
2. **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 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.

3. **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.
4. **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 Hidalgo County and District, and not otherwise.
5. **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.
6. **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 District: Hidalgo County Drainage District No. 1
Attention: Godfrey Garza, Manager
902 N. Doolittle Road
Edinburg, Texas 78542

If to Hidalgo County: Hidalgo County
Attention: Ramon Garcia, County Judge
302 W. University Drive
Edinburg, Texas 78540-0758

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.

7. **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.
8. **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.
9. **Assignment.** This Agreement shall not be assignable.
10. **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 or paragraph hereof.
11. **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.
12. **Authority to Execute.** The execution and performance of this Agreement by the District and Hidalgo County have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of District and Hidalgo County in accordance with its terms.
13. **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.
14. **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.

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

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1

Ramon Garcia
Ramon Garcia, Chairman Board of District

COUNTY OF HIDALGO

Ramon Garcia
Ramon Garcia, County Judge

ATTEST:

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

Approved by Commissioners' Court
on 8/20/13 *RO*

APPROVED AS TO FORM:

ATLAS, HALL & RODRIGUEZ, LLP

BY: _____
Stephen L. Crain

STATE OF TEXAS §
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COUNTY OF HIDALGO §

ASSIGNMENT OF CONTRACT AND ENGINEER WORK PRODUCT FROM HIDALGO COUNTY TO HIDALGO COUNTY DRAINAGE DISTRICT NO. 1

This Assignment of Contract is made this 20th day of August, 2013 by and between Hidalgo County, Texas ("Assignor") and Hidalgo County Drainage District No. 1 ("Assignee").

WHEREAS, under the terms of an engineering contract dated April 27, 2010 and amended November 22, 2011, a copy of which is attached hereto as Exhibit A (the "Contract") Assignor engaged the services of S&B Infrastructure, LTD (the "Engineer") for the purpose of designing a storm drainage facility commonly referred to as the Raymondville Drain;

WHEREAS, as of the date hereof, approximately Ninety- Two percent (92%) of the scope of work under the Contract has been tendered to Assignor, approved and paid, in the sum of Five Million Five Hundred Eighteen Thousand Eight Hundred Eighty Three Dollars (\$5,518,883.00);

WHEREAS, Assignee has received the proceeds of its Series 2013 Bonds, part of such proceeds are allocated for the Raymondville Drain; and

WHEREAS, Assignor and Assignee are desirous of Assignee taking over the responsibility for contracting for the engineering design of the Raymondville Drain.

NOW THEREFORE, for and in consideration of the sum of Five Million Five Hundred Eighteen Thousand Eight Hundred Eighty Three Dollars (\$5,518,883.00) and the terms and conditions herein Assignor assigns all of Assignor's right, title and interest in and to the Contract to Assignee together with all of Engineer's work completed in accordance with the completed scope of work including but not limited to all surveys, maps, tests, calculations, budgets, photographs, engineering design work, accounting records, and work product of the Engineer developed in connection with Engineer's performance of the scope of work under the Contract subject to the following terms:

1. No Warranty. Assignor makes this assignment without any warranty of any sort, express, implied, or statutory. Assignor expressly disclaims any warranty of any sort, express, implied, or statutory. Assignor expressly disclaims any warranty of title, and assigns to Assignee only so much right, title, or interest as Assignor now has in the Contract and the scope of work produced by Engineer in accordance with this Contract so assigned.

2. Binding Effect. This Assignment and all of its terms and conditions, are binding on Assignor and its successors and assigns, and on Assignee and its successors and assigns.
3. Acceptance by Assignee. Assignee accepts all of the right title, and interest in the rights and obligations of Assignor pursuant to the Contract and the scope of work completed by the Engineer in accordance with the Contract so assigned. Assignee to the extent allowed by law further agrees to indemnify and hold harmless Assignor for any liability for performance or nonperformance of the duties and obligations assumed by Assignee by this Agreement.
4. This Assignment is subject to the written acknowledgment and consent hereof by Engineer.
5. This Assignment hereof shall be acknowledged and consented to in writing by Engineer and Engineer agrees such consent shall not obligate Assignee to proceed with any additional work orders or notices to proceed under the Contract for additional work under the scope of work as defined in the Contract.
6. The assignment does not absolve Engineer of any continuing obligations Engineer may have with respect to past performance or errors or omissions.
7. Assignee represents that it has reviewed all the documents and Engineer's work product to date performed sufficient for it to make an informed decision regarding its value, quality and usefulness and accepts the transfer from Assignor without any representation or warranty from Assignor.
8. EXECUTED as of the day and date first written above.

ASSIGNOR:

HIDALGO COUNTY

By: Ramon Garcia
Ramon Garcia, County Judge

ASSIGNEE:

HIDALGO COUNTY DRAINAGE
DISTRICT NO. 1

By: Ramon Garcia
Ramon Garcia, Chairperson
Board of Directors

ATTEST:

By: Arturo Guajardo, Jr.
Arturo Guajardo, Jr. County Clerk

APPROVED AS TO FORM:
ATLAS, HALL & RODRIGUEZ, LLP

By: _____
Stephen L. Crain

APPROVED BY
COMMISSIONERS' COURT
ON: 8/20/13

CONSENT TO ASSIGNMENT

Assignment by Hidalgo County to Hidalgo County Drainage No. 1 of that certain Contract dated November 22, 2001 as, amended and for good and valuable consideration the receipt of which is hereby acknowledged consent to and accept Hidalgo County Drainage District No. 1 as Assignee of the Contract, together with the scope of work documents completed by Engineer in accordance with the Contract so assigned.

Date: _____

S&B Infrastructure, LTD

By: _____

Its: _____

EXHIBIT A

**CONTRACT BY AND BETWEEN HIDALGO COUNTY AND
S&B INFRASTRUCTURE, LTD DATED APRIL 27, 2010 AS AMENDED ON
NOVEMBER 22, 2011**