

STATE OF TEXAS §
COUNTY OF HIDALGO §

**INTERLOCAL COOPERATION AGREEMENT BETWEEN HIDALGO COUNTY
AND HIDALGO COUNTY DRAINAGE DISTRICT NO. 1**

THIS AGREEMENT is made effective the 18th day of Feb., 2014, by and between 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, the District has declared surplus that certain excavator described on Exhibit A attached hereto (the "Excavator");

WHEREAS, Section 49.226 of the Texas Water Code provides district property may be transferred to a county upon terms and conditions deemed necessary or advantageous to the district;

WHEREAS, Hidalgo County, Precinct 2 is desirous of acquiring the Excavator;

WHEREAS, the parties hereto have determined it is beneficial to both parties to enter into this Agreement and that the benefits to each are reasonable; and

WHEREAS, District and the County are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Texas Government Code Section 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.

NOW THEREFORE, District and County, in consideration of the mutual covenants expressed hereinafter, agree as follows:

1. The District shall transfer the Excavator to Hidalgo County for the benefit of Hidalgo County Precinct 2 for the sum of Forty Seven Thousand Nine Hundred and Ninety Six and 80/100ths Dollars \$47,996.80.
2. County shall be entitled to full title and all ownership interests in the Excavator.
3. At closing or delivery, the District shall deliver to County such titles, termination statements, bills of sale and other documents and instruments as County shall reasonably require to evidence the transfer of all right, title and interest of the District in such Excavator to the County free and clear of all liens and encumbrances created by or arising directly or indirectly through the District.
4. Except for representations, warranties and service contracts relating to the Excavator made or entered into by the manufacture or suppliers of the Excavator, all of which are hereby assigned to the County, (to the extent

assignable) the District has made and makes no representation or warranty, express or implied, and assumes no obligation with respect to the title, merchantability, condition, quality or fitness of the Excavator for any particular purpose or the conformity of the Excavator to specifications or purchase order, its design, delivery, or operation. All claims or actions on any warranty so assigned to the County shall be made or prosecuted by the County, at its sole expense.

5. Immediately, or as soon as practicable to provide time for testing, upon receipt of the Excavator, the County shall inspect the Excavator. Unless the County gives the District written notice of each defect or other proper objection to the Excavator before the execution of the Acceptance Certificate, it shall be conclusively presumed, as between the County and the District, that the County has fully inspected and acknowledged that the Excavator is in good condition, and repair, and is performing satisfactorily, and that the County is satisfied with and has accepted the Excavator in such good condition and repair.
6. The Chairman of the Board of Directors of District and other appropriate officials of the District are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms of this Agreement.
7. **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.
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 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 District 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 obligations 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 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 District No. 1
Attention: Chairman of the Board
900 N. Doolittle Road
Edinburg, Texas 78541

If to County: Hidalgo County, Texas
Attention: Ramon Garcia, County Judge
P.O. Box 1356
Edinburg, Texas 78540-0758

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

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.

12. **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.

13. **Successors.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, and assigns where permitted by this Agreement.

14. **Assignment.** This Agreement shall not be assignable.

15. **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.

16. **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.

17. **Authority to Execute.** The execution and performance of this Agreement by District 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.
18. **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.
19. **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, Chairperson, Board of
Directors

HIDALGO COUNTY

Ramon Garcia
Ramon Garcia, County Judge

ATTEST:

Arturo Guajardo
Arturo Guajardo, County Clerk

APPROVED AS TO FORM:

ATLAS, HALL & RODRIGUEZ, LLP

BY: *Stephen L. Crain*
Stephen L. Crain

APPROVED BY HIDALGO
COUNTY DRAINAGE DISTRICT
NO. 1 BOARD OF DIRECTORS
ON: 2/18/14