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THE STATE OF TEXAS §

COUNTY OF NUECES §

INTERLOCAL COOPERATION AGREEMENT

THIS INTERLOCAL COOPERATION AGREEMENT ("Agreement") is made by and between the CITY OF CORPUS CHRISTI, TEXAS ("**City**"), a Texas municipal corporation and home-rule city, acting by and through its governing body, the Corpus Christi City Council, and the NUECES COUNTY, TEXAS ("**County**"), acting by and through its governing body, the NUECES COUNTY COMMISSIONERS COURT. This Agreement is made pursuant to Chapter 791, Texas Government Code, and is as follows:

SECTION 1. PURPOSE FOR PARTICIPATION.

For the mutual benefit of the parties and the residents of the City of Corpus Christi and Nueces County, Texas, City and County desire to fund and provide for the expansion of County Road 52 ("CR 52" or "the Road") to 3 or 5 lanes generally depicted on Exhibit A herein attached and incorporated in its entirety, and related improvements as provided in this Agreement.

SECTION 2. OBLIGATIONS OF CITY AND COUNTY.

For and in consideration of the covenants and agreements of the parties set forth herein, City and County agree to participate in the funding of costs, including engineering, and construction necessary to facilitate the construction of improvements to renovate and expand CR 52 (the "Project" or the "Work") as follows:

- (a) Funding. County agrees to pay up to \$1,200,000.00 to the City of Corpus Christi for Project costs associated with the construction of County Road 52 including, but not limited to: engineering services to design and prepare construction plans, property and land acquisition, legal expenses, advertising, printing and miscellaneous expenses necessary for the construction of CR 52. The City agrees to provide \$1,200,000.00 in funding toward the construction of CR 52. It is mutually agreed that the total Project cost will not exceed \$2,400,000.00. The City or County may increase their funding upon written notice to the other party. Any such increased funding will be used only for the purpose of this agreement. However, such increase will not require any commitment of matching funds by the other party unless mutually agreed in writing as an amendment to this agreement.
- (b) Utilities & Miscellaneous. The City and County agree any drainage, adjustments or relocations of private utilities or pipelines that may be necessary due to the Project will be part of the Project. The cost

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adjustments or relocations of private utilities or pipelines will be paid with Project funding.

The City will pay for 100% of the costs for the adjustment, relocation, installation and maintenance of any City-owned gas lines and wastewater lines including valves and appurtenances.

The City and County will each pay for one-half the costs of any storm water improvements installed as part of the Project with Project funding.

The City and County will each pay for one-half the costs of any modification or adjustments required for any raw water canals or other raw water conveyances with Project funding.

- (c) Property & Land Acquisition. The City agrees to acquire any construction easements, rights-of-way, and utility easements that may be necessary for construction, including proceedings to condemn by use of the power of eminent domain, if necessary. The costs of such acquisition are included in project funding and will be paid with Project funds. The City will acquire and hold property rights in the name of the City.
- (e) Payment Dates. The County will pay (up to an amount of \$1,200,000) City within 30 days from the date of receipt of the City's detailed invoice for project funding. City will bill County on a monthly basis for 50% of the Project costs incurred. County shall have the right to review and audit the City's documents concerning Project expenses upon request.
- (f) Contract Management. City will be responsible for contract administration during construction of CR 52 including any new utilities, drainage and required adjustments and/or relocation of the utilities. City will provide oversight inspections, as needed, and provide through an independent third party provider necessary geotechnical services, engineering materials inspection, testing and laboratory services at its expense. The cost of contract administration will be paid with Project funds.

Both City and County will accept, in writing, the Project Plans, Specifications, and Cost Estimates before the City advertises and proceeds to solicit bids for the construction of the Work.

The City will ensure the contract documents require the contractor to name the City of Corpus Christi and Nueces County as additional insureds.

The City will ensure the contract documents include the requirement that the contractor indemnify and holds harmless the City of Corpus Christi and Nueces County.

The City Council will authorize the City Manager or his designee to execute the contract after the bids have been opened and evaluated.

- (g) Payments. Any payment made by either party hereto for any of the services provided pursuant to this Agreement shall be made out of current revenues available to the County and City as required by Chapter 791, Texas Government Code.
- (h) Final Acceptance. Both City and County shall make final inspection of the improvements, and City Engineer and County Engineer must each agree and will certify in writing such completion for Final Acceptance. City shall provide written notice to the County Judge the date certified for Final Acceptance under this subsection (the "Date of Acceptance").
- (i) Construction Warranty Period. During the construction warranty period of one year from the Date of Acceptance, or for such lesser or greater period as may be specifically provided, both City and County shall be responsible to present warranty issues to be done or performed by contractor.
- (j) Maintenance. City will maintain the roadway and drainage improvements. This paragraph will survive expiration of this agreement.
- (k) Easements. County will grant the City access to any of its property or easements for the construction of the project and maintenance of City utilities.

SECTION 3. TERM OF AGREEMENT.

Term. The term of this Agreement shall be from the date signed and authorized by the parties until final acceptance of the Work, which shall be no later than two years from signing of this Agreement. This Agreement may be extended upon written agreement of the parties. If unexpected delays in the Project occur, this Agreement shall extend beyond the two-year term as necessary. The City shall provide the County with the proper justifications for any extension in writing.

SECTION 4. CHANGE ORDERS

Change orders will be reviewed by both the County and City with the City giving final approval as part of contract administration. All changes will be funded with Project funds. Copies of the Change Orders will be provided to the County Engineer.

SECTION 5. MISCELLANEOUS.

- (a) Severability. In the event any term, covenant or condition herein contained shall be held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition herein contained, provided that such invalidity does not materially prejudice either County or City in their respective rights and obligations contained in the valid terms, covenants or conditions hereof.
- (b) Entire Agreement. This Agreement merges the prior negotiations and understandings of the parties hereto and embodies the entire agreement of the parties, and there are no other agreements, assurances, conditions, covenants (express or implied) or other terms with respect to the covenants, whether written or verbal, antecedent or contemporaneous, with the execution hereof.
- (c) Written Amendment. Unless otherwise provided herein, this Agreement may be amended only by written instrument duly executed on behalf of each party.
- (d) Notices. All notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, on the third (3rd) day following deposit in a United States Postal Service post office or receptacle with proper postage affixed (certified mail, return receipt requested) addressed to the respective other party at the address prescribed below, or at such other address as the receiving party may have theretofore prescribed by notice to the sending party.

The initial addresses of the parties, which one party may change by giving written notice of its changed address to the other party, are as follows:

<u>City</u>	<u>COUNTY</u>
Angel R. Escobar City Manager City of Corpus Christi P. O. Box 1541 Corpus Christi, Texas 78401	Samuel L. Neal, Jr. County Judge Nueces County 901 Leopard Corpus Christi, Texas 78401

- (e) Non-Waiver. Failure of any party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

- (f) Successors. This Agreement shall bind and benefit the parties and their legal successors. This Agreement does not create any personal liability on the part of any officer or agent of the City of Corpus Christi, or any officer, agent or employee of the City, or any Reinvestment Zone, or any County Commissioner, officer, agent or employee of the County.
- (g) No Waiver of Immunity. No party hereto waives or relinquishes any immunity or defense on behalf of itself, its officers, employees, and agents as a result of its execution of this Agreement and performance of the covenants contained herein.

IN WITNESS HEREOF, the City and County have made and executed this Agreement in multiple copies, each of which is an original.

CITY OF CORPUS CHRISTI

NUECES COUNTY, TEXAS

Angel R. Escobar 2/2/10
 Angel R. Escobar Date
 City Manager

Samuel L. Neal, Jr. 1/14/10
 Samuel L. Neal, Jr. Date
 County Judge

ATTEST:

Armando Chapa 2/2/10
 Armando Chapa Date
 City Secretary

Teresa Melton 1/22/2010
 Diana Barrera ^{TERESA MELTON} Date
 County Clerk, Deputy

APPROVED AS TO FORM:

Veronica Ocanas 1-22-10
 Veronica Ocanas Date
 Assistant City Attorney for City Attorney



M2009-349 AUTHORIZED
 BY COUNCIL 12/15/09

AC.
 SECRETARY *ph*