

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

**INTERLOCAL AGREEMENT REGARDING REPLACEMENT OF
EXISTING WATER LINES
DURING IMPROVEMENTS TO LUDWIG ROAD**

This Agreement is made and entered into pursuant to the Interlocal Cooperation Act, Chapter 791 of the TEXAS GOVERNMENT CODE and Section 251.012 of the TEXAS TRANSPORTATION CODE, by and between the Fort Bend County Water Control & Improvement District No. 2, a political subdivision of the State of Texas, situated in Fort Bend County, acting by and through its Board of Directors, ("District"), and Fort Bend County, a body corporate and politic under the laws of the State of Texas, acting by and through its Commissioners Court ("County").

RECITALS:

WHEREAS, County is a local government as defined by the Act, and as such is lawfully permitted to enter into an Interlocal Agreement; and

WHEREAS, District is a local government as defined by the Act, and as such is lawfully permitted to enter into an Interlocal Agreement; and

WHEREAS, County and District believe it is in their best interests to enter into this Agreement to facilitate the provision of certain governmental functions to the citizens of Fort Bend County.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

**SECTION 1
PURPOSE**

The purpose of this Agreement is to outline funding obligations related to the replacement of District's existing water lines along Ludwig Road as a part of the County's Ludwig Road Mobility Project ("Project").

**SECTION 2
PROJECT FUNDING**

2.1 County shall be responsible for causing the design and construction of the Project as a part of its improvements to Ludwig Road under its 2013 Mobility Bond Program – Project No. 13208, Dulles Avenue to Brand Lane. District shall have the

opportunity to review and approve the Project plans before the County completes the plans for its improvements to Ludwig Road.

2.2 District agrees to pay to the County, within thirty (30) days of final execution of this Agreement, the estimated construction costs associated with replacing water lines in the amount of four hundred fifty-eight thousand two hundred eighty dollars and 00/100 (\$458,280.00), as depicted in the Preliminary Cost Estimate attached hereto as Exhibit A and incorporated herein for all purposes.

2.3 Upon completion of the Project and District's receipt of notification from County of such completion, County and District shall be responsible for reviewing and comparing the estimated cost to the actual cost of constructing the Project.

2.3.1 If District's payment submitted in accordance with Section 2.2 is less than the actual cost of constructing the Project resulting in a shortage to the County, District shall submit the shortage amount to County within thirty (30) days of District's receipt of a notice of such shortage from the County.

2.3.2 If District's payment submitted in accordance with Section 2.2 is more than the actual cost of the constructing the Project resulting in an overpayment to the County, County shall reimburse the District the amount of the overpayment within thirty (30) days of County's receipt of a notice of such overpayment from District.

SECTION 3

TERM

This Agreement shall continue in force and effect from the date of execution of the last party hereto until either of the actions contemplated in Section 2.3 above is consummated. Prior to County commencing construction on the Project as provided in Section 2.1 above, either party may terminate this Agreement at any time upon thirty (30) days written notice. However, upon County commencing such work, neither party can terminate this Agreement.

SECTION 4

INSURANCE AND LIABILITY

4.1 County and District are both governed by the Texas Tort Claims Act, Chapter 101.001 et seq., as amended, of the Texas Civil Practice and Remedies Code which sets limits of liability for certain causes of action. Each party to this Agreement warrants and represents that it is insured under a commercial insurance policy or is self-insured for all claims falling within the Texas Tort Claims Act.

4.2 Each party is solely responsible for the actions and omissions of its employees and officers. No party hereto waives or relinquishes any immunity or

defense on behalf of itself, its trustees, its officers, employees, and agents as a result of the execution of this Agreement and the performance of the covenants contained herein.

SECTION 5

NOTICES

5.1 Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

5.2 Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

County: Fort Bend County
Attn: County Judge
401 Jackson Street
Richmond, Texas 77469

With a copy to: Fort Bend County Engineering Department
Attn: County Engineer
301 Jackson Street
Richmond, Texas 77469

District: Fort Bend County Water Control & Improvement District No. 2
Attn: Jason A. Kirby, P.E., District Engineer
2331 South Main
Stafford, Texas 77477

5.3 A Notice is effective only if the party giving or making the Notice has complied with subsections 5.1 and 5.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

5.3.1 If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.

5.3.2 If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

SECTION 6

MISCELLANEOUS

6.1 Each party shall make payments only from current revenues available to the party.

6.2 The parties may not amend or waive this Agreement, except by a written agreement executed by both parties.

6.3 The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive either party's sovereign immunity.

6.4 If a court finds or rules that any part of this Agreement is invalid or unlawful, the remainder of the Agreement continues to be binding on the parties.

6.5 This Agreement supersedes any and all other agreements, either oral or in writing between the parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

6.6 This Agreement cannot be assigned by either party.

6.7 This Agreement does not confer any enforceable rights or remedies upon any person other than the parties. No provision of this Agreement constitutes consent to suit.

6.8 The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the date executed by the last party.

FORT BEND COUNTY, TEXAS

**FORT BEND COUNTY WATER CONTROL
& IMPROVEMENT DISTRICT NO. 2**

Robert E. Hebert, County Judge

John Ferro
Authorized Representative – Signature

John Ferro
Authorized Representative – Printed Name

Date _____

Date: January 25, 2017

ATTEST:

ATTEST:

Laura Richard, County Clerk

[Signature]

APPROVED:

Richard W. Stolleis, County Engineer

APPROVED AS TO LEGAL FORM:

Marcus D. Spencer, First Assistant County Attorney

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EXHIBIT A

**PRELIMINARY COST ESTIMATE
FOR CONSTRUCTION OF
LUDWIG LANE WATERLINE RELOCATION
FOR
FORT BEND COUNTY W.C.&I.D. No. 2
JUNE 28, 2016**

Item No.	Description	Unit	Quantity	Unit Price	Total ⁽¹⁾
1	Move-in and Set-up, including Bonds and Insurance	L.S.	1	\$ 25,000	\$ 25,000
<u>WATER LINE ITEMS:</u>					
2	8-Inch PVC Waterline (Open Cut)	L.F.	645	\$ 50	\$ 32,000
3	8-Inch PVC Waterline (Trenchless Construction)	L.F.	820	100	82,000
4	8-Inch Gate Valve	Ea.	5	1,000	5,000
5	Remove Exist 8" Waterline	L.F.	100	10	1,000
6	Remove Exist 6" Waterline	L.F.	545	20	11,000
7	Fire Hydrant Assembly	Ea.	2	5,000	10,000
8	8" Connection (to exist 8" or 12")	Ea.	1	2,000	2,000
9	6" Connection (to exist 6")	Ea.	1	1,000	1,000
10	Near Side Water Service Lead Replacement	Ea.	17	1,000	17,000
11	Far Side Water Service Lead Replacement	Ea.	13	1,200	16,000
12	Trench Safety	L.F.	645	\$ 1	\$ 1,000
Water Subtotal:					\$ 178,000
<u>SANITARY SEWER ITEMS:</u>					
13	Modify Sanitary Sewer Manhole Riser (Raise or Lower)	V.F.	9	\$ 1,000	\$ 9,000
14	Clean and Rehabilitate Exist Sanitary Sewer Manhole	Ea.	4	1,500	6,000
15	Replace Manhole Riser with Eccentric Cone	Ea.	6	1,000	6,000
16	Replace Rim and Cover of Existing Sanitary Sewer Manhole	Ea.	17	500	9,000
17	Far Side Sanitary Service Lead Replacement, Including Cleanout & Drop(s)	Ea.	13	1,500	20,000
18	Near Side Sanitary Service Lead Replacement, Including Cleanout & Drop(s)	Ea.	6	1,000	6,000
19	Trench Safety (per MH)	Ea.	6	\$ 150	\$ 1,000
Sanitary Sewer Subtotal:					\$ 57,000
<u>MISCELLANEOUS ITEMS:</u>					
20	Remove & Replace Landscaping	S.Y.	717	\$ 25	\$ 18,000
21	Remove & Replace Fencing	L.F.	645	50	32,000
22	Brace Power Pole(s)	Ea.	8	1,000	8,000
23	Hydro-mulch	L.S.	1	2,000	2,000
24	Site Restoration	L.S.	1	2,000	2,000
25	SWPPP Maintenance	L.S.	1	5,000	5,000
26	Traffic Control	L.S.	1	\$ 10,000	\$ 10,000
Miscellaneous Subtotal:					\$ 77,000
Sub-Total All Items					\$ 337,000
Contingencies (25%)					84,000
Engineering					37,280
TOTAL					\$ 458,280