

STATE OF TEXAS                   §  
  §  
COUNTY OF FORT BEND         §

INTERLOCAL AGREEMENT  
FOR DRAINAGE IMPROVEMENTS BY AND BETWEEN  
FORT BEND COUNTY, TEXAS AND  
FULSHEAR MUNICIPAL UTILITY DISTRICT NO. 1 OF FORT BEND COUNTY

This INTERLOCAL AGREEMENT FOR DRAINAGE IMPROVEMENTS (the "Agreement") is entered into, pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, by and between Fort Bend County, Texas (the "County"), a body corporate and politic under the laws of the State of Texas, acting by and through its Commissioners Court, and Fulshear Municipal Utility District No. 1 of Fort Bend County (the "District"), a conservation and reclamation district, acting by and through its Board of Directors. The County and the District are referred to collectively as the "Parties."

RECITALS

WHEREAS, the District lies within Fort Bend County; and

WHEREAS, the County has deemed it necessary to make certain highway improvements related to the F.M. 1093/Westpark Extension Phase II-B (the "Highway Improvements"); and

WHEREAS, the County's Highway Improvements necessitate construction of drainage improvements within the boundaries of the District, consisting of three (3) 60-inch culverts at future Farm Hill Way approximately 400 feet east of Fulshear Trace and at the existing drainage outfall into Fulshear Creek approximately 450 feet east of Fulshear Trace (the "Facilities"); and

WHEREAS, the County and the District acknowledge and agree that the District will design and administer the development and construction of the Facilities (the "Project"), at the County's cost; and

WHEREAS, the County and the District acknowledge and agree that, upon completion of the Project, the County will accept the Facilities for maintenance; and

WHEREAS, the Parties agree that, in performing the governmental functions contemplated in this Agreement or in paying for the performance of those governmental functions, each party will make that performance or those payments from current revenues legally available to that party; and

WHEREAS, the Parties affirmatively find that the performance of this Agreement is in the common interest of the Parties, that undertaking this Agreement will benefit the public;

## AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, obligations and benefits of this Agreement, the County and District contract and agree as follows:

### I.

#### INCORPORATION OF RECITALS

The representations, covenants and recitations set forth in the foregoing recitals of this Agreement are true and correct and are hereby incorporated into the body of this Agreement and adopted as findings of the County and the District.

### II.

#### SCOPE OF THE PROJECT

The scope of the Project for purposes of this Agreement consists of the design and construction of the Facilities, consisting of three (3) 60-inch culverts at future Farm Hill Way approximately 400 feet east of Fulshear Trace and at the existing drainage outfall into Fulshear Creek approximately 450 feet east of Fulshear Trace, as generally shown on Exhibit A. A probable cost estimate for the Project is shown on Exhibit B.

### III.

#### COUNTY AND DISTRICT RESPONSIBILITIES

- A. Design. The District has prepared or will prepare the plans and specifications for the construction of the Facilities. The District will submit such plans for review and approval by the Fort Bend County Drainage District.
- B. Permitting. The District will obtain all necessary governmental permits from governmental entities having jurisdiction.
- C. Construction. The District will competitively bid and administer the contract for construction of the Facilities in accordance with good engineering standards and in accordance with all applicable rules, regulations, and requirements. Administration of the contract includes the responsibility for construction contract administration and monitoring and for issuance of any change orders, supplemental agreements, amendments, or additional work orders, which may become necessary subsequent to the award of the construction contract.

- D. Ownership, Operation and Maintenance. Upon completion of the Project, the County will accept the Facilities and operate and maintain the Facilities, in accordance with the requirements of all applicable laws, rules, and regulations. The District agrees to grant the County access across District property required to maintain the Facilities.

IV.  
FINANCIAL OBLIGATIONS

- A. County Financial Obligation. The County will contribute funds in the amount of \$328,268.40, as shown on Exhibit B (the "County Payment"). The County agrees to make the County Payment to the District no event later than thirty (30) days from the Effective Date.
- B. Final Accounting. As soon as practicable, but in no event later than ninety (90) days after completion of the Project, the District will furnish the County with a full accounting of the funds expended on the Project. If there are excess County funds remaining, as determined by the District, the District will refund such amounts to the County. If the amount expended exceeded the amount of the County Payment (the "Overage"), the District shall invoice the County for the amount of such Overage, which shall be due and payable by the County within thirty (30) days after receipt.

V.  
LIABILITY

The District and County are entitled to the immunities and defenses of the Texas Tort Claims Act.

VI.  
ASSIGNMENT

No party hereto shall make, in whole or in part, any assignment of this Agreement or any obligation hereunder without the prior written consent of the other party.

**VII.**  
**NO THIRD PARTY BENEFICIARIES**

This Agreement shall be for the sole and exclusive benefit of the District and the County and shall not be construed to confer any benefit or right upon any other party, including particularly any resident of the District or the County. The parties do not intend that any specific third party obtain a right by virtue of the execution or performance of this Agreement.

**VIII.**  
**NOTICES**

All notices and communications under this Agreement shall be mailed by certified mail, return receipt request, or delivered to the following addresses:

If to Fort Bend County:

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

With a copy to:

Fort Bend County Engineering Department  
Attn: County Engineer  
301 Jackson Street  
Richmond, Texas 77469

If to the District:

Fulshear Municipal Utility District No. 1  
c/o Allen Boone Humphries Robinson LLP  
3200 Southwest Freeway, Suite 2600  
Houston, Texas 77027  
Attn: Katie Carner

**IX.**  
**TERM**

The term of this Agreement will be two (2) years from the date of execution by the last party hereto or until the Project is completed, whichever is sooner.

**X.**  
**ENTIRE AGREEMENT**

This Agreement contains the entire agreement between the Parties relating to the rights granted and the obligations assumed. Any modifications concerning this instrument shall be of no force or effect, unless a subsequent modification in writing is signed by all parties hereto.

**XI.**  
**SEVERABILITY**

The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement or the application thereof to any other person or circumstance shall ever be held by any court of competent jurisdiction to contravene or be invalid under the constitution or laws of the State of Texas for any reason, that contravention or invalidity shall not invalidate the entire Agreement. Instead, this Agreement shall be construed as if it did not contain the particular provision or provisions held to be invalid, the rights and obligations of the Parties shall be enforced accordingly, and this Agreement shall remain in full force and effect, as construed. The remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to the other parties or circumstances shall not be affected thereby.

**XII.**  
**SUCCESSORS AND ASSIGNS**

This Agreement shall apply to and be binding upon the Parties hereto and their respective officers, directors, successors, and assigns. This Agreement and any of the rights obtained hereunder are not assignable by any party hereto without the express written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed.

**XIII.**  
**AUTHORIZATION**

Each party represents that (i) execution and delivery of this Agreement by it has been duly authorized by its governing body or other persons from whom such party is legally bound to obtain authorization; (ii) that the consummation of the contemplated transactions will not result in a breach or violation of, or a default under, any agreement by which it or any of its properties is bound, or by any statute, rule, regulation, order, or other law to which it is subject; and (iii) this Agreement is a binding and enforceable agreement on its part.

**XIV.**  
**APPLICABLE LAW**

This Agreement shall be governed and construed in accordance with the laws of the State of Texas. Venue shall be in Fort Bend County.

**XV.**  
**EFFECTIVE DATE**

This Agreement will be effective as of the date of the execution by the last party to execute this Agreement.

[EXECUTION PAGE FOLLOWS]

**FORT BEND COUNTY:**

\_\_\_\_\_  
KP George, County Judge

\_\_\_\_\_  
Date

**Attest:**

\_\_\_\_\_  
Laura Richard, County Clerk

**Approved:**

*Marcus D. Spencer*

\_\_\_\_\_  
3/30/2020

\_\_\_\_\_  
Marcus D. Spencer,  
Fort Bend First Assistant County Attorney

\_\_\_\_\_  
Date

**FULSHEAR MUNICIPAL UTILITY DISTRICT NO. 1 OF FORT BEND COUNTY**

*[Signature]*  
\_\_\_\_\_  
Vice President, Board of Directors

\_\_\_\_\_  
3/27/2020  
Date

**Attest:**

*[Signature]*  
\_\_\_\_\_  
Secretary, Board of Directors

(SEAL)



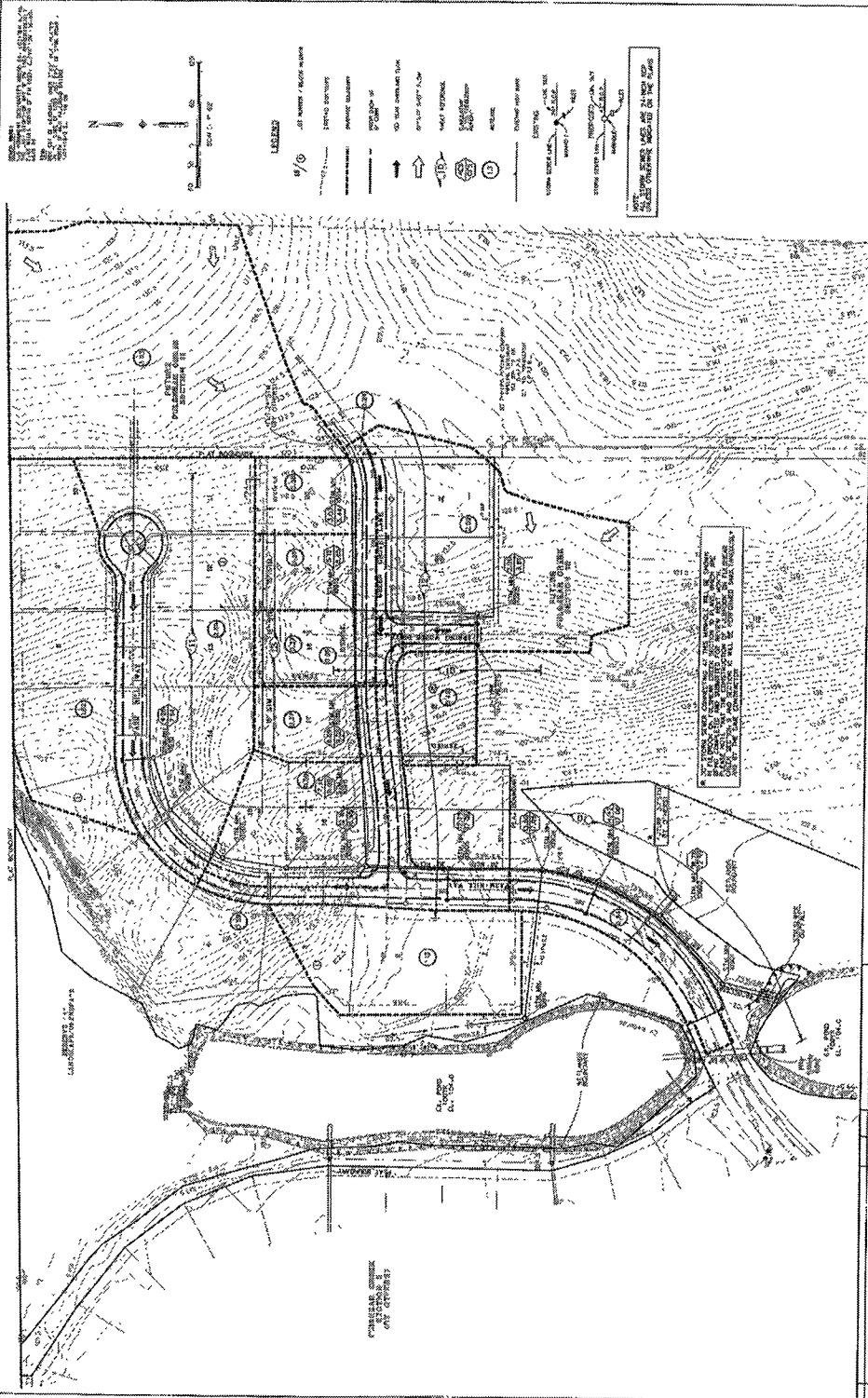
**AUDITOR'S CERTIFICATE**

I hereby certify that funds are available in the amount of \$\_\_\_\_\_ to accomplish and pay the obligation of Fort Bend County under this contract.

\_\_\_\_\_  
Robert Ed Sturdivant, County Auditor

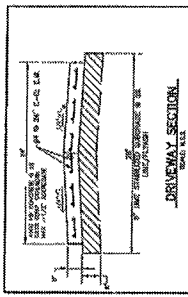
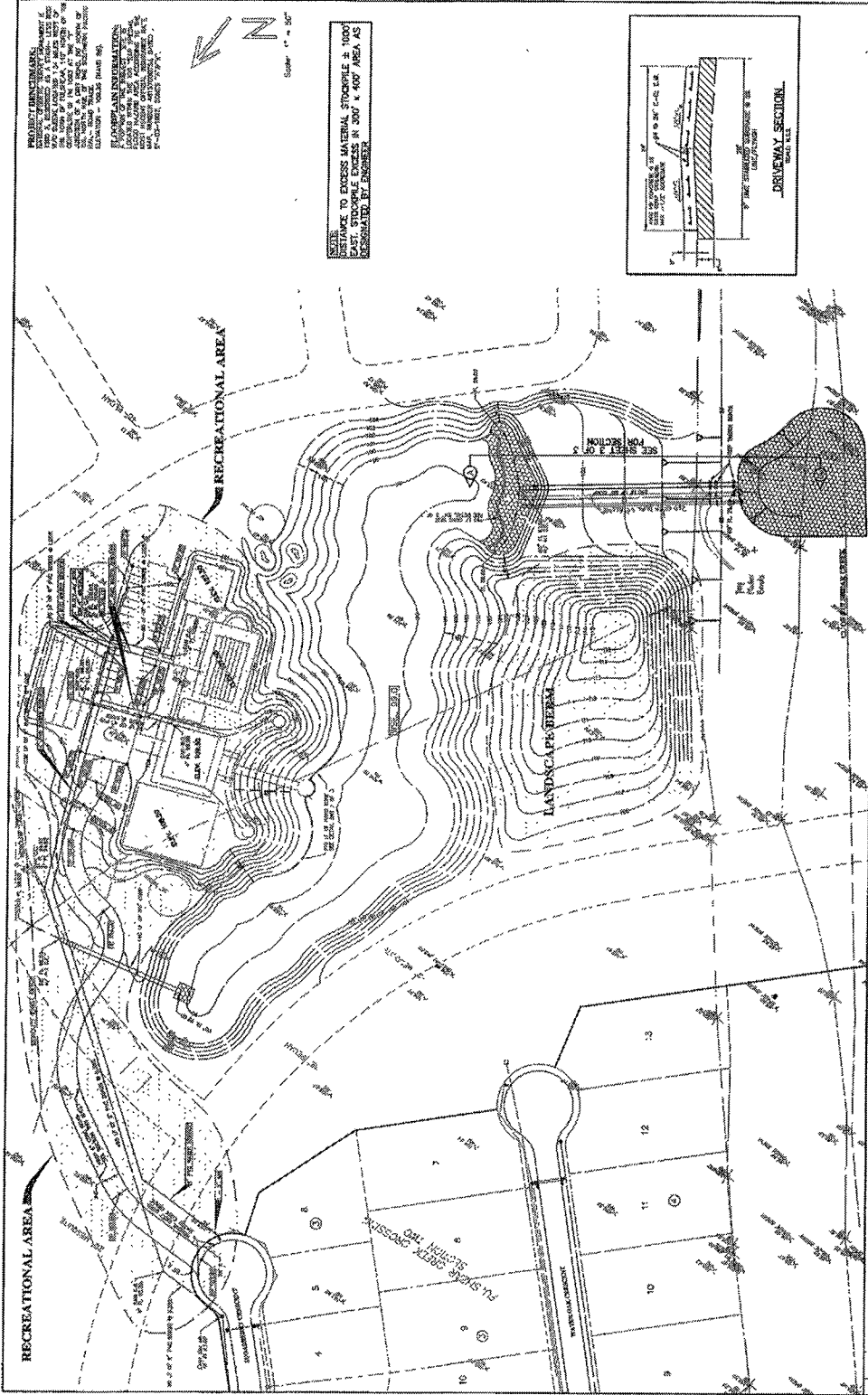
**EXHIBIT A**  
**(Page 1 of 2)**





		<b>5</b> SHEET NO.	
PROJECT TITLE: <b>PAVING AND DRAINAGE LAYOUT</b>		PROJECT NO.: 24	
ENGINEER: <b>Costello</b>		DATE: 10/10/2008	
PROJECT LOCATION: <b>FLU BRICKS ON FIB. SUGAR CRK. SECTION 9</b>		SCALE: AS SHOWN	
ENGINEERING AND SURVEYING: 6940 Richmond Avenue, Suite 400 N Irvine, CA 92618 TEL: (949) 450-1414 FAX: (949) 450-1415 WWW.COSTELLOENR.COM		PROJECT NO.: 24	
DATE: 10/10/2008		SHEET NO.: 5	

**EXHIBIT A**  
**(Page 2 of 2)**



<b>ROBERT T. DEGEN SERVICES</b> 6008 WISCONSIN AVENUE MILWAUKEE, WI 53222 FAX (773) 462-8670		<b>FOULSHAM &amp; ASSOCIATES, LTD.</b> FULSHEAR BLVD., 100 N. FULLERTON, IL 60130 PHONE (708) 462-8670	
JOB NO. 1111 DRAWING NO. 1111-1 DATE 11/11/11 SCALE 1" = 40'		Lutes and Decorative Sign Plan 11/11/11	

## EXHIBIT B

**PROBABLE COST ESTIMATE FOR  
 CONSTRUCTION OF THREE (3) 60 - INCH CULVERTS  
 WITHIN FULSHEAR MUD 1 TO FACILITATE DRAINAGE FOR  
 F.M. 1093/ WESTPARK EXTENSION PHASE II-B IMPROVEMENT  
 C.I. JOB NO: 2012101-000-04  
 December 9, 2019**

Item No.	Description of Item	Quantity	Unit	Unit Price	Extended Total
<b><u>A. DRAINAGE RELATED ITEMS</u></b>					
1	Clearing and Grubbing	0.25	AC	\$ 4,000.00	\$ 1,000.00
2	60" ACCMP Storm Sewer, including Cement Stabilized Backfill, All in Place	693	LF	\$ 170.00	\$ 117,810.00
3	Timber Bent for 60" ACCMP Outfall Pipe	3	EA	\$ 2,250.00	\$ 6,750.00
4	3:1 SET for 60" ACCMP Storm Sewer	3	EA	\$ 11,500.00	\$ 34,500.00
5	Remove and Dispose of the Existing 18" Rip Rap	200	SY	\$ 20.00	\$ 4,000.00
6	18" Rip Rap for Outfall Including Fabric Matting	200	SY	\$ 85.00	\$ 17,000.00
7	Remove and Replace Existing Curb at the Lodge, If necessary	30	LF	\$ 12.50	\$ 375.00
8	Remove and Replace Existing Sidewalk at the Lodge, If	150	SF	\$ 12.00	\$ 1,800.00
9	Remove and Place Utility Spoil On Site as Compacted Fill or Stockpile (As directed by the Engineer)	1,125	CY	\$ 3.00	\$ 3,375.00
10	Cofferdam and Bypass Pumping Systems to Enable Construction of the dual 60"ACCMP Outfalls	3	EA	\$ 20,000.00	\$ 60,000.00
11	Extra Cement Stabilized Sand	10	TON	\$ 20.00	\$ 200.00
12	Trench Safety	693	LF	\$ 0.50	\$ 346.50
13	Construction Staking	1	LS	\$ 2,000.00	\$ 2,000.00
<b>DRAINAGE RELATED ITEMS TOTAL</b>					<b>\$ 249,156.50</b>
<b><u>B. EROSION AND SEDIMENT CONTROL RELATED ITEMS</u></b>					
14	Placement and Removal of Stablized Construction Access & Vehicle Wash Down Area	1	EA	\$ 1,800.00	\$ 1,800.00
15	Reinforced Filter Fabric Fence	125	LF	\$ 1.00	\$ 125.00
16	Orange Constructin Fence	125	LF	\$ 1.50	\$ 187.50
17	Turf Establishment by Hydromulch Seeding	1	AC	\$ 1,750.00	\$ 1,750.00
18	Bermuda Sod, where Disturbed	1	AC	\$ 12,500.00	\$ 6,250.00
19	Straw Bale Fence	125	LF	\$ 5.00	\$ 625.00
20	TCEQ PPP NOI Fee	1	MONTH	\$ 350.00	\$ 350.00
<b>EROSION AND SEDIMENT CONTROL RELATED ITEMS TOTAL</b>					<b>\$ 11,087.50</b>
<b>DRAINAGE IMPROVEMENTS SUBTOTAL</b>					<b>\$ 260,244.00</b>
<b>10% CONTINGENCY</b>					<b>\$ 26,024.40</b>
<b>ENGINEERING AND GEOTECHNICAL TESTING</b>					<b>\$ 42,000.00</b>
<b>TOTAL</b>					<b>\$ 328,268.40</b>