



## RESOLUTION NO. 343-2020

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF RICHMOND, TEXAS, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT WITH FORT BEND COUNTY FOR THE RELOCATION OF THE MONUMENT LOCATED AT THE NORTHWEST CORNER OF FOURTH AND MORTON STREETS; AND PROVIDING AN EFFECTIVE DATE.**

Members of the public have expressed concern over the continue prominent placement of the article commonly known as the Jaybird Monument located on the former site of the Fort Bend County courthouse.

Mayor Moore and the Richmond City Commission formed and directed an ad hoc committee to consider a resolution of the issue of the article through a review of the history of the article and its impact on the community and to make recommendations to the City Commission.

Fort Bend County has offered to enter into an Interlocal Agreement with the City to fund and provide for the relocation of the article.

On October 8, 2020, the ad hoc committee received public input and reviewed a draft of the proposed Interlocal Agreement and recommended approval of the Interlocal Agreement contingent upon the City reaching an agreement with Hodges Bend Cemetery Association, Inc. to accept the article, place it within Hodges Bend Cemetery, and to maintain and preserve the article and contingent upon the County funding a plaque or marker giving historic context to the article from the funding proposed for the relocation.

The City Commission of the City of Richmond finds that it is in the public interest enter into the Interlocal Agreement with Fort Bend County for the relocation of the article to Hodges Bend Cemetery; **Now, Therefore,**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF RICHMOND, TEXAS:**

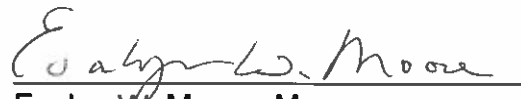
**Section 1.** The facts and recitals set forth in the preamble of this Resolution are hereby found to be true and correct and are in all things incorporated herein and made a part hereof.

**Section 2.** The City Commission approves the Interlocal Agreement with Fort Bend County for the relocation of the article commonly known as the Jaybird Monument, attached hereto as Exhibit A, and authorizes the Mayor to execute the same.

**Section 3.** This Resolution shall be effective from and after its approval and adoption.

PASSED, APPROVED and RESOLVED this 19<sup>th</sup> day of October, 2020.

**The City of Richmond, Texas**

  
Evalyn W. Moore, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Laura Scarlato, City Secretary

  
Gary W. Smith, City Attorney

## EXHIBIT A

INTERLOCAL AGREEMENT FOR JOINT PARTICIPATION  
TO RELOCATE THE JAYBIRD MONUMENT

STATE OF TEXAS                   §  
   §  
COUNTY OF FORT BEND       §

This Interlocal Agreement for Joint Participation to Relocate the Jaybird Monument ("Agreement") is made and entered into pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, by and between the City of Richmond, a municipal corporation and home-rule city of the State of Texas, acting by and through its City Commission, (the "City"), and Fort Bend County, a body corporate and politic under the laws of the State of Texas, acting by and through its Commissioners Court, (the "County"). The City and the County may be referred to herein individually as a "Party" or collectively as the "Parties".

RECITALS

WHEREAS, a monument referencing H. H. Frost, L. E. Gibson and J. M. Shamblin, commonly referred to as the Jaybird Monument (the "Monument"), currently sits on the southeast corner of the City Hall site at 402 Morton Street,

WHEREAS, the Monument, as consented by Commissioners Court on October 14, 1895, was erected on the site being the former Fort Bend County Courthouse by the Jay Bird Democratic Association of Fort Bend County on March 18, 1896;

WHEREAS, the County conveyed the courthouse land to the City, as the high bidder at a public auction, subject to an easement covering the portion of the land on which the Monument was located in 1940;

WHEREAS, the County released the easement as part of a land exchange in 2013;

WHEREAS, the Parties recognize the public concern of such controversial monuments located in public places and desire to jointly participate in the relocation of the Monument (the "Project");

WHEREAS, the Commissioners Court finds that the Project contemplated in this Agreement serves a public purpose;

WHEREAS, the City and the County agree to participate in the Project according to the terms of this Agreement; and

WHEREAS, the governing bodies of the City and the County have authorized this Agreement.



NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and benefits to both Parties, it is agreed as follows:

## AGREEMENT

### Section 1. Incorporation of Recitals

The recitations and recitals set forth above are declared true and correct and are hereby incorporated as part of this Agreement.

### Section 2. Purpose

The purpose of this Agreement is to outline the obligations related to the relocation of the Monument (the "Project").

### Section 3. Ownership

The City asserts that, by virtue of the Monument's long-term and continued presence on property owned by the City and the resulting possession, care, and control of the Monument for the benefit of the Public, the City has sufficient authority to allow the County, its employees, contractors, or other duly authorized agents, to enter 402 Morton Street, Richmond, Texas 77469 to perform the obligations under this Agreement. The City, as trustee of the public interest, includes the authority to convey the Monument to a third party for the purpose of preserving the Monument.

### Section 4. Right of Entry

Further, upon ten (10) days' notice, the City hereby authorizes the County, its employees, contractors, or other duly authorized agents to enter 402 Morton Street, Richmond, Texas 77469 to enter the City-owned property and relocate the monument to Hodges Bend Cemetery (the "Cemetery"), a third party that has expressed an interest in accepting and has agreed to accept the Monument for relocation.

### Section 5. Project

A The County is responsible for managing the Project in accordance with approved specifications and compliance with the applicable laws. This responsibility shall include the management of the disassembly, transportation and reassembly of the Monument at the final destination. The County will engage a contractor to enter the property and perform the relocation obligations under this Agreement, at its sole cost and expense. The County may, in its sole discretion, engage a contractor to install certain structures, equipment and/or devices around the Monument to provide security at the final destination. The City acknowledges and accepts the fact that County is obligated to follow Chapter 262 of the Texas Local Government Code as it relates to the award of the contract.

B The County agrees to fund up to ten thousand dollars and no/100 (\$10,000.00) to provide the historical context of the events related to the Monument, in a

manner determined by the County, in its sole discretion and in cooperation with the Fort Bend County Historical Commission.

C. The obligations under this Agreement are contingent in nature and intended to become effective upon the City executing an Agreement with the Cemetery to accept the Monument after delivery by the County by actual conveyance of all interest in the Monument by the City to the Cemetery.

D. During the work on the Project, the City shall have the right to review and to inspect the work in progress. However, the City agrees that the County is the contracted party and the City shall not provide any direction to the contractor.

E. The County shall have no obligation to restore the ground surface after disassembly and removal of the Monument.

#### **Section 6. Liabilities**

The City and County are entitled to the immunities and defenses of the Texas Tort Claims Act. Specifically, the County is not liable for any damage to the Monument that may occur during the Project.

#### **Section 7. Maintenance**

The County shall have no obligation to maintain the Monument. The terms of the Cemetery's acceptance of the monument shall provide for allocating the maintenance obligations between the City and the Cemetery.

#### **Section 8. Limit of Appropriation**

The City clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that the County shall have available the total maximum sum of one hundred thousand dollars and no/100 (\$100,000.00) specifically allocated to fully discharge any and all liabilities County may incur.

#### **Section 9. Insurance Requirements**

County agrees that it will require Contractor's insurance policies name City as well as County as additional insureds on all policies except for Workers' Compensation and Professional Liability. Any such insurance policies shall include at least the following minimum coverage:

A. Worker's Compensation in the amount required by law. The policy shall include the All States Endorsement.

B. Comprehensive General Liability Insurance including contractual liability insurance, \$1,000,000 per occurrence, \$2,000,000 aggregate (defense costs excluded from face amount of policy).

Comprehensive Automobile Liability Insurance, including owned, non- owned and hired

vehicles used for the Project, with bodily injury and property damage with a combined limit of not less than \$1,000,000 each occurrence.

**Section 10. 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.

**Section 11. No Third Party Beneficiaries**

The parties do not intend that any specific third party obtain a right by virtue of the execution or performance of this Agreement.

**Section 12. Notices**

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

County: Fort Bend County  
Attn: County Judge  
401 Jackson Street, 1st Floor  
Richmond, Texas 77469

City: City of Richmond, Texas  
Attn: Terri Vela, City Manager  
402 Morton Street  
Richmond, Texas 77469

**Section 13. 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.

**Section 14. Execution**

This Agreement has been executed by the City and the County upon and by the authority of their respective governing bodies. This Agreement shall become effective on the date executed by the final party and remain in effect until the Project is complete.

[EXECUTION PAGE FOLLOWS.]



FORT BEND COUNTY, TEXAS

CITY OF RICHMOND, TEXAS

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

\_\_\_\_\_  
Evalyn W. Moore, Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

ATTEST:

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

\_\_\_\_\_  
Laura Scarlato, City Secretary

**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