

## INTERLOCAL AGREEMENT BETWEEN HARRIS COUNTY AND FORT BEND COUNTY

This Agreement ("Agreement") is made and entered into by **Harris County** ("County") a body corporate and politic under the laws of the State of Texas, acting by and through its governing body, the Harris County Commissioners Court, and **Fort Bend County** ("Fort Bend"). County and Fort Bend may each be referred to herein individually as a "Party" or collectively the "Parties".

### RECITALS

It is to the mutual benefit of County and Fort Bend to repair approximately 0.10 miles of residential concrete roadway within Fort Bend County as part of the Concrete Subdivision Pavement Repaid-Keegan's Wood Project in Harris County Precinct 3 ("Project"), as generally illustrated in Exhibit B attached hereto and incorporated herein by reference; and

County and Fort Bend desire to cooperate in accordance with the terms of this Agreement to accomplish the construction of the Project.

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

### TERMS

#### I. Responsibilities of the Parties

##### A. County's Responsibilities

- (i) The County will provide or cause to be provided, engineering services and related support services necessary to prepare plans, specifications, and estimates ("PS&E") for the construction of the Project.
- (ii) The County shall be responsible for obtaining all necessary permits and jurisdictional approvals for construction of the project.
- (iii) Upon completion of the PS&E the County will submit the PS&E to Fort Bend for review and approval.
- (iv) Upon approval by Fort Bend of the PS&E, the County will advertise for and receive bids for construction of the Project, in a manner similar to that of other County projects.
- (v) Upon receipt of bids for the construction of the Project the County shall:
  - (a) Determine the lowest and best bidder and provide the bids to Fort Bend with its recommendation for award of the construction contract to such lowest and best bidder, as determined by the Harris County Commissioners Court; and
  - (b) Provide an invoice to Fort Bend for their cost share percentage for construction of the project in accordance with Section 2 of this agreement.
- (vi) Upon award of a contract for construction of the Project, the County will:
  - (a) Manage and inspect the construction of the Project in a manner similar to that of other County construction projects; and
  - (b) Through its contractor, construct the Project in accordance with the PS&E approved by Fort Bend. The County may make minor changes in the PS&E

through change(s) in contract ("CIC") that the County deems to be necessary or desirable during the construction of the Project, so long as the original scope and intent of the Project is maintained.

(vii) Upon completion of the construction of the Project, the County shall:

- (a) Provide an opportunity for Fort Bend to participate in a final walk-through and preparation of a punch list in regards to the construction of the Project; and
- (b) Provide a statement of final accounting to Fort Bend detailing all construction costs incurred and identify amount(s) to be invoiced or refunded to Fort Bend; and

B. Fort Bend's Responsibilities

- (i) Fort Bend will review the PS&E prepared by County and will notify the County Engineer of any objections or approval within ten (10) days of receipt by Fort Bend. If Fort Bend has not approved the PS&E within ten (10) calendar days from its receipt of the PS&E, then the PS&E submitted to Fort Bend will be deemed approved.
- (ii) Fort Bend will pay 100% of the cost, including construction costs, of the Project in accordance with Exhibit A attached hereto and incorporated herein by reference ("Cost Estimates").
- (iii) Upon completion of the construction of the Project, Fort Bend shall assume full responsibility for the ongoing maintenance and repairs of the Project.

II. Funding

- A. Upon execution of this agreement, the County will invoice Fort Bend in the amount of Two Hundred Eighty-Two Thousand Four Hundred Fifty and No/100 Dollars (\$282,450.00) ("Fort Bend Contribution"). Fort Bend shall remit payment of Fort Bend Contribution to the County within thirty (30) days of the receipt of the invoice.
- B. County is not obligated to deposit the funds provided by Fort Bend pursuant to this Agreement in an interest-bearing account. As such, Fort Bend is not entitled to receive any interest earned on such funds. If County chooses to deposit such funds in an interest-bearing account, the interest earned thereon will be retained by County.
- C. County shall have no obligation for the costs associated with the Project contemplated under this Agreement until sufficient funds are certified by the County Auditor as available from current fiscal funds.

III. Limit of Appropriation

- A. Fort Bend understands and agrees, said understanding and agreement also being of the absolute essence of this Agreement, that the County is not currently appropriating any funds for the Project. County may appropriate funds to complete the Project, but such funds shall not under any conditions, circumstances, or interpretations thereof exceed the sum certified available by the Harris County Auditor.
- B. Fort Bend understands and agrees, said understanding and agreement also being of the absolute essence of this Agreement, that failure of the Harris County Auditor to certify funds or to certify sufficient funding for any reason shall not be considered a breach of this Agreement.

#### IV. County's Request for Records, Right to Review and Audit

County and its authorized representatives have the right to review and audit all books, records, vouchers and documents of whatever nature related to Fort Bend's performance under this Agreement during the period of performance of the Agreement and for six (6) years thereafter.

#### V. Term and Termination

This Agreement shall commence upon final execution by all the Parties and shall remain in full force and effect until the County's receipt of payment from Fort Bend of all funds due and owing under the terms of this Agreement unless earlier terminated in accordance with the terms of this Agreement. This Agreement may be terminated by the County at any time, by providing thirty (30) days' written notice to Fort Bend, in which case the County shall return any unexpended or uncommitted funds previously provided by Fort Bend under this Agreement. Should this Agreement be terminated, Fort Bend shall not be entitled to any payment or reimbursement of interest that may have been realized by the County on any such funds provided by Fort Bend.

#### VI. Non-Assignability

The County and Fort Bend bind themselves and their successors, executors, administrators, and assigns to the other Party of this Agreement and to the successors, executors, administrators, and assigns of such other Party, in respect to all covenants of this Agreement. Neither the County nor Fort Bend shall assign, sublet, or transfer its interest in this Agreement without the prior written consent of the other Party.

#### VII. Notice

Any notice required to be given under this Agreement ("Notice") shall be in writing and shall be duly served when it shall have been personally delivered to the address below, or deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to County or Fort Bend at the following addresses

Fort Bend: Fort Bend County  
C/O J. Stacy Slawinski  
County Engineer  
301 Jackson St, Suite 401  
Richmond, Texas 77469  
Email: stacy.slawinski@fortbendcountytexas.gov

Marcus D. Spencer  
First Assistant County Attorney  
401 Jackson Street, Floor 3  
Richmond, Texas 77469

County: Harris County Engineering Department  
1001 Preston Avenue, 7th Floor  
Houston, Texas 77002-1893  
Attention: Interagency Agreement Coordinator

Any Notice given hereunder is deemed given upon hand-delivery or three (3) days after the date of deposit in the United States Mail.

Each Party shall have the right to change its respective address by giving at least fifteen (15) days' written notice of such change to the other Party.

Other communications, except for Notices required under this Agreement, may be sent by electronic means or in the same manner as Notices described herein.

## VIII. Miscellaneous

- A. Independent Parties. It is expressly understood and agreed by the Parties that nothing contained in this Agreement shall be construed to constitute or create a joint venture, partnership, or other affiliation or like relationship between the Parties, it being specifically agreed that their relationship is and shall remain that of independent parties to a contractual relationship as set forth in this Agreement. The County is an independent contractor and neither it, nor its employees or agents shall be considered to be an employee, agent, partner, or representative of Fort Bend for any purpose. Neither Fort Bend, nor its employees, officers, nor agents shall be considered to be employees, agents, partners or representatives of the County for any purposes. Neither Party has the authority to bind the other Party.
- B. No Third Party Beneficiaries. This Agreement shall be for the sole and exclusive benefit of the Parties and their legal successors and assigns. The County is not obligated or liable to any party other than Fort Bend for the performance of this Agreement. Nothing in the Agreement is intended or shall be deemed or construed to create any additional rights or remedies upon any third party. Further, nothing contained in the Agreement shall be construed to or operate in any manner whatsoever to increase the rights of any third party, or the duties or responsibilities of County with respect to any third party.
- C. Waiver of Breach. No waiver or waivers of any breach or default (or any breaches or defaults) by either Party hereto of any term, covenant, condition, or liability hereunder, or the performance by either Party of any obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstances.
- D. No Personal Liability; No Waiver of Immunity.
- (1) Nothing in the Agreement is construed as creating any personal liability on the part of any officer, director, employee, or agent of any public body that may be a Party to the Agreement, and the Parties expressly agree that the execution of the Agreement does not create any personal liability on the part of any officer, director, employee, or agent of the County.
  - (2) The Parties agree that no provision of this Agreement extends the County's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas.
  - (3) Neither the execution of this Agreement nor any other conduct of either Party relating to this Agreement shall be considered a waiver by the County of any right, defense, or immunity on behalf of itself, its employees or agents under the Texas Constitution or the laws of the State of Texas.
- E. Applicable Law and Venue. This agreement shall be governed by the laws of the State of Texas and the forum for any action under or related to the Agreement is exclusively in a state or federal court of competent jurisdiction in Texas. The exclusive venue for any action under or related to the Agreement is in a state or federal court of competent jurisdiction in Houston, Harris County, Texas.
- F. No Binding Arbitration; Right to Jury Trial. The County does not agree to binding arbitration, nor does the County waive its right to a jury trial.
- G. Contract Construction.
- (1) This Agreement shall not be construed against or in favor of any Party hereto based upon the fact that the Party did or did not author this Agreement.

- (2) The headings in this Agreement are for convenience or reference only and shall not control or affect the meaning or construction of this Agreement.
- (3) When terms are used in the singular or plural, the meaning shall apply to both.
- (4) When either the male or female gender is used, the meaning shall apply to both.
- H. Recitals. The recitals set forth in this Agreement are, by this reference, incorporated into and deemed a part of this Agreement.
- I. Entire Agreement; Modifications. This Agreement contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein assumed. This Agreement supersedes and replaces any prior agreement between the Parties pertaining to the rights granted and the obligations assumed herein. This Agreement shall be subject to change or modification only by a subsequent written modification approved and signed by the governing bodies of each Party.
- J. Severability. The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person, entity, or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons, entities, or circumstances shall not be affected thereby.
- K. Survival of Terms. Any provision of this Agreement that, by its plain meaning, is intended to survive the expiration or earlier termination of this Agreement including, but not limited to the indemnification provision, shall survive such expiration or earlier termination. If an ambiguity exists as to survival, the provision shall be deemed to survive.
- L. Multiple Counterparts/Execution. This Agreement may be executed in several counterparts. Each counterpart is deemed an original and all counterparts together constitute one and the same instrument. In addition, each Party warrants that the undersigned is a duly authorized representative with the power to execute the Agreement.
- M. Warranty. By execution of this Agreement, Fort Bend warrants that the duties accorded to Fort Bend in this Agreement are within the powers and authority of Fort Bend.

[Execution Page Follows]

**HARRIS COUNTY**

By: \_\_\_\_\_  
Lina Hidalgo, County Judge

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

APPROVED AS TO FORM:

CHRISTIAN D. MENEFEE  
County Attorney

By: \_\_\_\_\_  
Philip Berzins  
Assistant County Attorney  
CAO File No.: 21GEN0613

**FORT BEND COUNTY**

By: \_\_\_\_\_  
KP George, County Judge

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

EXHIBIT A			
Fort Bend County			
Reconstruction of Keegan's Wood Subdivision			
9-Dec-20			
Description	Estimated Participant Cost (Used for All Agreements)	District Cost Based on Bids (Final Accounting Only)	District Cost Based on Final Pay Estimate (Final Accounting Only)
1) Engineering Costs	\$ -		
2) Construction Cost	\$ 282,450.00		
3) CMT (3% of Construction Cost)	\$ -		
<b>Subtotal</b>	<b>\$ 282,450.00</b>		
4) Administrative Expenses - 5% (Items 1-3)	\$ -		
<b>Total Cost</b>	<b>\$ 282,450.00</b>		
Previous Payments Received	\$ -		
<b>Total Balance Outstanding</b>	<b>\$ 282,450.00</b>		



Concrete Subdivision Pavement Repair - Keegans Wood - 2020



- Legend**
- Cypress Creek Overflow Area
  - Parcels
  - Harris County Boundary
  - Other Counties
  - Harris County
  - HCAD MUDs
  - World Street Map



**Figure 1:** Example of inlet to be updated to current County Standards



**Figure 2:** Example ramp to be removed

1: 2,584



0.1 0 0.04 0.1 Miles

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
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**Notes**



## ORDER OF COMMISSIONERS COURT

The Commissioners Court of Harris County, Texas, met in regular session at its regular term at the Harris County Administration Building in the City of Houston, Texas, on \_\_\_\_\_, with all members present except \_\_\_\_\_.

A quorum was present. Among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF AN AGREEMENT  
BETWEEN HARRIS COUNTY AND FORT BEND COUNTY IN CONNECTION WITH  
THE REPAIR OF APPROXIMATELY 0.10 MILES OF RESIDENTIAL CONCRETE  
ROADWAY WITHIN FORT BEND COUNTY AS PART OF THE CONCRETE  
SUBDIVISION PAVEMENT REPAID-KEEGAN'S WOOD PROJECT**

Commissioner \_\_\_\_\_ introduced an order and moved that Commissioners Court adopt the order. Commissioner \_\_\_\_\_ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Tom S. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. R. Jack Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

**IT IS ORDERED THAT:**

1. The Harris County Judge is authorized to execute on behalf of Harris County the attached Agreement between Harris County and Fort Bend County in connection with the repair of approximately 0.10 miles of residential concrete roadway within Fort Bend County as part of the Concrete Subdivision Pavement Repaid-Keegan's Wood Project.
2. All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purposes of this order.