

RESOLUTION NO. R-3375

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE, FOR AND ON BEHALF OF THE CITY OF ROSENBERG, TEXAS, AN INTERLOCAL AGREEMENT, BY AND BETWEEN THE CITY OF ROSENBERG, TEXAS, AND FORT BEND COUNTY, TEXAS, FOR COUNTY-MANAGED PROJECT FORT BEND COUNTY PROJECT NO. 20124X – N. FAIRGROUNDS ROAD FOR WATER LINE UPGRADE FOR OVERSIZING COSTS, IN THE ESTIMATED AMOUNT OF \$114,468.10.

* * * * *

WHEREAS, in 2020 the citizens of Fort Bend County voted to approve the issuance of general obligation bonds that allows the County to participate with other local governmental entities to fund certain regional street and road improvements and associated drainage facilities that are funded in part of the state or federal government; and,

WHEREAS, the Fort Bend County desires to expand N. Fairgrounds Road between I-69 Frontage Road and W. Fairgrounds Road to a four-lane major thoroughfare to enhance the traffic flow/circulation and drainage in the service area related to the building of the Fort Bend Epicenter; and,

WHEREAS, the City of Rosenberg desires to contribute to the County's funding participation for water line upgrade for oversizing within the Project; and,

WHEREAS, the City Council of the City of Rosenberg finds and determines it is in the best interests of the City to contribute to the County's funding participation for water line upgrade for oversizing within the Project; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ROSENBERG:

Section 1. The City Council of the City of Rosenberg hereby authorizes the Mayor to negotiate and execute an Interlocal Agreement for County-Managed Project Fort Bend County Project No. 20124X – N. Fairgrounds Road for water line upgrade for oversizing costs, in the estimated amount of \$114,468.10.

Section 2. A substantially similar copy of said Agreement is attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED, APPROVED, AND RESOLVED this 15th day of November 2022.

ATTEST:

Danyel Swint
Danyel Swint, TRMC, CITY SECRETARY

APPROVED:

K-R
Kevin Raines, MAYOR



THE STATE OF TEXAS
COUNTY OF FORT BEND

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

**INTERLOCAL AGREEMENT FOR COUNTY-MANAGED PROJECT FORT
BEND COUNTY PROJECT NO. 20124X – N. FAIRGROUNDS 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 City of Rosenberg, a municipal corporation and home-rule city of the State of Texas, situated in Fort Bend County, acting by and through its City Council, (“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, (“County”). The City and the County may be referred to collectively as the “Parties”.

RECITALS

WHEREAS, in 2020 the citizens of Fort Bend County voted to approve the issuance of general obligation bonds that allows the County to participate with other local governmental entities to fund certain regional street and road improvements and associated drainage facilities (“Mobility Projects”) that are funded in part by the state or federal government; and

WHEREAS, the project contemplated in this Agreement is the construction or roadway improvements that will enhance the traffic flow/circulation and drainage in the service area, and such Project is desired by the City and the County; and

WHEREAS, the County may not expend proceeds of bond issues or taxes levied pursuant to Article III, Section 52 (b) or (c) of the Texas Constitution on city streets that are not integral parts of or connecting links with county roads or state highways in accordance with Section 251.12 of the TEXAS TRANSPORTATION CODE; and

WHEREAS, the Parties assert that the Project, as defined below, is part of a city street that is an integral part of or a connecting link with county roads or state highways in accordance with Section 251.012 of the TEXAS TRANSPORTATION CODE; and

WHEREAS, the Commissioners Court of Fort Bend County finds that the Project contemplated in this Agreement serves a County purpose; and

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

WHEREAS, the governing bodies of the City and 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. Purpose

The purpose of this Agreement is to outline the funding obligations related to an upgrade to an existing water line related to improvements to Fairgrounds Road.

Section 2. Definitions

A. **City** means the City of Rosenberg, Texas.

B. **County** means Fort Bend County, Texas.

C. **Project** means the paving and drainage improvements to N. Fairgrounds Road in accordance with the approved plans (N. FAIRGROUNDS RD FROM IH-69 TO W. FAIRGROUNDS ROAD dated 7/25/2022 prepared by Binkley & Barfield) including replacement and upgrade of an existing water line as a part of the proposed improvements to N. Fairgrounds Road and Epicenter driveway improvements along IH-69 in accordance with the approved plans (EPICENTER DRIVEWAYS AND RIGHT TURN LANE dated 5/08/2022 prepared by Binkley & Barfield) including the relocation of the Sanitary Sewer line along a portion of the IH 69 frontage road.

Section 3. Incorporation of Recitals

The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are incorporated into this Agreement.

Section 4. County's Rights and Obligations

A. The County is responsible for managing the design and overseeing the construction and completion of the Project and complying with the applicable state and federal laws.

B. In the event the County determines the Project lacks feasibility, or for any other reason elects to forego its construction, the County shall provide written notice to the City of such failure or its decision to forego construction. This Agreement shall automatically terminate upon the County's election to forego construction of the Project. Upon an election to terminate this Agreement under any circumstances, the County agrees to refund all amounts provided by the City, if any, upon thirty (30) days of said notice to the City.

C. The County shall submit reports to the City describing in sufficient detail the progress of the Project. These reports shall be submitted to the City at increments agreed to between the Parties as appropriate for the various phases of the Project. Reports received by the County from contractors detailing the progress of the Project shall suffice for the requirements of this section, so long as the County has reviewed such reports and confirmed accuracy of the contractor's report.

D. Upon completion of the Project, but no later than sixty (60) days after, the County will furnish the City with a full accounting of the funds expended on the Project and an electronic copy of the record drawings showing the Project as constructed.

E. If, after completion of Project and the County's receipt of the funds as stated in Section 5, there are funds remaining and/or savings from Project, the County shall return such funds to the City within thirty (30) days of the City's acceptance of full accounting required in Section 4.D. above.

Section 5. City's Rights and Obligations

A. The City's sole financial obligation under this Agreement is to pay the County for the actual construction costs of the Project related to the water line upgrade, minus the cost to replace the water line with a similar sized water line as currently exists, and further limited to the "Differential" dollar amount of \$114,468.10, as reflected in the cost estimate attached hereto as Exhibit "A" and incorporated herein for all purposes.

B. During the work on the Project, the City shall have the right to review all documents, maps, plats, records, photographs, reports and drawings affecting the construction and to inspect the work in progress. Any deficiencies brought to the attention of the County by the City shall be promptly addressed by the County.

C. The City shall have the right to participate in the final inspection of the Project. At that time, any deficiencies noted by the City shall be promptly addressed by the County.

D. Within thirty (30) calendar days of the City's receipt of the County's request for payment and prior to the award of the construction contract, the City shall pay the County the estimated amount for all costs of the Project related to the water line upgrade. The City shall have the option to reject the construction bid prior to the award of the construction contract if the lowest bid is more than five percent (5%) above the estimate attached hereto as Exhibit "A"; or the County, at its sole discretion, may elect to forego construction of the Project prior to the award of the construction contract.

E. If, after completion of Project and the County's receipt of the funds as stated in Section 5, the actual costs of the Project related to the water line upgrade as described in 5.A. above are determined to be in excess of the estimated amount submitted by the City, the City shall pay the County for all costs owed due to difference between estimated and actual costs within thirty (30) days of the City's acceptance of full accounting required in Section 4.D. above.

Section 6. Liability

The City and County are entitled to the immunities and defenses of the Texas Tort Claims Act. Nothing in the Agreement shall be construed to waive either party's sovereign immunity.

Section 7. Maintenance

The City shall maintain the water line and the N. Fairgrounds Road improvements as a part of the Project upon completion. The City shall maintain the relocated Sanitary Sewer as part of the Project upon completion.

Section 8. Limit of Appropriation

Each party paying for the performance of its obligations under this Agreement shall make those payments from current revenues available to that party.

Section 9. Insurance Requirements

County agrees that it will require its construction 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).

C. 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.

D. County may require insurance in excess of the amount of coverage set out above, as it deems necessary, in such cases City shall remain an additional insured. County will provide City with proof of insurance within thirty (30) days of County’s award of the contract for the Project construction.

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 Attention: County Judge 401 Jackson Street, 1 st Floor Richmond, Texas 77469
With a copy to:	Fort Bend County Engineering Department Attention: County Engineer 301 Jackson Street Richmond, Texas 77469
City:	City of Rosenberg, Texas Attention: City Manager P.O. Box 32 Rosenberg, Texas 77471

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. 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.

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 (i.) September 30, 2023, (ii.) the Project is complete, or (iii.) the Agreement is terminated otherwise as provided herein; and the obligations under Sections 4 and 5 of this Agreement are fulfilled, whichever is soonest.

FORT BEND COUNTY, TEXAS

CITY OF ROSENBERG, TEXAS

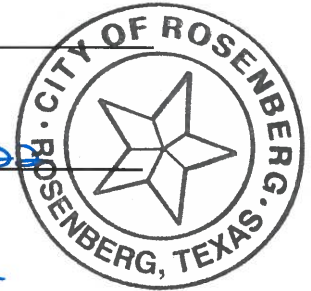
KP George, County Judge

K-R

Kevin Raines, Mayor

Date _____

Date: *11/15/2022*



ATTEST:

Laura Richard, County Clerk

ATTEST:
Danyel Swint

Danyel Swint, City Secretary

APPROVED: *J. Stacy Slawinski*

J. Stacy Slawinski, P.E., County Engineer

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 the terms of this Agreement.

Robert Ed Sturdivant, Fort Bend County Auditor

EXHIBIT A

ITEM	DESCRIPTION	Quantity	Unit Cost in Bid	Total Cost
Alternative Quantities if Waterline is replaced in kind				
143	8-Inch Diameter PVC Water Line, Open-Cut (LF)	2,442	\$ 54.49	\$ 133,064.58
145A	8-Inch Diameter PVC Water Line With 16" Steel Casing, Trenchless (LF)	350	\$ 294.45	\$ 103,057.50
148	8" GATE VALVE (EA)	6	\$1,983.75	\$ 11,902.50
TOTAL COSTS				\$ 248,024.58
Change in Items to upgrade Waterline				
142	6-Inch Diameter PVC Water Line, Open-Cut (LF)	185	\$ 36.82	\$ 6,811.70
144	12-Inch Diameter PVC Water Line, Open-Cut (LF)	2,442	\$ 83.09	\$ 202,905.78
146	12-Inch Diameter PVC Water Line With 20" Steel Casing, Trenchless (LF)	350	\$ 373.75	\$ 130,812.50
149	12" GATE VALVE (EA)	6	\$3,660.45	\$ 21,962.70
TOTAL COSTS				\$ 362,492.68
Differential				\$ 114,468.10