

THE STATE OF TEXAS	§	
	§	KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF FORT BEND	§	

**INTERLOCAL AGREEMENT FOR DISTRICT-MANAGED MOBILITY
PROJECT FORT BEND COUNTY PROJECT NO. 17205—SIENNA
PARKWAY INTERSECTIONS**

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 Missouri City, a municipal corporation and home-rule city of the State of Texas, principally situated in Fort Bend County, acting by and through its City Council, (“City”); Fort Bend County, a body corporate and politic under the laws of the State of Texas, acting by and through its Commissioners Court, (“County”); and the Sienna Management District, a special district created under the laws of the State of Texas, acting by and through its Board of Directors (“District”). The City, County, and District may be referred to collectively as the "Parties".

RECITALS

WHEREAS, in 2017 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 of 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 251.012 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 District was created by the Texas Legislature to, in relevant part, develop or expand transportation and commerce and the Board of Directors of the District desires to further the construction elements of the project contemplated in this Agreement; and

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

WHEREAS, the governing bodies of the Parties 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 the improvements to intersections along Sienna Parkway.

Section 2. Definitions

- A. **City** means the City of Missouri City, Texas.
- B. **City Holiday** means New Year’s Day, Martin Luther King Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the Friday thereafter, Christmas Eve, and Christmas Day, on the dates such holidays are observed by the City on any given year.
- C. **County** means Fort Bend County, Texas.
- D. **District** means the Sienna Management District.
- E. **Project** means improvements to intersections along Sienna Parkway, including but not limited to additional turn lanes at Trammel Fresno Road, Sienna Springs Boulevard, Watts Plantation Road, Sienna Ranch Road, McKeever Road, Harvest Market, and other locations along Sienna Parkway identified based on a detailed traffic study performed for the corridor.
- F. **Eligible Project Costs** means costs, as determined by County, construction of the Project, Project-related drainage facilities, utility and pipeline conflicts, approved traffic control devices, and sidewalks up to eight feet (8’) wide. Except for utility conflicts created by the construction of Project elements, and design and construction costs of upgrades to eligible project components and similar facilities requested by the City, to be included in the Project, Eligible Project Costs shall exclude engineering and design and services related to the completion of Plans, Specifications and Estimates (“PS&E”), design and construction costs related to landscaping, irrigation, lighting, hike & bike trails, and reconstruction of utilities.

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’s sole obligation under this Agreement is to provide the funding for Eligible Project Costs to the City as specified in this Section 7 herein. The County agrees to pay the District an amount equal to the lesser of the following:
 - (1) Fifty Percent (50%) of Eligible Project Costs; or
 - (2) \$2,020,000.00
- B. The County is not obligated to expend any further funds above \$2,020,000.00 on

the Project from the 2017 General Obligation Bonds or any other sources of funding, nor shall the County's share of the Project exceed fifty percent (50%) of the cost of Eligible Project Costs.

C. Should the District fail to initiate Project construction by the date provided below, or elect to forego construction for any reason, the County shall have, within its sole discretion to exercise, the right to re-allocate its contribution as it determines appropriate.

Section 5. District's Rights and Obligations

A. The District shall serve as the "contract administrator" for the Project, responsible for the solicitation of bids for a general contractor to perform all construction services in relation to the Project, awarding such construction contract, and overseeing the construction and completion of the Project and complying with the applicable state and federal laws.

B. The District shall be responsible for the Eligible Project Costs not paid by the County under this Agreement in an amount not to exceed \$3,222,600.

C. The District agrees to award the construction contract for a general contractor for the Project no later than ninety (90) days from the date of payment by the County under this Agreement.

D. Before initiating construction of the Project, the District shall coordinate with the City to establish in writing regular hours of business in which construction activity may occur to any work done in connection with the Project. District shall also coordinate with the City to establish permissible times that construction activity may be undertaken in connection with the Project on any Saturday or Sunday, or any City Holiday.

E. District will forward to the City and County sufficient detail for the County to review the low bidder submittal.

F. The District acknowledges that the improvements constructed under this Agreement, except those specifically identified as being County facilities, are otherwise the City's public infrastructure and shall be operated and maintained by the City.

G. In the event the District fails to initiate Project construction within the time prescribed above, determines the Project lacks feasibility, or for any other reason elects to forego its construction, the District shall provide written notice to the the other Parties of such failure or its decision to forego construction. This Agreement shall automatically terminate upon the District's election to forego construction of the Project. However, in the case of the District's delay in initiating Project construction, the other Parties shall have the option to proceed with its obligations under this Agreement, and the City, at its sole discretion, may obtain the rights and obligations granted to District by this Agreement, including receipt or reimbursement of any Project funding from County that had previously been disbursed or is scheduled to be disbursed henceforth. Upon an election to terminate this Agreement under any circumstances, District agrees to refund all amounts provided by County, if any, upon thirty (30) days of said notice to the County.

H. The District shall submit reports to the other Parties describing in sufficient detail the progress of the Project. These reports shall be submitted to County and City at increments agreed to between the Parties as appropriate for the various phases of the Project, but if no

alternate agreements are made in writing, the reports shall be submitted on a quarterly basis. Reports received by the District from contractors detailing the progress of the Project shall suffice for the requirements of this section, so long as the District has reviewed such reports and confirmed accuracy of the contractor's report.

I. The District will submit the plans for the Project to the City's Director of Public Works or his designee for review, and the County Engineer and for review in accordance with the 2017 General Obligation Bond requirements for the Project. During the work on the Project, the County and City may review the documents, maps, plats, records, photographs, reports, and drawings pertaining to the Project and the City may inspect the work in progress, provided that it does not interfere with the work.

J. The District shall ensure that all construction activity is undertaken in compliance with all applicable state, federal, and local laws, rules, regulations, orders, and ordinances, and the work resulting therefrom comports with same, as well as building and infrastructure standards found in, but not limited to, the Code of Ordinances of the City of Missouri City, the Public Infrastructure Design Manual of the City of Missouri City, any applicable guidance for erecting uniform traffic control devices.

K. The District shall provide County and City with at least seven (7) days' notice of:

1. any plan or design changes and project sequencing for construction, including potential road closures, and to the extent such road closures are necessary, shall work with the appropriate authority to effectuate such closures; and
2. all Project-related meetings and key Project milestones, including but not limited to award of bid, any pre-construction meeting(s), any progress meeting(s), and any periodic or final inspection.

L. Upon completion of the Project, but no later than sixty (60) days after, the District will furnish the other Parties with a full accounting of the funds expended on the Project and an electronic copy of the record drawings showing the Project as constructed. The County Auditor and the City's chief financial services officer or her designee may review the District records regarding this Project.

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

Section 6. City's Rights and Obligations

A. During the work on the Project, 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, provided however, that in conducting such inspections, City shall not interfere with the work in progress. Any deficiencies brought to the attention of the Parties by

the City shall be promptly addressed by District.

B. City shall have the right to participate in any progress inspection and the final inspection of the Project. District shall notify City of the schedule for any such inspection of the Project and City shall notify District of its intention to participate in the final inspection within 48 (forty-eight) hours of receipt of said notice. At that time, any deficiencies noted by City shall be promptly addressed by District, within a reasonable time.

Section 7. Payment

Upon execution of this Agreement, the County will forward the amount of funds detailed in Section 4. A(2), above to the District within thirty (30) days thereafter. To the extent that the cost of Project construction is less than such amount, District shall return any unused funds in accordance with Section 5.M. herein.

Section 8. Liability

The Parties hereto are entitled to the immunities and defenses of the Texas Tort Claims Act. Nothing in the Agreement shall be construed to waive each or any party's sovereign immunity.

Section 9. Maintenance

Upon completion of the Project, the City shall maintain the portion of the Project within its jurisdiction.

Section 10. Limit of Appropriation

A. Prior to the execution of this Agreement, the District and the City have been advised by the County, and such parties clearly understand and agree, such understanding and agreement being of the absolute essence to this Agreement, that the County shall have available the total maximum amount of (i.) Fifty Percent (50%) of Eligible Project Costs, or (ii.) \$2,020,000.00, WHICHEVER AMOUNT IS LESS.

B. The District and the City do further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum funding that the District or the City may become entitled to hereunder and the total maximum amount that the County will reimburse the District hereunder will not under any condition, circumstance or interpretation hereof exceed Fifty Percent (50%) of Eligible Project Costs or \$2,020,000.00, WHICHEVER AMOUNT IS LESS.

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

Section 11. Insurance Requirements

District agrees that it will require Contractor's insurance policies name all Parties hereto 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. District may require insurance in excess of the amount of coverage set out above, as it deems necessary, in such cases County and City shall remain an additional insured. District will provide County and City with proof of insurance within thirty (30) days of District’s award of the contract for the Project construction.

Section 12. 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 parties.

Section 13. 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 14. 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, 1st 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 Missouri City, Texas
Attention: City Manager
1522 Texas Parkway
Missouri City, Texas 77489

District: Sienna Management
District
c/o Angie Lutz

Allen Boone Humphries
Robinson LLP
3200 Southwest Freeway,
Suite 2600
Houston, Texas 77027

Section 15. 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 16. Execution

This Agreement has been executed by the Parties 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 sooner.

[SIGNATURES ON FOLLOWING PAGE]

FORT BEND COUNTY, TEXAS

KP George, County Judge

Date: _____

ATTEST:

Laura Richard, County Clerk

CITY OF MISSOURI CITY, TEXAS

DocuSigned by:
Robin J. Elackatt

Robin J. Elackatt, Mayor

Date: 3/15/2023

ATTEST:

DocuSigned by:
Crystal Roan

Crystal Roan, City Secretary

SIENNA MANAGEMENT DISTRICT

Name: _____

Date: _____

ATTEST:

Name: _____

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

FORT BEND COUNTY, TEXAS

CITY OF MISSOURI CITY, TEXAS

KP George, County Judge

Robin J. Elackatt, Mayor

Date: _____

Date: _____

ATTEST:

ATTEST:

Laura Richard, County Clerk

Crystal Roan, City Secretary

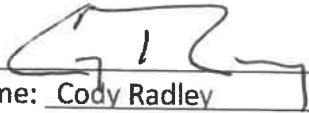
SIENNA MANAGEMENT DISTRICT



Name: Linda Bell

Date: October 6, 2022

ATTEST:



Name: Cody Radley

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