

INTERLOCAL AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This Interlocal Agreement (“Agreement”) is made and entered into by and between Fort Bend County, Texas (“County”), a political subdivision of the state of Texas, acting by and through its Commissioners Court, and Big Oaks Municipal Utility District (“District”), a special district organized under the laws of the state of Texas, acting by and through its Board of Directors. County and District may be collectively referred to as the “Parties” and each individually a “Party.”

Whereas, this Agreement is entered into pursuant to Chapter 791 of the Texas Government Code which authorizes interlocal cooperation contracts between governmental entities; and

WHEREAS, County maintains and holds a public road right-of-way on Talladega Springs Ln and Austin Oak Ln located in Section 9 of the Twin Oaks Village Subdivision (“Subdivision”), Precinct 4, of Fort Bend County, Texas; and

WHEREAS, District manages and maintains all drainage and flood control measures in the Subdivision; and

WHEREAS, District desires to make certain drainage improvements (the “Improvements”) to a portion of Talladega Springs Ln and Austin Oak Ln, including the installation of a grate inlet, which Improvements are described and/or depicted on Exhibit A attached hereto and incorporated by reference for all intents and purposes; and

WHEREAS, the installation of the Improvements will serve a public purpose; and

WHEREAS, by execution of this Agreement, County and District desire to clearly establish the responsibility for the construction and perpetual maintenance of said Improvements and the portion of the road in which the Improvements are installed.

NOW, THEREFORE, in consideration of the mutual promises, covenants, obligations, and mutual benefits, the Parties hereto agree as follows:

1. **Rights and Responsibilities of District.**
 - (A) District shall be solely responsible for the construction, installation, maintenance, and repair of the Improvements at no cost to County. Prior to the commencement of any construction or installation activity, plans for the Improvements must be reviewed and approved in writing by County. The Improvements shall be installed only within that certain portion of Talladega Springs Ln and Austin Oak Ln (hereinafter, the “Right-of-Way”) which is depicted as the shaded area on the Subdivision plat attached hereto as Exhibit B and incorporated herein and further described as follows:

Said Right-of-Way to begin at a point in the North East corner of Lot 19 and the South right-of-way line of Austin Oak Ln.; thence in a Westerly direction along the South right-of-way line of Austin Oak Ln to a point for a curve; thence continuing along the curve of the right-of-way line (also referenced as curves C21, C22, C23, and C24) and the boundary line for Lots 18, 17, 16, and 15 to a point in the North East corner of Lot 15; thence in a Northerly direction along the Western right-of-way line of Talladega Springs Ln to the North East Corner of Lot 14; thence East 60 linear feet across the right-of-way of Talladega Springs Ln to a point on the Western boundary line of Lot 10; thence in a Southerly direction along the Eastern right-of-way line of Talladega Springs Ln and the Western boundary line of Lot 10 to a point for a curve; thence continuing along the curve of the right-of-way line (also referenced as curve C48) to a point in the Northern right-of-way line of Austin Oak Ln and Southern boundary line of Lot 10; thence in an Easterly direction along the Northern right-of-way line of Austin Oak Ln and Southern boundary line of Lot 10 to a point in the South East corner of Lot 10; thence South 60 linear feet across the right-of-way of Austin Oak Ln to the point of beginning at the North East Corner of Lot 19.

Prior to the construction and installation of any Improvements in the Right-of-Way, District shall submit for review and approval by County a summary of any and all proposed Improvements to be installed in the Right-of-Way. Upon completion of the construction and installation of the Improvements, District shall remain solely responsible for the perpetual Maintenance and Repair of said Improvements, and all costs associated thereof.

- (B) District acknowledges and agrees that the Improvements and materials to be installed in the Right-of-Way by District are non-standard improvements. As such, District shall be solely responsible for the perpetual Maintenance and Repair of the Right-of-Way, including any maintenance, repair, upkeep, resurfacing, or clearing required for any paved or unpaved portion of the Right-of-Way, and all costs associated thereof.
- (C) All Maintenance and Repair Work by District under this Agreement shall be performed in a good and workmanlike manner and in accordance with County standards prevailing at the time. District, upon completion of any Maintenance and Repair Work, shall clear away all tools, machinery, debris, and any materials from the Right-of-Way. If at any time, County determines that such Maintenance and Repair Work does not meet County standards, then County shall notify District in writing of such deficiency. Upon receipt of County's notice, District, at its sole cost and expense, shall cure such deficiency within sixty (60) days. With respect to the Improvements and the Right-of-Way, the

term “Maintenance and Repair Work” includes, but is not limited to, any activity of construction, installation, repair, maintenance, upkeep, clearing, grading, repaving, replacing, or resurfacing.

- (D) District agrees that it shall provide Maintenance and Repair Work to the Improvements and Right-of-Way as soon as reasonably practicable. Should any deficiencies in the Improvements or the Right-of-Way requiring maintenance or repair constitute an emergency or endanger the public in any way, District shall immediately notify County by telephone and in writing of such emergency or dangerous condition and shall thereafter implement interim safety measures until it can provide the necessary Maintenance and Repair Work. Such Maintenance and Repair Work shall commence no later than ninety (90) days from the date District becomes aware or reasonably should have become aware of the need for such repairs. Additionally, County, in its sole discretion, may provide interim safety measures on behalf of District without prior notice to District, if County determines that it is necessary to implement interim safety measures until such time as District can provide its own safety measures. District shall be responsible for all costs and expenses incurred by County in providing any interim safety measures on its behalf.
- (E) Except as provided in Section 1(D) above, District shall provide County with at least thirty (30) days written notice of its intent to perform any Maintenance and Repair Work on the Improvements or the Right-of-Way. District shall provide written documentation of such Maintenance and Repair Work to County within thirty (30) days of completion of such work.
- (F) District shall obtain written approval from County prior to obstructing or restricting the public’s use of the Right-of-Way. Such obstructions or restrictions to the Right-of-Way must be implemented in accordance with County regulations or standards and removed within a reasonable amount of time as determined by County.
- (G) In performing Maintenance and Repair Work under this Agreement, District shall follow necessary safety measures and shall take precautionary measure to prevent damage to persons and property. **ADDITIONALLY, DISTRICT SHALL PROCURE AND MAINTAIN LIABILITY INSURANCE WITH COVERAGE FOR PERSONAL INJURIES AND PROPERTY DAMAGE WITH LIMITS OF LIABILITY OF NOT LESS THAN ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00) AND SHALL FURNISH A CERTIFICATE OF INSURANCE FOR THE SAME SHOWING FORT BEND COUNTY, TEXAS AS AN ADDITIONAL INSURED.**
- (H) District understands and agrees that any construction activity or Maintenance and Repair Work performed by District under this Agreement is subject to District’s receipt of the necessary approvals and permits from County and any other governmental entity with jurisdiction. District further understands and agrees that any undertaking of effort to obtain such approvals and permits shall solely be the responsibility of District.

2. **Rights and Responsibilities of County.**

- (A) The Parties acknowledge and agree that County shall have no responsibility for the condition, repair, or maintenance of the Improvements or the Right-of-Way, or for any costs associated thereof. County does not agree and is not required under this Agreement to incur or reimburse any costs or expenses associated for Maintenance and Repair Work for the Improvements or the Right-of-Way.
- (B) Should County, based upon generally accepted traffic engineering principals, determine that any Improvements (or parts thereof) proposed or existing, within the Right-of-Way constitute an unusual threat to public road traffic, then District, upon written notice by County, and at the sole cost and expense of District, shall immediately repair or remove the Improvements (or parts thereof) from the Right-of-Way and restore the Right-of-Way to a condition reasonably acceptable to County.
- (C) Should County determine that District has failed to perform its obligations under this Agreement, County shall notify District in writing specifying the deficiency and shall allow District sixty (60) days to cure the same. If District fails to cure the deficiency specified by County in its notice, then County, in its sole discretion, and at the sole cost and expense of District, may either cure the deficiency or require District to remove the Improvements and restore the Right-of-Way to a condition reasonably acceptable to County.
- (D) Neither the execution of this Agreement or any Maintenance or Repair Work by District hereunder shall be construed as an abandonment of the Right-of-Way by County under Chapter 251 of the Texas Transportation Code.

3. **Notice.** All notices, requests, demands, and other communications under this Agreement shall be given by electronic mail AND either (i) overnight courier, (ii) hand delivered, or (iii) certified mail, return receipt requested addressed as follows:

If to County: Fort Bend County, Texas
Attn: Chief Engineer
301 Jackson Street
Richmond, Texas 77469
Email: Rick.Staigle@fortbendcountytexas.gov

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

If to District: Big Oaks Municipal Utility District
c/o Coats | Rose, P.C.
Attn: John G. Cannon
9 Greenway Plaza, Suite 1000
Houston, Texas 77046
Email: jcannon@coatsrose.com

4. **Force Majeure.** District shall not be liable to County for any delay or inability to carry out its obligations under this Agreement if such delay or inability is the result of a Force Majeure Event. Within a reasonable time after the occurrence of such event, District shall notify County in writing stating the nature of the event and the anticipated duration. District's obligations under this Agreement shall be suspended during the continuance of any delay or inability caused by the event, but for no longer period. District shall further endeavor to remove or overcome such delay or inability as soon as is reasonably possible. For purposes of this Agreement, a Force Majeure Event includes, but is not limited to: strikes or other labor disputes, severe weather disruptions, natural disasters, fire or other acts of God; riots, war, or other emergencies; failure of any governmental agency to act in a timely manner; the discovery of any hazardous substance or differing and unforeseeable site conditions; and any other incapacities, similar to those enumerated, which are not within the control of District, which such District could not have avoided by the reasonable exercise of due diligence and care.
5. **Indemnity.** TO THE EXTENT ALLOWED BY LAW, DISTRICT SHALL INDEMNIFY AND HOLD COUNTY HARMLESS FROM ANY AND ALL CLAIMS, SUITS, OR CAUSES OF ACTION, WHETHER FOR PERSONAL INJURY OR PROPERTY DAMAGE, ARISING OUT OF OR RELATED TO ANY ACTION OR FAILURE TO ACT BY DISTRICT, ITS OFFICERS, AGENTS, EMPLOYEES, SUCCESSORS, OR ASSIGNS WITH RESPECT TO THE DESIGN, CONSTRUCTION, AND INSTALLATION OF THE IMPROVEMENTS MAINTENANCE AND REPAIR WORK TO THE IMPROVEMENTS OR THE RIGHT-OF-WAY BY DISTRICT HEREUNDER.
6. **Assignment.** District may not assign its rights, duties, or obligations hereunder, without the prior written consent of County, which consent shall not be unreasonably withheld.
7. **Term.**
 - (A) Unless sooner terminated as provided herein, the term of this Agreement shall commence upon the last date of execution by the Parties and shall thereafter continue in effect perpetually.
 - (B) This Agreement may be terminated by either one of the following conditions:
 - (1) By mutual written consent of both Parties; or

- (2) Upon removal of the Improvements and restoration of the Right-of-Way by District under Sections 2(B) or 2(C) above; or
 - (3) Upon abandonment of the Right-of-Way by County under Chapter 251 of the Texas Transportation Code.
- (C) Upon termination of this Agreement hereunder, District shall have no further maintenance or repair responsibility for the Right-of-Way.
- 8. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and may not be altered except by written agreement made by the Parties hereto.
- 9. The parties each bind themselves and their successors and assigns to the other Party and to the successors and assigns of such other Party, with respect to all covenants of this Agreement.
- 10. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained.
- 11. Any legal issue or action arising under this Agreement shall be construed under the laws of the State of Texas and venue shall lie in Fort Bend County, Texas.
- 12. Neither the execution of this Agreement nor any conduct of either Party relating to this Agreement shall be considered a waiver or surrender by County or District of their governmental powers or immunity under the Texas Constitution or the laws of the state of Texas.
- 13. This Agreement may be executed in multiple counterparts, each having equal force and effect of an original, and shall become binding and effective only after it has been authorized and approved by the governing bodies of all Parties, as evidenced by the signature of the appropriate authority.

{Execution Page Follows}

SIGNED this _____ day of _____, 2023

FORT BEND COUNTY, TEXAS

KP GEORGE,
COUNTY JUDGE

ATTEST:

LAURA RICHARD,
COUNTY CLERK

APPROVED:

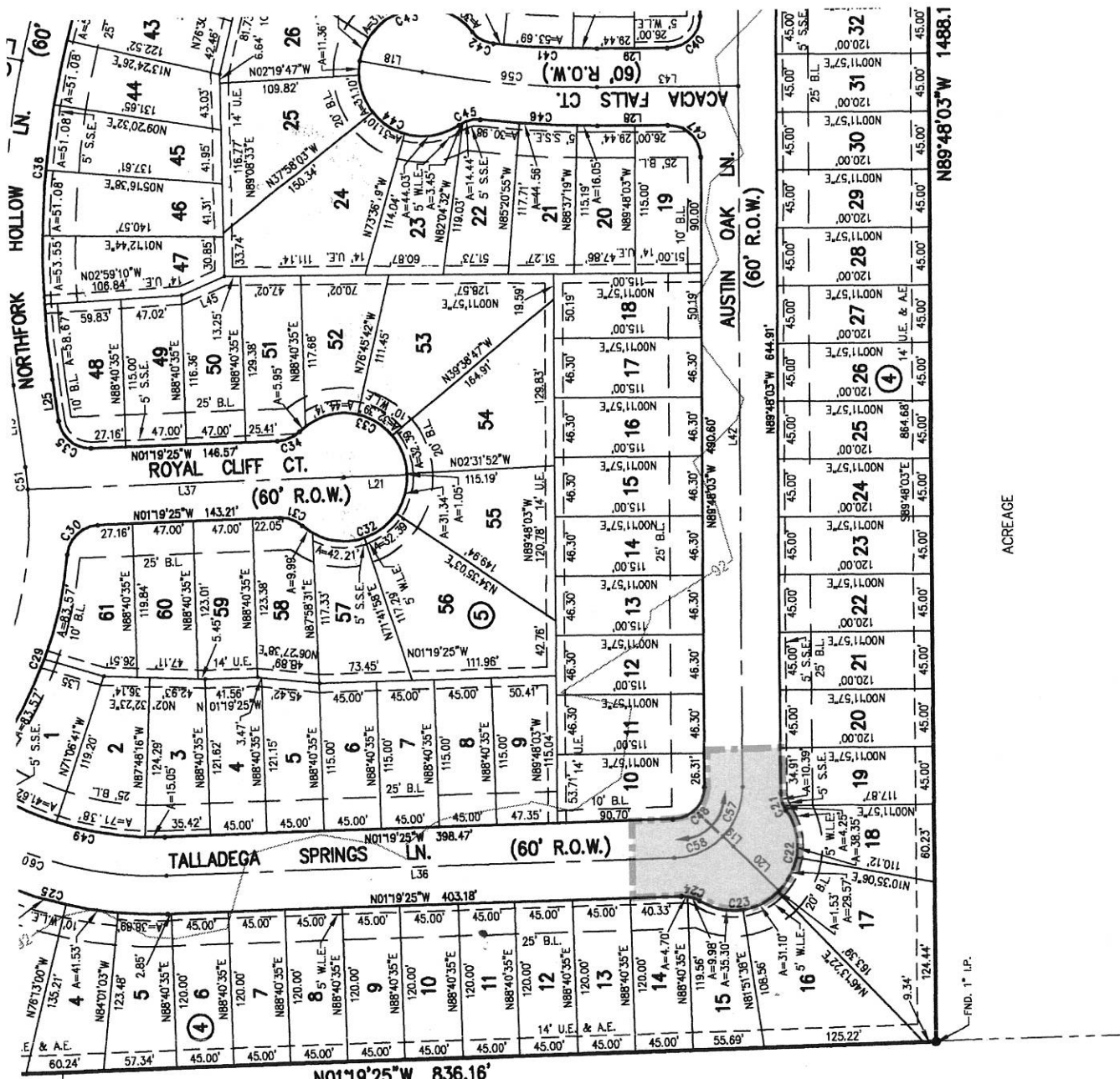


J. STACY SLAWINSKI, P.E.,
COUNTY ENGINEER

EXHIBIT A
(Follows Behind)



EXHIBIT B
(Follows Behind)



N01°19'25\" W 836.16'

300.00 ACRE TRACT
 TO
 DALLAS SAND &
 GRAVEL COMPANY
 TEXAS INDUSTRIES, INC.
 VOL. 506, PG. 762 D.R.F.B.C.

ACREAGE

ACREAGE

N89°48'03\" W 1488.1

FND. 1\" I.P.