

INTERLOCAL PROJECT 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 (the "County"), a political subdivision of the state of Texas, and the Village of Fairchilds (the "Local Government"), a local government or local government corporation established under the laws of the state of Texas. County and Local Government 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, the Interlocal Cooperation Act (the "Act"), which authorizes local governments to contract with one another to provide governmental functions, mutual aid, and services under the terms of the Act; and

WHEREAS, on or about October 6, 2009, County and Local Government entered into that certain Primary Interlocal Agreement wherein the Parties each agreed to assist the other with certain governmental functions and services on a "project by project" basis; and

WHEREAS, the purpose of this Agreement is to establish the rights and responsibilities of the Parties hereto for certain projects coordinated between County, acting by and through the Fort Bend County Road and Bridge Department, and the Local Government; and

WHEREAS, the project described in this Agreement is a governmental function and service of County and Local Government under the Act; and

WHEREAS, the Parties have determined that said project would be in the best interest of County and Local Government, and to the inhabitants thereof, and would serve a public purpose and benefit; and

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

1. **Purpose and Project Description.** The purpose of this Agreement is to improve the roadway surfaces of certain Local Government streets and roadways by rebuilding and resurfacing said streets and roadways with Type D asphalt (the "Project").
2. **Project Location.** The location(s) of the Project is Megan Road and Needville Fairchilds Road from Oberrender to FM 361 ("Project Site").

3. Term.

- (A) Unless sooner terminated as provided herein, the Term of this Agreement shall begin on the date of execution by the last Party hereto and shall expire the sooner of 11:59 p.m. of September 30, 2024 or upon completion of the Project.
- (B) This Agreement may be terminated by either Party, with or without cause, upon ten (10) calendar days written notice to the other Party.

4. Rights and Responsibilities of County.

- (A) County, at its sole cost and expense, shall provide the following:
 - (1) Up to 375 equipment hours at a rate of \$35.00 per hour
 - (2) Up to 931 man hours of labor at a rate of \$15.00 per hour
 - (3) Up to \$243,632.86 in materials
- (B) Except as otherwise determined and agreed to in writing by the Parties under Section 5(B) of this Agreement, County, at its sole cost and expense, shall further provide the following:
 - (1) All labor, equipment, and materials necessary to complete the Project except as provided by Section 5(A) of this Agreement.
 - (2) Appropriate supervisory personnel to coordinate the efforts of County and/or Local Government personnel as necessary.
 - (3) All labor and personnel necessary to load and haul away any debris or excavated materials from the Project Site.
 - (4) All surveys and construction and design plans necessary for the Project.
 - (5) All necessary flagmen, barricades, traffic devices, and traffic control for the Project.
- (C) County's total expenditure for the Project under this Agreement shall not exceed the amount of: Two Hundred Seventy Thousand Seven Hundred Twenty Two and 86/100 Dollars (\$270,722.86).
- (D) County, upon reasonable notice to the Local Government, shall have the right to do all things that, in County's opinion, are reasonably necessary to accomplish and

complete the Project, including the parking of trucks, equipment, and/or machinery on Local Government streets or roadways.

- (E) County shall not be liable for any delay of the Project.
- (F) County shall clear away from the Project site any debris generated from the Project and/or any tools, machinery, and equipment used for the Project.
- (G) County shall complete all work for the Project in a good and workman like manner as measured by County's usual and customary practices.

5. Rights and Responsibilities of Local Government.

- (A) Local Government, at its sole cost and expense, shall provide the following:
 - (1) Upon invoice by the County, reimburse the County in the amount of \$21,500.00 concerning the cost of materials
- (B) The Parties may determine that Local Government should provide one or more of the items or tasks provided in Section 5(B)(1) – 5(B)(8) as necessary for the Project. If such a determination is made, then Local Government shall provide such item(s) or task(s) at its sole cost and expense as follows:
 - (1) Any labor, equipment, and materials necessary to perform its responsibilities under the Agreement.
 - (2) All appropriate supervisory personnel to coordinate the efforts of County and Local Government personnel.
 - (3) All materials necessary for the Project. Such materials shall be in an amount sufficient to allow County personnel to work in a continuous and uninterrupted manner.
 - (4) All labor and equipment, including any trucks, necessary to load and haul away any debris or excavated materials. Such labor, equipment, and trucks shall be in an amount sufficient to allow County personnel to work in a continuous and uninterrupted manner.
 - (5) All design and construction plans for the Project prior to the commencement of the Project. Such plans shall be provided to County prior to the commencement of the Project and shall include the establishment of any grades, the size of any channels, and any associated structures the County is responsible for constructing. Such plans shall also include an initial on-ground survey alignment, ditch cross sections, and one

- (1) or more elevation benchmarks on the Project Site. Such work shall be provided prior to the commencement of the Project.
- (6) Any permits and/or permissions required for the Project, including NPDES or TPDES permits.
- (7) All personnel necessary to implement the provisions of such permits as required by Section 5(B)6 above.
- (8) All necessary flagmen, barricades, traffic devices, and traffic control for the Project.
- (C) Local Government, at any time during the term of this Agreement, shall have the right to enter the Project Site and inspect the work performed by County for the Project.
- (D) Within ten (10) calendar days of completion of the Project, Local Government shall notify County in writing of any complaints regarding the quality of workmanship by County for the Project.
- (E) Upon the expiration or termination of this Agreement as provided in Section 3 above, Local Government, at its sole cost and expense, shall be responsible for the maintenance and upkeep of the Project.
6. **Availability of Funds.** The Parties to this Agreement represent that funds are available from their respective budgets for the current fiscal year for payment of their respective obligations under this Agreement.
7. **Notice.** Any and all notices required or permitted under this Agreement shall be in writing and shall be properly addressed and sent via personal delivery, US first class postage prepaid, registered or certified mail, return receipt requested, Federal Express, Express Mail, or other overnight delivery service as follows:

If to County: Fort Bend County Road and Bridge Department
Attn: Road Commissioner
P.O. Box 148
Richmond, Texas 7406-0148

And

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

If to Local Government: Village of Fairchilds
Attn: Mayor Lance Bertolino
8713 Fairchilds Road
Richmond, Texas 77469

Within five (5) business days of the Effective Date of this Agreement, each Party to this Agreement shall designate in writing to the other Party one person and one alternate person to be that Party's designated spokesperson for communications between the Parties.

8. **Interpretation Dispute.** The Parties agree to cooperate in good faith to fulfill their obligations under this Agreement. The Parties further agree that they will attempt, in good faith, to resolve any disputes concerning the interpretation of this Agreement and unforeseen questions and/or difficulties which may arise. If such dispute is not resolved within ten (10) business days, or within such time as agreed to by the Parties, the dispute shall be referred to the Fort Bend County Road Commissioner for final determination and resolution of the dispute.
9. **Entire Agreement and Modification.** This Agreement constitutes the entire Agreement between the Parties and supersedes any and all previous agreements, written or oral, pertaining to the subject matter of this Agreement. This Agreement may only be amended or modified by written agreement executed by both Parties.
10. **Understanding of the Agreement.** This Agreement constitutes a legal document and has been prepared and approved as to legal form by the Fort Bend County Attorney's Office on behalf of its client, Fort Bend County, Texas. Local Government should not rely on this approval by the County Attorney's Office and should consult with their own legal counsel should they have any questions pertaining to this Agreement. Further, by execution of this Agreement, the Parties acknowledge that they have read and understood each provision, term, and obligation contained herein.
11. **No Waiver of Immunity.** Neither the execution of this Agreement nor any other conduct of either Party to this Agreement shall be considered a waiver or surrender of its governmental powers or immunity under the Texas Constitution or the laws of the State of Texas. **TO THE EXTENT ALLOWED BY LAW, LOCAL GOVERNMENT AGREES TO INDEMNIFY AND HOLD COUNTY HARMLESS FOR ALL CLAIMS, DAMAGES, AND LIABILITIES WHICH MAY BE IMPOSED BY LAW UPON LOCAL GOVERNMENT FOR ACTS OF OMISSION OR COMMISSION BY LOCAL GOVERNMENT DURING THE TERM OF THIS AGREEMENT.**
12. **Benefit.** This Agreement shall be for the sole and exclusive benefit of County and Local Government and shall not be construed to confer any benefit or right upon any other party.

13. **Applicable Law and Venue.** This Agreement shall be construed according to the laws of the state of Texas. Venue for any claim arising out of or relating to the subject matter of this Agreement shall lie in a court of competent jurisdiction of Fort Bend County, Texas.
14. **Assignment.** Neither Party may assign its rights, duties, or obligations hereunder, without the prior written consent of the other, which consent shall not be unreasonably withheld.
15. **Severability.** 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, or 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 herein.
16. **Effective Date.** The Effective Date of this Agreement shall be the date this Agreement is signed by the last Party hereto.
17. **Captions.** The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of the Agreement.
18. **Electronic and Digital Signatures.** The Parties to this Agreement agree that any electronic and/or digital signatures of the Parties included in this Agreement are intended to authenticate this writing and shall have the same force and effect as the use of manual signatures.
19. **Multiple Counterparts.** This Agreement may be executed in multiple counterparts, each having equal force and effect of an original.
20. **Authorization.** This Agreement shall become binding and effective only after it has been authorized and approved by the governing bodies of each Party, as evidenced by the signature of the appropriate authority. Each Party further represents that, by execution of this Agreement, it has been duly authorized by its governing body or other appropriate authority from whom such Party is legally bound to obtain authorization.
21. **Human Trafficking.** BY ACCEPTANCE OF THIS AGREEMENT, LOCAL GOVERNMENT ACKNOWLEDGES THAT FORT BEND COUNTY, TEXAS IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.

{Execution Pages Follow}

SIGNED AND ENTERED this _____ day of _____, 2023.

FORT BEND COUNTY, TEXAS

KP GEORGE,
COUNTY JUDGE

ATTEST:

LAURA RICHARD,
COUNTY CLERK

APPROVED AS TO FORM:



SCOTT WIEGHAT,
FORT BEND COUNTY ROAD COMMISSIONER

APPROVED AS TO LEGAL FORM:



ANDREW WIPKE
ASSISTANT COUNTY ATTORNEY

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$270,722.86 to accomplish and pay the obligation of Fort Bend County, Texas under this Agreement.

Robert E. Sturdivant,
County Auditor

SIGNED AND ENTERED this 17 day of AUGUST, 2023 by Local Government.

Village of Fairchild:

By: [Signature]
Name: LANE J. BERTOLINO
Title: MAYOR

ATTEST:

By: [Signature]
Name: Tanis Vacek
Title: Secretary

