

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

**AMENDED AND RESTATED INTERLOCAL ADVANCE REIMBURSEMENT AGREEMENT
BETWEEN WEST FORT BEND WATER AUTHORITY AND FORT BEND COUNTY**

THIS AMENDED AND RESTATED AGREEMENT is made and entered into by and between **Fort Bend County**, (hereinafter "County"), a body corporate and politic under the laws of the State of Texas, and **West Fort Bend Water Authority** (hereinafter "Authority"), a political subdivision of the State of Texas under Subchapter A, Section 8878.002 of the Texas Special Districts Local Laws Code.

WHEREAS, since 2002, County has had an ongoing commitment to protecting water supplies and identifying possible water conservation and reuse alternatives in Fort Bend County;

WHEREAS, the Authority is a regional water authority created by the 79th Texas Legislature, in May 2015 primarily to facilitate compliance with the Fort Bend Subsidence District's groundwater reduction mandates by creating a viable single entity to acquire, develop and deliver a long term supply of potable surface water to the water users in the Authority's boundaries;

WHEREAS, this Agreement is entered into pursuant to the authority, under the provisions of, and in accordance with, Chapter 791 of the Texas Government Code, for the performance of governmental functions and services: specifically planning and developing strategies to avoid water supply shortfalls in Fort Bend County, a function in which the contracting parties are mutually interested;

WHEREAS, on December 15, 2015, the Parties entered into an Interlocal Advance Reimbursement Agreement (the "Original Agreement");

WHEREAS, the County has advanced pursuant to the Original Agreement funds to or on behalf of the Authority in the amount of \$340,000 for the purposes of funding its operational water supply planning and development activities (the "Original Advances"); and

WHEREAS, the Parties deem it to be in the best interest of both entities to enter into this Amended and Restated Interlocal Advance Reimbursement Agreement (the "Agreement") to amend and restate the Original Agreement in its entirety.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

- I. Advance Funding and Reimbursement for Approved Activities
- A. In addition to the Original Advances, the County hereby agrees to promptly advance funds to or on behalf of the Authority an additional amount not to exceed three hundred and forty thousand dollars and 00/100 (\$340,000.00) for the purposes of funding the operational expenses of the Authority (the "New Advances").
- B. It is expressly understood and agreed that advance funding for operational expenses is necessary for the Authority to perform their statutory responsibilities of assisting western and southern areas of Fort Bend County to plan for, finance, and obtain long-term water supplies and enable the adoption and implementation of a groundwater reduction plan and that the funds shall only be used for this purpose.
- C. The funds advanced by the County shall be deposited into a special fund designated the "West Fort Bend Water Authority Fund" in the County Treasury, or its successor. Funds may only be disbursed from the special fund upon approval of the Commissioners Court.
- D. As of the date of this Agreement, the following requirements shall apply to all expenditures by the Authority:
1. The Authority shall utilize the County's Purchasing Agent for the purchase of all goods and services.
 2. To the extent allowed by law, all expenditures by the Authority shall comply with Section 262 of the Texas Local Government Code and the Fort Bend County Purchasing Manual, attached and incorporated at Exhibit A to this Agreement.
 3. All reimbursable travel by Authority members shall comply with the most recently adopted Fort Bend County Travel Policy, attached and incorporated as Exhibit A to this Agreement.
- E. The Authority will repay the County all sums advanced to or on behalf of the Authority pursuant to the Original Agreement and this Agreement, plus interest at the rate of 2% per annum. The source of repayment shall be from water well pumpage fees, water sale fees, and any other applicable fees charged by the Authority, as authorized by Texas Special Districts Local Laws Code Section 8878.103.
- F. Repayment of all funds advanced under the Original Agreement and this Agreement, plus interest must be received no later than thirty-six months (36) after the date the Authority is authorized to charge fees pursuant to Texas Special Districts Local Laws Code Section 8878.103.

G. Payment(s) shall be made payable to Fort Bend County and shall be delivered to the Fort Bend County Treasurer, P.O.Box 1202, Richmond, Texas 77406-1202.

H. The Authority shall respond to all requests for documentation from the County Auditor without delay to ensure that proper accounting records for deposits and expenditures are appropriately documented with County.

II. Term of Agreement

The term of this Agreement begins upon signature of both Parties and shall continue until the date (the "Termination Date") on which the Authority has fully reimbursed the County for all amounts advanced to the Authority and interest on such amounts in accordance with Section IE of this Agreement.

III. Relationship of Parties

It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of co-partners between the Authority and the County, or as creating or establishing the relationship by either party as agent, representative, or employee of the other party for any purpose, or in any manner, whatsoever.

IV. Notice to Parties

A. Any notice given hereunder by either party to the other shall be in writing and sent by certified mail, return receipt requested.

B. Notice to County shall be sent to:

Notice to Fort Bend County
Attn: County Judge
401 Jackson
Richmond, Texas 77469

Notice to West Fort Bend Water
Authority Allen Boone Humphries
Robinson LLP
Attn: David Oliver
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027

C. Each party may change the address for notice to it by giving notice of such change in accordance with the provisions of this paragraph.

V. Benefit of Term, No Third-Party Rights

This Agreement is intended for the exclusive and sole benefit of the Authority and the County, and neither this Agreement nor any provision thereof shall be construed to confer or provide any benefit or right to any other person. By entering into this Agreement, the Parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in Parties not signatories hereto.

VI. Severability Clause

If any provision of this Agreement or any application hereof shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby.

VII. Governing Law and Venue

This Agreement shall be construed in accordance with and governed by the laws of the State of Texas. Venue for any legal actions arising out of this Agreement shall lie exclusively in Fort Bend County, Texas

VIII. Governmental Immunity

It is expressly understood and agreed that in the execution of this Agreement, the Parties hereto do not intend to waive, nor shall be deemed to waive, any immunity or defense at law or in equity, that would otherwise be available to each against claims arising in the exercise of governmental powers and functions including the defense of governmental immunity.

IX. Authorization

The undersigned officers and/or agents are properly authorized to execute this contract on behalf of the Parties hereto, and each hereby certifies to the other that any necessary resolution or order extending such authority have been duly passed and are now in full force and effect.

X. Interpretation

This Agreement has been jointly negotiated by the Parties and shall not be construed against a Party because that Party may have primarily assumed responsibility for the drafting of this Agreement.

XI. Amended and Restated Agreement

This Agreement amends, restates, supersedes and replaces in its entirety the Original Agreement as well as all prior amendments, modifications and supplements thereto.

XII. Multiple Counterparts

This Agreement may be simultaneously executed in several counterparts each of which shall be an original and all of which shall be considered fully executed as of the date when all Parties have executed an identical counterpart, notwithstanding that all signatures may not appear on the same counterpart.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed and their respective seals to be hereunto affixed and attested, as of the date and year noted below.

FORT BEND COUNTY:

K.P. George, Fort Bend County Judge

Date: _____

Attest:

Laura Richard, Fort Bend County Clerk

Date: _____

WEST FORT BEND WATER AUTHORITY:

Roland Adamson, President

Date: _____

Attest:

Jeff Haley, Secretary

Date: _____

AUDITOR'S CERTIFICATE

I hereby certify that funds are available from current revenues legally available in the amount of \$_____ to accomplish and pay the obligation of Fort Bend County under this Interlocal Agreement.

Ed Sturdivant, Fort Bend County Auditor

Exhibit A:
Fort Bend County Purchasing Manual