

INTERLOCAL COST PARTICIPATION AGREEMENT FOR THE DITCH H PHASE II CONSTRUCTION

THIS INTERLOCAL COST PARTICIPATION AGREEMENT FOR THE DITCH H PHASE II CONSTRUCTION (Agreement) is made by and between the Fort Bend County Drainage District (Drainage District) and the City of Sugar Land, Texas (City).

BACKGROUND:

WHEREAS, on May 26, 2009, the Drainage District and the City entered into an Interlocal Cost Participation Agreement for the Ditch H Channel Extension to Oyster Creek, Phase I Construction; and

WHEREAS, the City and the Drainage District are continuing to work together to design and construct the Ditch H Channel Extension to Oyster Creek Project for Phase II, hereinafter referred to as "Phase II Project". As authorized by Chapter 791, Texas Government Code, the City and the Drainage District are entering into this Agreement whereby each will pay 50% of the costs for the construction as listed in Exhibit "A", which includes construction of box culvert extensions, channel excavation, slope paving through the Union Pacific Railroad Company (Union Pacific) and spillway through a bid contract with the Drainage District. The City also agrees to pay 100% of the costs for construction of a storm sewer stubout on the east side of the Ditch H Extension as listed in Exhibit "B".

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and benefits, the Parties agree as follows:

AGREEMENT:

I.

Drainage District Obligations

1. **Scope of Work.** The Drainage District will perform or cause to be performed the work for Phase II of the Project as shown in the attached Exhibits "A" and "B", which is incorporated by reference into this Agreement. The Drainage District will:

- 1) Procure, enter into and administer a construction contract for the Phase II Project not performed by Drainage District employees;
- 2) Enter into and administer other agreements necessary to construct Phase II of the Project; and
- 3) Obtain necessary permits to construct the Phase II Project.

The Drainage District may use its employees to perform the Oyster Creek Channel Excavation portions of the Phase II Project. Phase II Project construction work not included in Exhibits "A" and "B" requires the City's prior written approval. The Phase II Project construction must comply with the City's codes and ordinances.

2. Review and Inspections. During the work on Phase II Project, the City may review the documents, maps, plats, records, photographs, reports and drawings pertaining to the Phase II Project construction and may inspect the work in progress, provided that it does not interfere with the work.

3. Progress Reports and Meetings. The City may participate in all progress meetings during the Phase II Project construction. The Drainage District will submit copies of progress reports to the City describing in sufficient detail the progress of each element of the Phase II Project construction shown in Exhibits "A" and "B". These reports shall be submitted to the City when the construction of each element of Phase II Project construction is 50% complete, 75% complete, and 100% complete. The Drainage District may submit construction reports received by the Drainage District from contractors detailing the progress of the Phase II Project construction if the Drainage District has reviewed the reports and confirmed their accuracy.

4. Invoices. The Drainage District will submit invoices to the City for 50% of items listed in Exhibit "A" and 100% of items listed in Exhibit "B" of the Phase II Project construction work within 30 days of:

- (1) the Drainage District's receipt of an invoice from a contractor performing Phase II Project construction work;
- (2) the Drainage District's employees' completion of an element of the Phase II Project construction work shown on Exhibit "A"; and
- (3) the parties' execution of this Agreement for Phase II Project construction work already completed by the Drainage District or its contractors.

The cost of any work performed by the Drainage District under Paragraph 1 of this section will be invoiced based on a time and materials basis. Time will be calculated by multiplying the amount of time any Drainage District employee spent working on the Phase II Project by the employee's hourly salary, plus benefits.

5. Completion of Phase II Construction. Upon completion of the Phase II Project construction, but no later than 90 days after, the Drainage District must furnish the City with a full accounting of the funds expended on the Phase II Project construction and a set record drawings showing the Phase II Project as constructed.

II. City Obligations

1. Payment to the Drainage District. The City will pay 50% of the items listed in Exhibit "A" and 100% of the items listed in Exhibit "B" of each invoice received from the Drainage District within thirty days of receipt of the invoice. Each invoice must include:

- (1) a copy of the contractor's invoice to the Drainage District for Phase II Project construction work performed by a contractor; and
- (2) a detailed breakdown showing the hours spent by each Drainage District employee performing Phase II Project construction work, the hourly salary and

benefits burden for each employee, and actual copies of invoices for the materials used in the Phase II Project construction work.

2. Limit of Appropriation. The City has allocated \$1,261,700.00 to pay its obligations under this Agreement. The City's maximum obligation to pay the Drainage District for the Phase II Project construction is limited to and will not exceed \$1,261,700.00.

Services performed in addition to the scope listed in Exhibit "A", and all costs associated with the additional services, shall be approved by the City and Drainage District prior to commencement of the additional services.

III. **Notices**

1. Notices. Any notice required to be given by one party to another must be given in writing addressed to the party to be notified at the address set forth below by:

- (1) delivering the notice in person;
- (2) depositing the notice in the U.S. Mail, certified or registered, return receipt requested, postage prepaid;
- (3) by depositing the notice with Federal Express or another nationally recognized courier service for next day delivery; or
- (4) sending the notice by telefax with confirming copy sent by mail.

Notice is deemed effective when received by the party to be notified. The addresses of the parties are shown below:

City of Sugar Land
2700 Town Center Blvd. N.
P.O. Box 110
Sugar Land, Texas 77487-0110
(281) 275-2218 (phone)
(281) 275-2771 (fax)
Attention: City Manager

Fort Bend County Drainage District
1004 Blume Road
P.O. Box 1028
Rosenberg, Texas 77471
(281) 342-2863 (phone)
(281) 342-9130 (fax)
Attention: Robert E. Hebert

IV. **Term of Agreement**

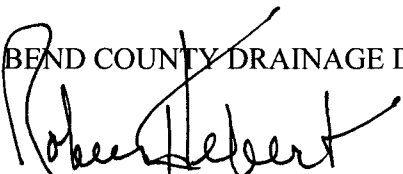
This agreement begins upon the latest date of the parties' execution date of this Agreement and terminates upon completion of the Phase II Project construction work.

V.
Execution

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.

FORT BEND COUNTY DRAINAGE DISTRICT

BY:



Robert E. Hebert
Drainage District Board Chairman

8-18-2010

Date

Attest:



Dianne Wilson, County Clerk

CITY OF SUGAR LAND

BY:

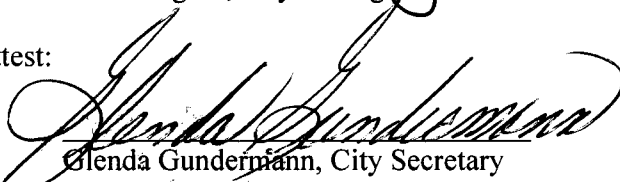


Allen Bogard, City Manager

8-03-2010

Date

Attest:



Glenda Gundermann, City Secretary

Attachments: Exhibit A:
Exhibit B:

PHASE II CONSTRUCTION

EXHIBIT "A"

| Item No. | Section No. | Item Description | Unit | Unit Qty. | Unit Price | Total |
|--|-----------------------------------|---|-------------|-----------|--------------|-----------------------|
| General | | | | | | \$164,700.00 |
| 1 | 1502 | Mobilization | Lump Sum | 1 | \$100,000.00 | \$100,000.00 |
| 2 | 2233 | Clearing and Grubbing, Complete in Place | Acre | 1 | \$3,000.00 | \$3,000.00 |
| 3 | 1570 | Pollution Prevention Implementation including Maintenance, Inspections, and Reporting for All Pollution Prevention Measures as Shown on the Plans, Complete in Place | Lump Sum | 1 | \$25,000.00 | \$25,000.00 |
| 4 | 1570 | Furnish and Install 3' Deep Concrete Truck Washout, Complete in Place | Square Yard | 40 | \$30.00 | \$1,200.00 |
| 5 | 1570 | Furnish and Install Reinforced Filter Fabric Fence per Plans and Specifications, Complete in Place | Linear Foot | 805 | \$4.50 | \$3,622.50 |
| 6 | 1575 | Furnish and Install 8" Stabilized Construction Access per Plans and Specifications, Complete in Place | Square Yard | 120 | \$16.00 | \$1,920.00 |
| 7 | 1555 | Furnish, Install, Maintain Traffic Control Devices and Appurtenances, in Accordance with Texas Manual on Uniform Traffic Control Devices (Latest Edition), Including Flagmen, Complete in Place | Lump Sum | 1 | \$30,000.00 | \$30,000.00 |
| HYDRAULIC CONTROL STRUCTURE AND APPURTENANCES | | | | | | \$1,610,500.00 |
| 8 | 1578 | Excavation Dewatering | Day | 120 | \$400.00 | \$48,000.00 |
| 9 | 2315 | Excavation and Off Site Disposal | Cubic Yard | 15,143 | \$12.00 | \$181,716.00 |
| 10 | 02376, 03210, 03310, 03350, 03390 | Furnish and Install Class "C" Concrete for U-Frame Channel Bottom Slab With Reinforcing Steel (30" Depth) and Pressure Relief Valves, Complete in Place | Square Yard | 762 | \$375.00 | \$285,750.00 |

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| | | | | | | |
|----|---|--|-------------|-------|-------------|--------------|
| 11 | 02376, 03210, 03310, 03350, 03390 | Furnish and Install Class "C" Concrete for Channel Lining With Reinforcing Steel, Complete in Place | Square Yard | 1,819 | \$85.00 | \$154,615.00 |
| 12 | 02376, 03210, 03310, 03350, 03390 | Furnish and Install Class "C" Concrete for Spillway Lining With Reinforcing Steel (10" Depth), Complete in Place | Square Yard | 1,034 | \$135.00 | \$139,590.00 |
| 13 | 02832, 03310, 02316 | Furnish and Install Cast-in-Place Concrete U-Frame Channel Wall, Complete in Place (Wall C&D) | Square Yard | 2,822 | \$35.00 | \$98,770.00 |
| 14 | 02832, 03310, 02316, 02259 | Furnish and Install Cast-in-Place Concrete U-Frame Channel Wall, Complete in Place (Wall C&D) | Square Yard | 3,170 | \$55.00 | \$174,350.00 |
| 15 | 02832, 03310, 02316, 02260 | Furnish and Install Cast-in-Place Concrete Retaining Wall, Complete in Place (Wall A&B) (Includes Temporary Shoring) | Square Yard | 1,310 | \$65.00 | \$85,150.00 |
| 16 | 02832, 03310, 02317, 02260, 02316 | Furnish and Install Cast-in-Place Concrete Headwall, Complete in Place (Includes Temporary Shoring) | Square Yard | 1,603 | \$72.00 | \$115,416.00 |
| 17 | 03001, 03210, 03350, 03390 | Furnish and Install Class "C" Concrete for Baffle Blocks, Complete in Place | Cubic Yard | 24 | \$650.00 | \$15,340.00 |
| 18 | 03210, 03310, 03350, 03390 | Furnish and Install Class "C" Concrete for Pedestrian Bridge, Complete in Place (Includes Bridge Deck) | Lump Sum | 1 | \$21,000.00 | \$21,000.00 |
| 19 | 02465, 03310, 03210, 03310, 03350, 03390, 02321 | Furnish and Install 18" Drilled Shaft, Complete in Place | Linear Foot | 225 | \$80.00 | \$18,000.00 |
| 20 | 02465, 03310, 03210, 03310, 03350, 03390, 02321 | Furnish and Install 10' x 10' RCB Cast-in-Place Extension to Headwall (Includes Cement Stabilized Backfill) | Linear Foot | 90 | \$850.00 | \$76,500.00 |
| 21 | 02378 | Furnish and Install 18", Grade 1 Rip Rap (Stilling Basin), Complete in Place | Square Yard | 300 | \$60.00 | \$18,000.00 |
| 22 | 02827, 05500 | Furnish and Install Hand Railing, Complete in Place | Linear Foot | 620 | \$30.00 | \$18,600.00 |
| 23 | 02840, 05500 | Furnish and Install Metal Beam Guard Fence, Complete in Place | Linear Foot | 350 | \$25.00 | \$8,750.00 |
| 24 | 02840, 05500 | Furnish and Install Terminal Anchor Section for Metal Beam Guard Fence, Complete in Place | Each | 1 | \$650.00 | \$650.00 |

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DITCH H EXTENSION TO OYSTER CREEK

ENGINEER'S ESTIMATE

| | | | | | | |
|----------------------------------|----------------------------|---|-------------|--------|-------------|--------------------|
| 25 | 02840, 05500 | Furnish and Install Guardrail End Treatment for Metal Beam Guard Fence, Complete in Place | Each | 1 | \$2,200.00 | \$2,200.00 |
| 26 | 05500 | Furnish and Install Steel Sheet Pile (AZ-12), Complete in Place | Square Foot | 4,500 | \$20.00 | \$90,000.00 |
| 27 | 05500 | Furnish and Install Galvanized Steel Trash Rack Frame with Supports, Complete in Place | Pound | 11,612 | \$5.00 | \$58,060.00 |
| STORM SEWER | | | | | | \$77,100.00 |
| 28 | 02260 | Furnish and Install Trench Safety System for Storm Sewer Construction, Complete in Place | Linear Foot | 132 | \$6.00 | \$792.00 |
| 29 | 02611 | Furnish and Install 72-inch RCP, Complete in Place | Linear Foot | 132 | \$350.00 | \$46,200.00 |
| 30 | 02633 | Furnish and Install 72-inch Tideflex TF-1 Check Valve with Thimble Plate, Complete in Place | Each | 1 | \$17,000.00 | \$17,000.00 |
| 31 | 02081, 02082, 02084, 02631 | Furnish and Install Type C Manhole for 72-inch RCP, Complete in Place | Each | 1 | \$8,000.00 | \$8,000.00 |
| 32 | 02631 | Furnish and Install Crushed Stone Manhole Foundation for Wet Conditions, Complete in Place | Each | 1 | \$3,000.00 | \$3,000.00 |
| 33 | 02631 | Furnish and Install Bedding and Backfill for Wet Conditions, Complete in Place | Linear Foot | 132 | \$16.00 | \$2,112.00 |
| YARD AREA AND ACCESS ROAD | | | | | | \$47,000.00 |
| 34 | 02315, 02336 | Compact Subgrade, Complete in Place | Square Yard | 736 | \$9.00 | \$6,624.00 |
| 35 | 02336 | Furnish and Install 8-inch Lime Subgrade Stabilization (25 lbs/SY for bid), Complete in Place | Ton | 9 | \$150.00 | \$1,350.00 |
| 36 | 02714 | Furnish and Install 8-inch Crushed Limestone Flexible Base, Complete in Place | Square Yard | 699 | \$22.00 | \$15,378.00 |
| 37 | 02821 | Furnish and Install 8-ft Chainlink Fence per Plans, Complete in Place | Linear Foot | 588 | \$23.00 | \$13,524.00 |
| 38 | 02821 | Furnish and Install 18-ft Chainlink Fence Gate per Plans, Complete in Place | Each | 1 | \$2,100.00 | \$2,100.00 |
| 39 | 01572, 02921 | Furnish and Install Hydromulch Seeding of all Disturbed Areas, Complete in Place | Acre | 2 | \$4,000.00 | \$8,000.00 |

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DITCH H EXTENSION TO OYSTER CREEK

ENGINEER'S ESTIMATE

| | |
|---|---------------------------|
| Total Base Bid Items | \$1,899,300.00 |
| Total Supplemental Items | \$66,000.00 |
| Construction Contract Total Amount Bid | \$1,965,300.00 |
| Oyster Creek Connection Channel Excavation | \$512,100.00 |
| East Side Storm Sewer | \$23,000.00 |
| Total Project Cost | \$2,500,400.00 |

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PHASE II CONSTRUCTION

EXHIBIT "A"

| SUPPLEMENTAL ITEMS | | | | | | |
|--------------------------|-------------|--|------------|-----------|------------|-------------|
| Item No. | Section No. | Item Description | Unit | Unit Qty. | Unit Price | Total |
| EX.01 | 02315 | Extra Excavation and Offsite Disposal | Cubic Yard | 5000 | \$12.00 | \$60,000.00 |
| EX.02 | 02318 | Extra Excavation around obstructions | Cubic Yard | | \$9.00 | |
| EX.03 | 02318 | Extra Hand Excavation | Cubic Yard | 400 | \$15.00 | \$6,000.00 |
| EX.04 | 02318 | Extra Machine Excavation | Cubic Yard | | \$5.00 | |
| EX.05 | 02318 | Extra Placement of Granular Fill | Cubic Yard | | \$11.00 | |
| EX.06 | 02318 | Extra Cement-Stabilized Sand | Cubic Yard | | \$13.00 | |
| EX.07 | 02320 | Extra Disposal of Unsuitable Material and Import and Place Select Fill | Cubic Yard | | \$12.00 | |
| EX.08 | 03315 | Extra Class "A" Concrete with or without Forms | Cubic Yard | | \$250.00 | |
| Total Supplemental Items | | | | | | \$66,000.00 |

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PHASE II CONSTRUCTION

EXHIBIT "A"

| OYSTER CREEK CONNECTION CHANNEL EXCAVATION | | | | | | |
|--|-------------|---|-------------|-----------|------------|--------------|
| Item No. | Section No. | Item Description | Unit | Unit Qty. | Unit Price | Total |
| 1 | 2233 | Clearing and Grubbing, Complete in Place | Acre | 4 | \$3,000.00 | \$12,000.00 |
| 2 | 1570 | Pollution Prevention Implementation Including Maintenance, Inspection, and Reporting for All Pollution Prevention Measures as Shown on the Plans, Complete in Place | Lump Sum | 1 | \$5,000.00 | \$5,000.00 |
| 3 | 1570 | Furnish and Install Filter Dam per Plans and Specification, Complete in Place | Linear Foot | 375 | \$30.00 | \$11,250.00 |
| 4 | 1575 | Furnish and Install Stabilized Construction Access per Plans and Specifications, Complete in Place | Square Yard | 120 | \$16.00 | \$1,920.00 |
| 5 | 2315 | Excavation and Offsite Disposal | Cubic Yard | 40159 | \$12.00 | \$481,908.00 |
| Total Channel Excavation Items | | | | | | \$512,078.00 |

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PHASE II CONSTRUCTION

EXHIBIT "B"

| EAST SIDE STORM SEWER | | | | | | |
|-----------------------------|----------------------------|--|-------------|-----------|------------|-------------|
| Item No. | Section No. | Item Description | Unit | Unit Qty. | Unit Price | Total |
| 1 | 2260 | Furnish and install Trench Safety System for Storm Sewer Construction, Complete in Place | Linear Foot | 32 | \$6.00 | \$192.00 |
| 2 | 2611 | Furnish and Install 72-inch RCP, Complete in Place | Linear Foot | 32 | \$350.00 | \$11,200.00 |
| 3 | 02081, 02082, 02084, 02631 | Furnish and Install Type C Manhole for 72-inch RCP, Complete in Place | Each | 1 | \$8,000.00 | \$8,000.00 |
| 4 | 2631 | Furnish and Install Crushed Stone Manhole Foundation for Wet Conditions, Complete in Place | Each | 1 | \$3,000.00 | \$3,000.00 |
| 5 | 2631 | Furnish and Install Bedding and Backfill for Wet Conditions, Complete in Place | Linear Foot | 32 | \$16.00 | \$512.00 |
| Total East Side Storm Sewer | | | | | | \$22,904.00 |