

FORT BEND COUNTY FY 2010  
COMMISSIONERS COURT AGENDA REQUEST FORM

284

Return Completed Form by E-Mail to: Agenda Coordinator, County Judge's Office

Date Submitted:	01/19/2010	Submitted By:	Mary Reveles
Court Agenda Date:	01/26/2010	Department:	County Attorney
		Phone Number:	341-4554

SUMMARY OF ITEM:

ENGINEERING:

Take all appropriate action on the Advanced Funding Agreement between Fort Bend County and Cinco Southwest Municipal Utility District No. 1 in an amount not to exceed \$240,329 for relocation of approximately 1,500 linear feet of existing waterline and fire hydrants along a 5,000-foot stretch of Katy-Gaston Road south of Cinco Ranch Boulevard. Mobility Bond Project No. 733. (Fund: 2007 Mobility Bonds).

RENEWAL AGREEMENT/APPOINTMENT	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>
REVIEWED BY COUNTY ATTORNEY'S OFFICE:	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>

FINANCIAL SUMMARY:BUDGETED ITEM:	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>	N/A
FUNDNG SOURCE: Accounting Unit:	Account Number:	N/A			
Activity (If Applicable):					
DESCRIPTION OF LAWSOM ACCOUNT:	_____ (Fund: 2007 Mobility Bond Projects.)				

Instructions to submit Agenda Request Form:

- Completely fill out agenda form: incomplete forms will not be processed.
- Agenda Request Forms should be submitted by e-mail, fax, or inter-office mail, and all back-up information must be provided by Wednesday at 2:00 p.m. to all those listed below.
- All original back-up must be received in the County Judge's Office by 2:00 p.m. on Wednesday.

DISTRIBUTION:

Original Form Submitted with back up to County Judge's Office  (✓ when completed)  
 If by E-Mail to [ospindon@co.fort-bend.tx.us](mailto:ospindon@co.fort-bend.tx.us) If by Fax to (281) 341-8609

Distribute copies with back-up to all listed below. If by fax, send to numbers below:

<input type="checkbox"/>	Auditor	(281-341-3774)	<input checked="" type="checkbox"/>	Comm. Pct. 1	(281-342-0587)
<input checked="" type="checkbox"/>	Budget Officer	(281-344-3954)	<input checked="" type="checkbox"/>	Comm. Pct. 2	(281-403-8009)
<input type="checkbox"/>	Facilities/Planning	(281-633-7022)	<input checked="" type="checkbox"/>	Comm. Pct. 3	(281-242-9060)
<input checked="" type="checkbox"/>	Purchasing Agent	(281-341-8642)	<input checked="" type="checkbox"/>	Comm. Pct. 4	(281-980-9077)
<input checked="" type="checkbox"/>	Road & Bridge		<input checked="" type="checkbox"/>	County Clerk	(281-341-8697)
<input checked="" type="checkbox"/>	Engineering		<input checked="" type="checkbox"/>	County Atty	(281-341-4557)

RECOMMENDATION / ACTION REQUESTED:

Special Handling Requested (specify): 2-4-10 2 orig's. ret. to Mary at Co. Attorney

Relocation of Waterline and Fire Hydrants  
along Katy-Gaston Road

STATE OF TEXAS           §

COUNTY OF FORT BEND §

**LOCAL TRANSPORTATION PROJECT  
ADVANCED FUNDING AGREEMENT  
For  
Relocation of Waterline and Fire Hydrants  
along Katy-Gaston Road**

**THIS AGREEMENT (the Agreement)** is made by and between Fort Bend County, Texas (hereinafter called the "County"), a public body corporate and politic of the State of Texas acting by and through the Fort Bend County Commissioners Court, and Cinco Southwest Municipal Utility District No. 1 (hereinafter called the "District"), a conservation and reclamation district and a political subdivision of the State of Texas situated in Fort Bend County, acting by and through its governing body, the Board of Directors.

**WHEREAS**, the County proposes to expand and reconstruct Katy-Gaston Road from a twenty-two foot wide, two lane roadway to a forty-eight foot wide, four lane divided roadway with a thirty-one foot wide raised median; and

**WHEREAS**, the proposed expansion and reconstruction of Katy-Gaston Road will result in the existing open ditch drainage system along Katy-Gaston Road being replaced with an underground storm sewer system; and

**WHEREAS**, the additional pavement width and appurtenances entailed by the Katy-Gaston Road expansion and reconstruction conflict with existing waterline and fire hydrants owned and operated by the District, resulting in the need for the District's waterline and fire hydrants to be moved; and

**WHEREAS**, the District has agreed to relocate approximately 1,500 linear feet of existing waterline and fire hydrants along a 5,000-foot stretch of Katy-Gaston Road south of Cinco Ranch Boulevard (collectively, the "Project") in connection with the County's planned expansion of Katy-Gaston Road; and

**WHEREAS**, the County has agreed to prefinance the cost of the Project through County Bond Funds and/or other sources;

**NOW, THEREFORE**, in consideration of the promises and the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

## **AGREEMENT**

### **1. Period of the Agreement**

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until the Project is completed or unless terminated as provided below.

### **2. Scope of Work**

The County and the District agree that the scope of the Project shall include the relocation of the District's existing waterline and fire hydrants necessary to accommodate the expansion of Katy-Gaston Road south of Cinco Ranch Boulevard and any other work necessary to complete the Project. The District shall be responsible for determining the scope of work needed for the Project.

### **3. Local Project Sources and Uses of Funds**

- a. The estimated Project costs shown on Exhibit "A" are the estimated Project costs attributable to the relocation of the District's existing waterline and fire hydrants to be paid by the County and shall not exceed \$240,329 absent County approval. In the event the District determines that additional funding is required by the County at any time during the Project, the District will notify the County in writing. To the extent permitted by law, the County will make payment to the District within thirty (30) days from receipt of the District's written notification. Any additional funding shall require an amendment to this Agreement
- b. This Project cost estimate shows how necessary resources for completing the Project will be provided by major cost categories. These categories may include but are not limited to: (1) design and preparation of Project plans and specifications; (2) construction bid process; (3) contract administration; and (4) breakout of individual bid items for construction.
- c. The County will be responsible for providing all funding required for the design and construction of the Project and shall deposit the total amount shown on Exhibit "A" with the District within 30 days of the execution of this Agreement. The District shall use such funds only to pay Project costs and for no other purpose.
- d. Upon funding by the County pursuant to Section 3.c above, the County and the District agree that AECOM USA Group, Inc. (the "Engineer") will design the Project. Upon obtaining County approval of the plans and specifications for the Project, the District shall advertise the Project for bids and shall award the construction contract for the Project. Upon determination of the bid award, the District shall notify the County in writing of the construction contract amount and the County shall, within 45 days of such notice, pay to

the District any contract amount that exceeds the estimated construction costs shown on Exhibit A.

- e. Upon completion of the Project, the District will perform an audit of the Project costs. Any funds due to the County will be promptly paid by the District, to the extent permitted by law.
- f. The District will not pay interest on any funds provided by the County.

#### **4. Termination of this Agreement**

This Agreement shall remain in effect until the Project is completed and accepted by the District, unless the Agreement is terminated in writing with the mutual consent of the parties, or of the County fails to fund the cost of the Project as required by Sections 3.a and 3.c above. Any cost incurred due to a breach of contract shall be paid by the breaching party. If the Project does not proceed because of insufficient funding by the County, the County agrees to reimburse the District for its reasonable actual costs incurred during the Project

#### **5. Amendments**

Amendments to this Agreement due to changes in the character of the work, the terms of the Agreement, or the responsibilities of the parties relating to the Project may be enacted through a mutually agreed upon, written amendment.

#### **6. Remedies**

This Agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this Agreement and shall be cumulative.

#### **7. Architectural and Engineering Services**

The engineering and design plans shall be developed in accordance with the District's current standards and specifications.

#### **8. Construction Responsibilities**

- a. The District shall advertise for construction bids, issue bid proposals, receive and tabulate the bids and award and administer the contract for construction of the Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders, which may become necessary subsequent to the award of the construction contract.
- b. The District will use its approved contract letting and award procedures to let and award the construction contract.

- c. Prior to their execution, the County will be given the opportunity to review and approve contract change orders that will result in an increase or decrease in the cost of the Project.
- d. Upon completion of the Project and acceptance of the contractor's work by the District, which acceptance shall not be unreasonably withheld, the District will assume responsibility for the maintenance of the relocated waterline and fire hydrants included in the Project. The District will provide the County one set of reproducible "RECORD" construction plans, indicating actual constructed facilities, upon completion of the Project.

**9. Project Maintenance**

The District shall be responsible for maintenance of the District's waterline and fire hydrants included in the Project, after completion of the work, unless otherwise provided for by existing maintenance agreements between the County and the District.

**10. Right of Way**

The County has already acquired the right of way necessary for the Project.

**11. Notices**

All notices to either party by the other required under this Agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to such party at the following addresses:

County: Fort Bend County Engineering Department  
P. O. Box 1449  
Rosenberg, Texas 77471  
Attn: County Engineer

District: Cinco Southwest Municipal Utility District No. 1  
c/o Allen Boone Humphries Robinson LLP  
3200 Southwest Freeway, Suite 2600  
Houston, Texas 77027  
Attn: Stephen M. Robinson

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that such notices shall be delivered personally or by certified U.S. mail and such request shall be honored and carried out by the other party.

**12. Legal Construction**

In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

**13. Responsibilities of the Parties**

The County and the District agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

**14. Ownership of Documents**

Upon completion or termination of this Agreement, all documents prepared by the District shall remain the property of the District. All data prepared under this Agreement shall be made available to the County without restriction or limitation on their further use. All documents produced or approved or otherwise created by the District shall be transmitted to the County in the form of photocopy reproduction on a monthly basis as required by the County. The originals shall remain the property of the District.

**15. Compliance with Laws**

The parties shall comply with all Federal, County, and Local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement. When required, the District shall furnish the County with satisfactory proof of this compliance.

**16. Sole Agreement**

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

**17. Inspection of Books and Records**

The parties to this Agreement shall maintain all books, documents, papers, accounting records and other documentation relating to costs incurred under this Agreement and shall make such materials available to the County and the District, or their duly authorized representatives for review and inspection at its office during the contract period and for four (4) years from the date of completion of work defined under this contract or until any impending litigation, or claims are resolved. Additionally, the County and the District and their duly authorized representatives shall have access to all the governmental records that

are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

**18. Signatory Warranty**

The signatories to this Agreement warrant that each has the authority to enter into this Agreement on behalf of the party represented.

**[EXECUTION PAGE TO FOLLOW]**

IN TESTIMONY HEREOF, the parties hereto have caused these presents to be executed in duplicate counterparts.

DISTRICT

Cinco Southwest Municipal Utility  
District No. 1

Signed by:

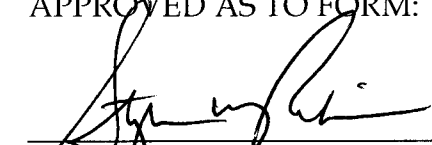
  
George Nilsson  
President, Board of Directors

ATTEST:

  
Secretary, Board of Directors

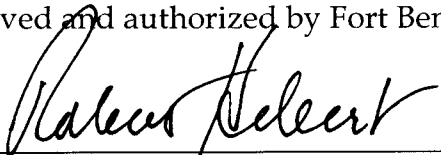
October 29, 2009  
DATE COUNTERSIGNED

APPROVED AS TO FORM:

  
Stephen M. Robinson  
Attorney

THE COUNTY OF FORT BEND

Executed and approved by Fort Bend County for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by Fort Bend County Commissioners Court.

  
Honorable Robert E. Hebert  
County Judge

ATTEST:

  
Fort Bend County Clerk  
DIANNE WILSON

1-26-10  
Date

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$240,329 to accomplish and pay the obligation of the Fort Bend County under this contract.

  
Ed Sturdivant, Fort Bend County Auditor

# Exhibit "A"



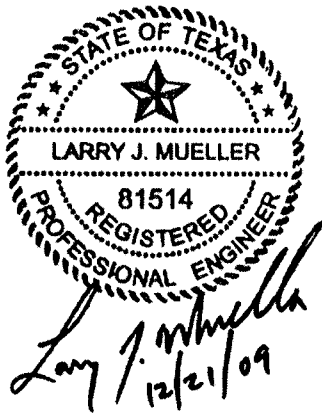
AECOM 713 267 2733 tel  
5757 Woodway 713 267 3270 fax  
Suite 101 West  
Houston, Texas 77057-1599  
www.aecom.com

## Opinion of Probable Cost Summary

**Project:** Katy Gaston WL Relocation  
**AECOM No:** 60072593  
**For:** Cinco Southwest MUD No. 1  
**Date:** December 21, 2009

### A. District Reimbursable Items

1. Water Line Relocation	\$	129,763
2. Legal, Administrative, Contract Services	\$	15,000
3. Engineering, Testing and Related Services	\$	47,500
4. Contingencies (25%)	\$	48,066
<b>Total:</b>	<b>\$</b>	<b>240,329</b>



### This Opinion was Prepared:

- Without Plans
- From Land Plan Only
- From Preliminary Plans
- From Final Plans

Reviewed: \_\_\_\_\_  
Approved: AM

Notes: (1) This opinion of probable construction costs is prepared on the basis of the Engineer's experience and qualifications and represent the Engineer's judgment as an experienced and qualified professional, familiar generally with the construction industry. The Engineer has no control over the cost of labor, materials, equipment or services furnished by others or over a Contractor's methods of determining prices, or over competitive bidding or market conditions. Therefore, the Engineer cannot and does not guarantee that proposals, bids or actual final construction costs will not vary from this opinion. (2) This opinion does not include environmental studies, easement acquisition, or site lighting.



AECOM  
5757 Woodway  
Suite 101 West  
Houston, Texas 77057-1599  
www.aecom.com

713 267 2733 tel  
713 267 3270 fax

RECORDED ON 3-4-10  
IN THE COMMISSIONER COURT  
MINUTES OF 1-26-10

12" WATER LINE RELOCATION ALONG KATY GASTON ROAD				
EXIST WL TO BE REPLACED WITHIN ROW				
DESCRIPTION OF ITEM	UNIT	QTY	PRICE	TOTAL
REMOVE 12" WATERLINE	L.F.	1443	\$15.00	\$21,645.00
REMOVE 6" WATERLINE	L.F.	20	\$15.00	\$300.00
12" WATERLINE	L.F.	1448	\$30.00	\$43,440.00
6" WATERLINE	L.F.	434	\$17.00	\$7,378.00
16"x12" TS&V	EACH	1	\$7,500.00	\$7,500.00
6" GV & BOX	EACH	5	\$750.00	\$3,750.00
FLUSHING VALVE	EACH	15	\$2,250.00	\$33,750.00
LANDSCAPE/IRRIGATION	L.S.	1	\$10,000.00	\$10,000.00
HYDROMULCH SEEDING	ACRE	1	\$2,000.00	\$2,000.00
TRENCH SAFETY SYSTEM	L.F.	1882	\$1.25	\$2,352.50
TRENCH SAFETY DESIGN	L.S.	1	\$500.00	\$500.00
EXTRA DUCTILE IRON FITTINGS	TON	1	\$1,200.00	\$1,200.00
EXTRA SAND BACKFILL	C.Y.	100	\$7.50	\$750.00
<b>TOTAL</b>				<b>\$129,763.00</b>