

item 32A

**FORT BEND COUNTY FY 2010
COMMISSIONERS COURT AGENDA REQUEST FORM**

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

Date Submitted: 03/15/2010

Submitted By: Mary Reveles
Department: County Attorney
Phone Number: 341-4554

Court Agenda Date: 03/23/2010

SUMMARY OF ITEM:

ENGINEERING:

Take all appropriate action on the interlocal agreement between Fort Bend County and the City of Rosenberg for Spacek Road Improvements, Project No. 716, 2007 Mobility Bonds. (Fund 2007 Mobility Bond Projects.)

RENEWAL AGREEMENT/APPOINTMENT YES ☐ NO ☒
REVIEWED BY COUNTY ATTORNEY'S OFFICE: YES ☒ NO ☐

List Supporting Documents Attached: Agreement approved by City of Rosenberg.

FINANCIAL SUMMARY:BUDGETED ITEM: YES ☐ NO ☐ 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

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 checked="" type="checkbox"/> Facilities/Planning	(281-633-7022)	<input checked="" type="checkbox"/> Comm. Pct. 3	(281-242-9060)
<input 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)

COUNTY JUDGE
RECEIVED

RECOMMENDATION / ACTION REQUESTED:

MAR 15 2010

Special Handling Requested (specify):

3-30-10 2 origs. ret. to Mary at Co. Attorney

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

KNOW ALL MEN BY THESE PRESENTS:

INTERLOCAL AGREEMENT
FOR SPACEK ROAD IMPROVEMENTS – PROJECT NO. 716

This Agreement is made and entered into pursuant to the Interlocal Cooperation Act, Chapter 791 of the TEXAS GOVERNMENT CODE and Section 251.012 of the TEXAS TRANSPORTATION CODE, by and between the City of Rosenberg, a municipal corporation and home-rule city of the State of Texas, principally situated in Fort Bend County, acting by and through its City Council, (“City”), and Fort Bend County, a body corporate and politic under the laws of the State of Texas, acting by and through its Commissioners Court, (“County”).

RECITALS

WHEREAS, in 2007 the citizens of Fort Bend County voted to approve the issuance of general obligation bonds that allows the County to participate with other local governmental entities to fund certain regional street and road improvements and associated drainage facilities (“Mobility Projects”) that are funded in part by the state or federal government; and

WHEREAS, the project contemplated in this Agreement is the street or road improvements for Spacek Road between Reading Road and Bryan Road, hereinafter referred to as the “Project;” and,

WHEREAS, construction of the Project will improve traffic flow/circulation and drainage in the service area, and such Project is desired by the City and the County; and

WHEREAS, the County may not expend proceeds of bond issues or taxes levied pursuant to Article III, Section 52 (b) or (c) of the Texas Constitution on city streets that are not integral parts of or connecting links with county roads or state highways in accordance with Section 251.012 of the TEXAS TRANSPORTATION CODE; and

WHEREAS, the parties assert that the Project is part of a city street that is an integral part of or a connecting link with county roads or state highways in accordance with Section 251.012 of the TEXAS TRANSPORTATION CODE; and

WHEREAS, the Commissioners Court of Fort Bend County finds that the Project contemplated in this Agreement serves a County purpose; and

WHEREAS, the City and the County agree to participate in this Project according to the terms of this Agreement; and

WHEREAS, the governing bodies of the City and County have authorized this Agreement;

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and benefits to both parties, it is agreed as follows:

I.
DEFINITIONS

- A. **City** means the City of Rosenberg, Texas.
- B. **County** means Fort Bend County, Texas.
- C. **Project** means Spacek Road between Reading Road and Bryan Road, to be completed in phases.
- D. **Phase I** of the Project is defined as being those paving and drainage improvements along Spacek Road from Reading Road to a point approximately 400 feet southwest of Biotics Research Drive, those drainage improvements along Spacek Road from a point approximately 400 feet southwest of Biotics Research Drive to a point approximately 1,500 feet northeast of Bryan Road, and those certain related drainage outfall channels; and

II.
INCORPORATION OF RECITALS

The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are incorporated into this Agreement.

III.
COUNTY RIGHTS AND OBLIGATIONS

A. The County's sole obligation is to provide the funding for Phase I to the City as specified in this Section. Upon request for payment from the City, the County agrees to pay the City an amount equal to the lesser of the following:

- (1) Twenty-five Percent (25%) of construction costs; or
- (2) \$1,500,000.00

B. Subject to the provisions of Section III A. above, the County shall provide funding as described in Section III A from the 2007 General Obligation Bonds for mobility projects.

C. The County is not obligated to expend any further funds above \$1,500,000 on the Project from the 2007 General Obligation Bonds.

D. The County will forward the lesser amount as detailed in paragraph III.A., above to the City upon the City's receipt of bids for construction of the Project. The City will forward to the County a request for payment that includes sufficient detail for the County to determine whether the City has solicited construction bids and the City is in receipt of all bids for evaluation for the Project. The

County will forward payment to the City within 30 days of receipt of the proper request from the City.

IV. CITY OBLIGATIONS

A. The City is responsible for managing the design and overseeing the construction and completion of the Project and complying with the applicable state and federal laws.

B. In the event the City determines the Project lacks feasibility or for any other reason elects to forego its construction, the City shall refund all amounts provided by County upon thirty (30) days written notice to the City.

C. The City shall submit reports to the County describing in sufficient detail the progress of the Project. These reports shall be submitted to County when the Project is 30% complete, 60% complete, 90% complete and 100% complete. Reports received by the City from contractors detailing the progress of the Project shall suffice for the requirements of this section, so long as the City has reviewed such reports and confirmed accuracy of the contractor's report.

D. The City will submit the plans for the Project to the County Engineer for review in accordance with the 2007 General Obligation Bond requirements for the Project. During the work on the Project, the County may review the documents, maps, plats, records, photographs, reports, and drawings pertaining to the Project and may inspect the work in progress, provided that it does not interfere with the work.

E. Upon completion of the Project, but no later than 30 days after, the City will furnish the County with a full accounting of the funds expended on the Project and a set of record drawings showing the Project as constructed. The County Auditor may review the City's records regarding this Project.

F. If, after completion of Phase I and the City's receipt of the funds as stated in Section III, there are funds remaining and/or savings from Phase I, such funds shall be available for subsequent phases of the Project.

V. LIABILITY

The City and County are entitled to the immunities and defenses of the Texas Tort Claims Act.

VI. MAINTENANCE

Upon completion of the Project, each party shall maintain that portion of the Project within its own jurisdiction.

VII.
LIMIT OF APPROPRIATION

A. Prior to the execution of this Agreement, the City has been advised by the County, and the City clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the County shall have available the total maximum amount of Twenty-five Percent (25%) of construction costs or \$1,500,000, **WHICHEVER AMOUNT IS LESS**, specifically allocated to fully discharge any and all liabilities that may be incurred by the County for the Project.

B. The City does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum funding that the City may become entitled to hereunder and the total maximum amount that the County will reimburse the City hereunder will not under any condition, circumstance or interpretation hereof exceed the sum of Twenty-five Percent (25%) of construction costs or \$1,500,000, **WHICHEVER AMOUNT IS LESS**.

VIII.
ASSIGNMENT

No party hereto shall make, in whole or in part, any assignment of this Agreement or any obligation hereunder without the prior written consent of the other party.

IX.
NO THIRD PARTY BENEFICIARIES

The parties do not intend that any specific third party obtain a right by virtue of the execution or performance of this Agreement.

X.
NOTICES

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, or delivered to the following addresses:

City of Rosenberg
2110 4th Street
P.O. Box 32
Rosenberg, Texas 77471
Attention: City Manager
Attention: Jack S. Hamlett

Fort Bend County
1124-52 Blume Road
P.O. Box 1449
Rosenberg, Texas 77471
Attention: Engineering
Attention: D. Jesse Hegemier

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XI.
ENTIRE AGREEMENT

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.

XII.
EXECUTION

This Agreement has been executed by the City and the County upon and by the authority of their respective governing bodies. This Agreement shall become effective on the date executed by the final party.

FORT BEND COUNTY, TEXAS



Grady Prestage, Commissioner Precinct 2
Presiding Officer, Commissioners Court, March 23, 2010
Date 3-23-2010

ATTEST:



Dianne Wilson, Fort Bend County Clerk

CITY OF ROSENBERG



Joe M. Gurecky, Mayor

Date: 3-2-10

ATTEST:

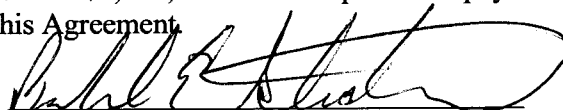


Linda Gernosek, City Secretary



AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$1,500,000 to accomplish and pay the obligation of Fort Bend County under the terms of this Agreement.



Robert Ed Sturdivant,
Fort Bend County Auditor

I:MER/Interlocal/Rosenberg/Spacek Road.3791-716(02102010)