

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
 COUNTY OF FORT BEND §

**INTERLOCAL AGREEMENT
 FOR STORM SEWER IMPROVEMENT –
 RANSOM ROAD/WILLIAMS WAY
 PROJECT NO. 747 – 2007 Mobility Bonds**

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 FORT BEND COUNTY LEVEE IMPROVEMENT DISTRICT No. 6, a body politic and corporate and a political subdivision of the State of Texas organized under the provisions of Article XVI, Section 59, of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code, as amended (“the District”), acting by and through its Board of Directors, and FORT BEND COUNTY, TEXAS, a body corporate and politic under the laws of the State of Texas, acting by and through its Commissioners Court (“County.”)

RECITALS

WHEREAS, it is to the mutual benefit of the County and the District to construct drainage facilities within the limits of the District to provide drainage for the Ransom Road (Williams Way) 2007 Mobility Bond Project No. 747; and

WHEREAS, the affected area is adjoining property owned by the District and the District and the County desire to cooperate to oversize the proposed roadway storm sewer to provide developed drainage capacity for a portion of the District that might otherwise be limited for the purpose of future development options; and

WHEREAS, shared drainage facilities between the County and the District will eliminate duplication of effort that would otherwise be required for the County’s road project and for the District, including the future development of certain property; and

WHEREAS, the County and the District agree that the Project contemplated in this Agreement is part of a street or road 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 County and the District are willing to participate as set forth herein in the actual costs of the Project, including, the cost of construction, construction management, construction inspection, and construction testing costs related to the Projects; and

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

I.
DEFINITIONS

- A. ***District*** means the Fort Bend County Levee Improvement District No. 6
- B. ***County*** means Fort Bend County, Texas.
- C. ***State*** means the State of Texas.
- D. ***Project*** means incremental construction cost of oversized storm sewer drainage facilities (as described in Exhibit "A" within the limits of the District to provide drainage for the Ransom Road (Williams Way) Mobility Project and property within the District.

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'S OBLIGATIONS

- A. The parties agree that the County shall be solely responsible, at County's sole cost and expense, for taking all actions necessary to design and complete the Project. The County further warrants that it will timely complete the Project.
- B. Upon approval by the District's Engineer of the drawings and specifications of the Project, the County shall advertise for and receive bids for the construction of the Project pursuant to the usual and customary procedures of the County, in accordance with the drawings and specifications approved by the District's Engineer, and in compliance with all applicable competitive bidding statutes.
- C. The County reserves the right to reject all bids. In such event, the County may either re-advertise for bids in accordance with the approved drawings and specifications or terminate this Agreement as provided herein.
- D. The County's determination of the lowest responsible bid for the Project shall be final and conclusive.
- E. The County shall be responsible for the cost of administration of the construction contract.
- F. Upon lawful letting of the construction contract for the Project by the County to a qualified contractor, the County shall submit a copy of the fully executed construction contract together with copies of drawings and specifications for the Project to the District's Engineer for review and approval.

G. The County shall not begin construction on the Project without written authorization from the District's Engineer, which shall not unreasonably withhold his/her approval.

H. The County agrees to make or cause to be made all changes to the drawings and specifications reasonably requested by the District.

I. Upon completion of the Project, the County shall furnish the District with complete documentation and a full accounting of the funds expended on the Project.

J. The County has committed to use County manpower and equipment for the excavation of the outfall ditch and the detention facilities related to the Project, at no cost to the District.

IV. DISTRICT'S RESPONSIBILITIES

A. The District's Engineer shall review the construction contract to determine whether the construction contract complies with the terms of this Agreement as well as to determine if the Project meets the District's design standards.

B. The District's Engineer shall promptly review all change orders and shall provide a response to the County within 24 hours from the District's receipt of change order from the County.

C. During the work on the Project, the District shall have the right to review all documents, maps, plats, records, photographs, reports and drawings affecting the construction and to inspect the work in progress, provided however, that in conducting such inspections, the District shall not interfere with the work in progress. Any deficiencies noted by the District shall be brought to the attention of the County and said deficiencies shall be promptly addressed by the County.

D. Within thirty (30) calendar days of the District's approval of the construction contract for the Project, the District shall pay the County the amount of \$174,000.00, based on the agreed to participation percentages of the Project as presented in Exhibit "A".

E. In the event that 100% of the bid price of the District's share of the construction cost of the Project exceeds \$174,000.00, the District shall pay additional funds necessary to satisfy said excess; provided, however, the District shall not be obligated to expend any additional funds on the Project in excess of the District's proportionate share of the agreed participation percentage of the Project as presented in Exhibit "A". The District shall tender the additional funds to the County within thirty (30) days of receipt of notice from the County of the need for additional funds. The District understands that any delays in the construction of the Project may cause costs of the Project to increase.

F. The County shall provide a complete accounting of the Project as presented in Exhibit "A", revised with actual construction contract bid costs within 120 days of the completion of the Project. In the event that the Project costs are less than \$174,000.00, the County shall refund to the District any excess funds of the District's proportionate share of the agreed participation percentage of the Project as presented in Exhibit "A" previously contributed by the District within thirty (30) days of the concurrence of the District related to any adjustments.

G. At all times during construction of the Project, the District shall have full access to all of the County's records and documentation pertaining to the Project.

V.
TERM AND TERMINATION

A. This agreement shall commence upon execution of County and shall terminate upon County's final inspection and acceptance of the Project.

B. The District or the County may terminate this Agreement, without cause, at any time prior to the letting of the contract for construction of the Project upon receipt by written notice to the other party. The parties shall thereafter have no obligation hereunder. This Agreement is not subject to termination, cancellation or revocation by any party once the construction has commenced.

VI.
INSURANCE REQUIREMENTS

The County agrees that it will require that Contractor's insurance policies name the District as well as the County as additional insureds on all policies, including, but without limitation, Worker's Compensation and Employer's Liability. Any such insurance policies shall include at least the following minimum coverage:

A. Worker's Compensation in the amount required by law. The policy shall include the All States Endorsement.

B. Comprehensive General Liability Insurance including contractual liability insurance, \$1,000,000 per occurrence, \$2,000,000 aggregate (defense costs excluded from face amount of policy).

C. Comprehensive Automatic Liability Insurance, including owned, non-owned and hired vehicles used for the Project, with bodily injury and property damage with a combined limit of not less than \$1,000,000 each occurrence.

D. The County may require insurance in excess of the amount of coverage set out above, as it deems necessary, in such cases the District shall remain an additional insured.

VII.
USE OF DISTRICT

The District hereby grants to the County the right to use District right-of-way, if any, upon which the project is to be constructed and District right-of-way, if any, immediately adjacent to the same for the purpose of constructing the Project.

VIII.
OWNERSHIP AND MAINTENANCE OF STORM SEWER

Upon completion of the Project, the District shall assume full ownership of and responsibility for the maintenance and repair of the Project facilities within its District limits, to the same extent and in the same manner as for other like facilities of the District.

IX.
MISCELLANEOUS

A. 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 party.

B. 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 District 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. The parties further 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.

C. 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.

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

X.
NOTICE

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

Fort Bend County
1124-52 Blume Road
P.O. Box 1449
Rosenberg, Texas 77471
(281) 342-3039
(281) 342-7366 fax
Attention: Engineering Department
Attention: D. Jesse Hegemier, Director

Fort Bend County Levee Improvement District No. 6
c/o Allen Boone Humphries Robinson, LLP
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027
(713) 860-6400
(713) 860-6401 fax

XI.
EXECUTION

A. 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.

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

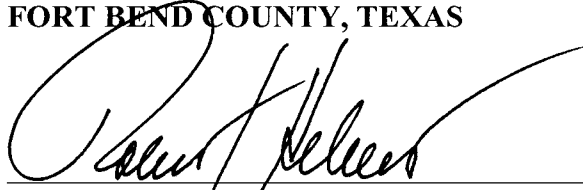
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XII.
ENTIRE AGREEMENT

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.

This Agreement has been executed by the District and the County upon and by the authority of their respective governing bodies. This Agreement shall become effective upon execution of County.

FORT BEND COUNTY, TEXAS



Robert Hebert, Fort Bend County Judge

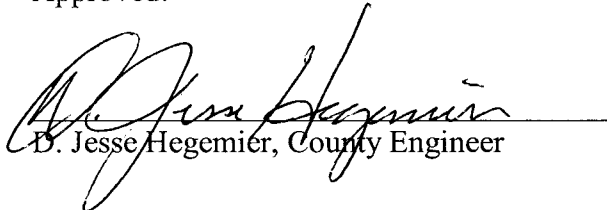
Date 8-24-10

ATTEST:



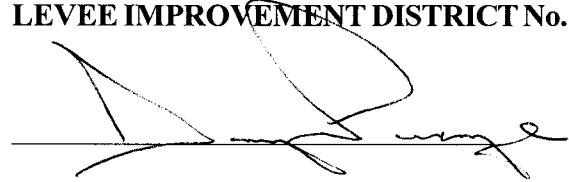
Dianne Wilson, Fort Bend County Clerk

Approved:



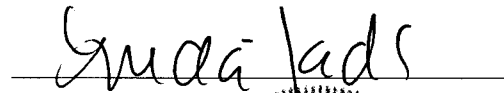
D. Jesse Hegemier, County Engineer

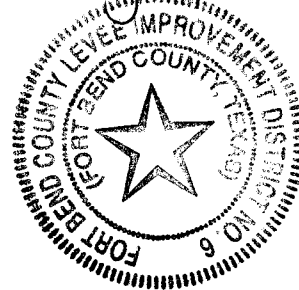
**FORT BEND COUNTY
LEVEE IMPROVEMENT DISTRICT No. 6**



Date: 6-26-2010

ATTEST:





I:MER/Interlocals/LID 6. Williams Way/Storm Sewer-3791-747

EXHIBIT "A"

**FORT BEND COUNTY AND
FORT BEND COUNTY LEVEE IMPROVEMENT DISTRICT #6
OVERSIZING OF WILLIAMS WAY STORM SEWER**

The storm sewer is oversized to allow the increased runoff for the 100-year, developed conditions for the Wessendorff 33 acre tract, on the north side of Williams Way ("Tract"). The 100-year, developed condition runoff will be allowed to drain to the Williams Way storm sewer at the designated location without upstream detention. Fort Bend County agrees to size the storm sewer along Williams Way adjoining the Tract to accept the 100-year, undeveloped runoff from the Tract. Additionally, Fort Bend County has sized the storm sewer to convey runoff from the roadway and a 150-foot strip of land south of Williams Way. The total runoff contributed from the Tract is as follows: undeveloped peak runoff is estimated to be 174.8 cfs and developed peak runoff is estimated to be 313.8 cfs. Detention for the Tract is proposed to be provided downstream of Williams Way and upstream of the Del Webb detention lakes. Detention for the roadway is to be provided in the Del Webb detention system.

The incremental developed storm runoff will be intercepted at the location shown on the approved roadway plans. The cost participation by Fort Bend County Levee Improvement District #6 in the storm sewer and appurtenances is based on oversizing as follows:

Segment	Estimated Length (Ft.)	Storm Sewer Estimated Size	Fort Bend County 100-year Storm (cfs / %)	Fort Bend County Levee Improvement District #6 100-year Storm (cfs / %)
2A to 2	40'	54"	0 / 0%	139.0 / 100%
2 to 1	78'	2 - 3' x 7'	159.4 / 53.4%	139.0 / 46.6%
1 to Outfall	70'	2 - 4' x 5'	196.5 / 58.6%	139.0 / 41.4%