

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

**INTERLOCAL AGREEMENT**  
**FOR BAMORE ROAD IMPROVEMENTS**

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 Bamore Road between Klauke Road to Spur 529, 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 Bamore Road between Klauke Road to Spur 529, to be completed in phases.

**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 Project 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) Fifty Percent (50%) of construction costs; or
- (2) \$2,100,000

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 \$2,100,000 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 Project and the City's receipt of the funds as stated in Section III, there are funds remaining and/or savings from Project, 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 Fifty Percent (50%) of construction costs or \$2,100,000, 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 Fifty Percent (50%) of construction costs or \$2,100,000, 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 4<sup>th</sup> Street  
P.O. Box 32  
Rosenberg, Texas 77471  
(832) 595-3310  
(832) 595-3311 fax  
Attention: City Manager  
Attention: Jack S. Hamlett

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

**XI.**  
**ENTIRE AGREEMENT**

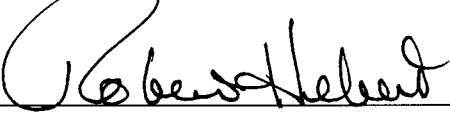
This Agreement contains the entire agreement between the parties relating to the rights granted and the obligations assumed. Any modifications concerning this instrument shall be of no force or effect, unless a subsequent modification in writing is signed by all parties hereto.

**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.

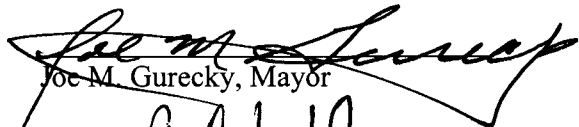
**FORT BEND COUNTY, TEXAS**

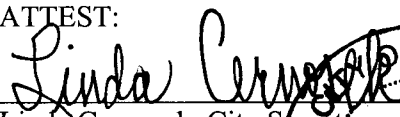
  
Robert E. Hebert, County Judge

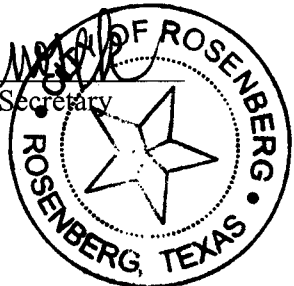
Date 10-5-2010

ATTEST:   
Dianne Wilson, Fort Bend County Clerk

**CITY OF ROSENBERG**

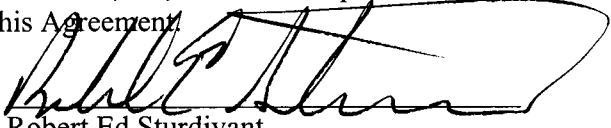
  
Joe M. Gurecky, Mayor  
Date: 9-21-10

ATTEST:   
Linda Cernosek, City Secretary



**AUDITOR'S CERTIFICATE**

I hereby certify that funds are available in the amount of \$2,100,000 to accomplish and pay the obligation of Fort Bend County under the terms of this Agreement.

  
Robert Ed Sturdivant,  
Fort Bend County Auditor

