

ARF-2569

## REGULAR SESSION AGENDA

Date: 01/11/2011

Approve a project agreement to assist the City of Orchard with Ditch Cleaning.

**Submitted By:** Scott Wiegat, Road & Bridge**Department:** Road & Bridge**Type of Item:** Consent**Renewal Agreement/** No**Appointment:****Reviewed by County** Yes**Attorney's Office:****Multiple Originals Y/N?:**

ACCTG UNIT

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**Information****SUMMARY OF ITEM**

Approve Project Agreement between Fort Bend County and the City of Orchard to assist in cleaning an outfall ditch to improve City Drainage. County expenses not to exceed \$4500.00. (Fund: Road & Bridge)

**SPECIAL HANDLING**

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**Fiscal Impact****ACCTG UNIT or GRANT/PROJ NAME:** 155611100**ACCT NAME or GRANT/PROJ ACTIVITY:** Road & Bridge**BUDGETED Y/N:** Y**FISCAL SUMMARY:**

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**Attachments**Link: [Orchard Outfall Ditch Agreement](#)

1-14-11 orig. ret. to Scott W. at Road & Bridge

STATE OF TEXAS  
COUNTY OF FORT BEND

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KNOW ALL MEN BY THESE PRESENTS:

### INTERLOCAL PROJECT AGREEMENT

This Interlocal Project Agreement ("Project Agreement"), is made and entered into pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code and Chapters 251.012 and/or 251.015 of the Texas Transportation Code, between Fort Bend County, Texas, ("County") a body corporate and politic, acting by and through its Commissioners Court and the **City of Orchard** ("Local Government") a county, municipality, special district, or other political subdivision (including a corporate or political Local Government organized under State law), acting by and through its City Council.

In consideration of the foregoing and further consideration of the mutual promises, covenants and conditions herein, the parties hereby agree as follows:

#### I. BASIC TERMS

This Project Agreement is entered into pursuant to the Primary Interlocal Agreement ("Primary Agreement") previously agreed to by the parties on October 1, 2009. The terms of that Primary Agreement are incorporated into this Project Agreement by reference for all purposes as if they were set forth herein word for word.

County, by and through its Commissioners Court, hereby affirmatively finds that Fort Bend County will receive a benefit as the result of this Project.

County, by and through its Commissioners Court, hereby affirmatively finds that the Project serves a public purpose.

County, by and through its Commissioners Court, hereby affirmatively finds that County is specifically authorized by law to individually and independently construct the Project on its own.

Local Government, by and through its City Council, hereby affirmatively finds that Local Government is specifically authorized by law to individually and independently construct the Project on its own.

County and Local Government agree that, in performing the governmental functions contemplated in this Agreement or in paying for the performance of those governmental functions, each party will make that performance or those payments from current revenues legally available to that party.

County and Local Government affirmatively find that the performance of this Agreement is in the common interest of both parties, that undertaking this Agreement will benefit the public and

that the division of costs associated with the Project fairly and adequately compensate the performing party for its services or functions performed under this Agreement.

Neither County nor Local Government intends for any third party to obtain a right by virtue of this Agreement.

Local Government agrees that County is relying upon Local Government for notice to proceed with this Project, but that County shall not be required to perform this Agreement within any time limit.

County and Local Government understand and agree that County is an Independent Contractor and that at no time will County's employees, agents or assignees be deemed for any purpose to be employees or agents of Local Government.

County and Local Government understand and agree that Local Government is an Independent Contractor and that at no time will Local Government's employees, agents or assignees be deemed for any purpose to be employees or agents of County.

## **II. PURPOSE**

The purpose of this Project is to provide assistance in cleaning out a drainage ditch to improve drainage in the City of Orchard.

## **III. TERM**

The term of this Project Agreement will be from the date of execution by the last party hereto until midnight on September 30, 2011 or until the Project is completed, whichever is sooner. However, either party may terminate this Agreement, with or without cause, by giving at least ten (10) days written notice to the other party.

## **IV. PROJECT DESCRIPTION**

The Project contemplated by this Project Agreement is described as providing assistance by cleaning out the west side of Missouri Street to the East side of FM 1489, ("Project").

## **V. PROJECT LOCATION**

The location for the Project is Missouri Street a city-owned street in the City of Orchard, ("Project Site").

VI.  
SCOPE OF WORK

COUNTY'S RESPONSIBILITIES:

County agrees to provide up to 90 equipment hours at \$35.00 per hour, up to 90 man hours of labor at \$15.00 per hour, up to \$ 0.00 in materials and up to \$0.00 in cash to Local Government, for a total expenditure not to exceed **\$ 4,500**.

At County's sole expense, County will furnish the labor, equipment and materials necessary to perform its responsibilities under this Agreement. If necessary, the County will load any excavated material required by Local Government to be moved, onto trucks provided by Local Government.

LOCAL GOVERNMENT'S RESPONSIBILITIES:

Local Government agrees to assume all material costs.

At Local Government's sole expense, Local Government will furnish the labor, equipment and materials necessary to perform its responsibilities under this Agreement. Local Government will provide all appropriate supervisory personnel necessary to coordinate the efforts of County and Local Government personnel. Local Government will direct and be solely responsible for the overall Project. Local Government will furnish all necessary materials to the Project Site in a manner that will be sufficient to allow County personnel to work in a continuous, uninterrupted manner. If necessary, Local Government will provide sufficient labor and equipment to haul any materials excavated and loaded onto Local Government trucks by County. The number of trucks furnished by Local Government will be sufficient to allow County personnel to work in a continuous, uninterrupted manner. Local Government will schedule its labor and equipment to correspond to County's schedules.

If necessary, Local Government will, at its sole cost and expense, be responsible for the design of the Project. If necessary, Local Government will furnish to County plans that establish grades and the size of any channels and any associated structures County is responsible for constructing. If necessary, Local Government will furnish to County the initial on-ground survey alignment, ditch cross sections and one (1) or more elevation benchmarks on the Project Site prior to the commencement of work.

Local Government will obtain at its sole expense any and all necessary and/or required permissions and/or permits, including NPDES, and provide all personnel necessary to implement the provisions of such permits.

Local Government agrees, at its sole expense, to furnish all necessary flagmen, barricades, traffic devices and traffic control for the entire duration of the Project.

Local Government will notify County within ten (10) days of the completion of the Project of any complaints that Local Government may have regarding the Project. Upon completion of the Project, Local Government will, at its sole expense, be responsible for the maintenance of the Project.

VII.  
MISCELLANEOUS

By entering into this Agreement, the parties do not intend to create any obligations, express or implied, other than those specifically set out in this Agreement.

Nothing in this Agreement shall create any rights or obligations in any party who is not a signatory to this Agreement.

Local Government agrees and understands that: by law, the Fort Bend County Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients; the Fort Bend County Attorney's Office may not advise or approve a contract or other legal document on behalf of any other party not its client; the Fort Bend County Attorney's Office has reviewed this document solely from the legal perspective of its client; the approval of this document by the Fort Bend County Attorneys Office was offered solely to benefit its client; Local Government and other parties should not rely on this approval and should seek review and approval by their own respective legal counsel.

The Road Commissioner of Fort Bend County, at his sole discretion, shall decide any and all questions that may arise as to the interpretation of this Agreement and any and all questions as to the acceptable fulfillment of this Agreement.

It is expressly understood and agreed that this Agreement will have no force or effect until duly executed by all parties.

Notices, correspondence, and all other communications shall be addressed as follows:

If to Fort Bend County:

Fort Bend County  
301 Jackson, Suite 719  
Richmond, Texas 77469  
Attn: County Judge

If to City of Orchard:

City of Orchard  
P.O. Box 59  
Orchard, Texas 77464  
Attn: Mayor

IN WITNESS WHEREOF, the parties have executed this Project Agreement on the dates indicated.

FORT BEND COUNTY:


  
Robert Hebert, Fort Bend County Judge

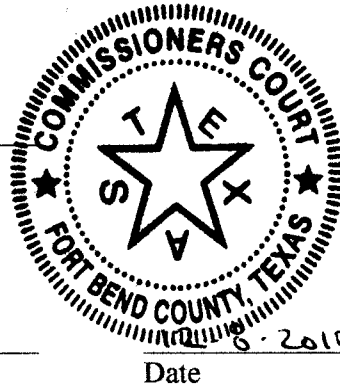
1-11-2011  
Date

Attest:

  
Dianne Wilson, Fort Bend County Clerk

CITY OF ORCHARD:

  
Mayor




1-11-2011  
Date

Attest:

  
City Secretary

REVIEWED:

  
Marc Grant  
Fort Bend County Road Commissioner

AUDITOR'S CERTIFICATE

I hereby certify that funds are available from current revenues legally available in the amount of **\$4,500.00** to accomplish and pay the obligation of Fort Bends County under this Project Agreement.

  
Ed Sturdivant, Fort Bend County Auditor

I/MTR/ 2010 Agreements /R&B 3416 (12062010)

STATE OF TEXAS

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KNOW ALL MEN BY THESE PRESENTS:

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COUNTY OF FORT BEND

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**ORDER AUTHORIZING THE COUNTY JUDGE TO EXECUTE  
THE INTERLOCAL PROJECT AGREEMENT  
BETWEEN FORT BEND COUNTY AND THE CITY OF ORCHARD**

On this the 11 day of January, 2011, the Commissioners Court of Fort Bend County, Texas, upon motion of Commissioner Prestage,  
Seconded by Commissioner Morrison, duly put and carried;

IT IS ORDERED that the Fort Bend County Judge be and is hereby authorized to execute the Interlocal Project Agreement between Fort Bend County and the City of Orchard for the performance of governmental functions or services. Said Agreement is incorporated herein by reference for all purposes as though fully set forth herein word for word.