

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

City means the City of Sugar Land, Texas.

County means Fort Bend County, Texas.

Developer means NNP-Telfair, LP, a Texas limited partnership.

Project means the Lexington Blvd. Extension Project that includes construction of Lexington Blvd. from Oxbow Drive to University Blvd., including the bridge section over Ditch H.

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 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) Fourteen Percent (14%) of the total Project cost, or
- (2) \$850,000.

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 on the Project.

D. The County will forward the lesser amount as detailed in paragraph III.A. above to the City upon the City's notice from the Developer that bids have been received 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 construction bids have been solicited 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 overseeing the design and construction of the Project according to the City's Development Code requirements and complying with the applicable state and federal laws.

B. In the event the Project is not constructed, the City shall refund all amounts provided by County upon thirty (30) days written notice to the City.

C. The City shall submit copies of progress reports to the County describing in sufficient detail the progress of the Project. These reports shall be submitted to County when construction of the Project is 50% complete, 75% complete, and 100% complete. Construction 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 90 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 by providing written notice to the City.

F. If, after completion of the Project and the City's receipt of the funds as stated in Section III, there are funds remaining and/or savings for the Project, 14% of such funds shall be refunded to the County within ninety (90) days from the date the full accounting provided to the County as required in Section IV (E) above.

V.
LIABILITY

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

VI.
USE OF COUNTY RIGHT-OF-WAY

The County authorizes the City to use County-owned right-of-way, if any, upon which the Project is to be constructed and County-owned right-of-way, if any, immediately adjacent to the same for the purpose of constructing the Project.

VII.
MAINTENANCE

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

VIII.
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 Fourteen Percent (14%) of the total Project cost or \$850,000, **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 Fourteen Percent (14%) of the total Project cost or \$850,000, **WHICHEVER AMOUNT IS LESS**.

IX.
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.

X.
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.

XI.
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 Sugar Land
2700 Town Center Blvd. N.
P.O. Box 110
Sugar Land, Texas 77487-0110
(281) 275-2218
(281) 275-2771 fax
Attention: City Engineer

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

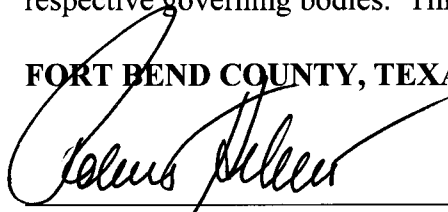
XII.
ENTIRE AGREEMENT

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.

(EXECUTION PAGE FOLLOWS)

This Agreement has been executed by the City and the County upon and by the authority of their respective governing bodies. This Agreement is not effective until executed by both parties.

FORT BEND COUNTY, TEXAS



Robert Hebert, Fort Bend County Judge

Date 9-27-2011

ATTEST:



Dianne Wilson, Fort Bend County Clerk

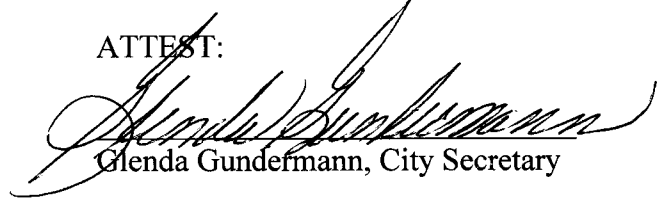
CITY OF SUGAR LAND



Allen Bogard, City Manager

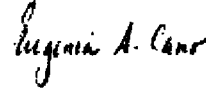
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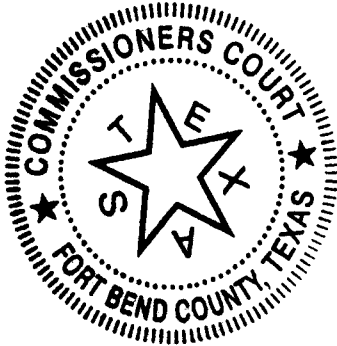
ATTEST:



Glenda Gundermann, City Secretary

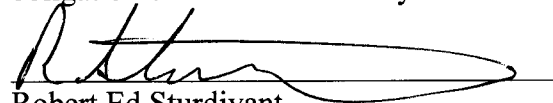
Reviewed for Legal Compliance:





AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$850,000.00 to accomplish and pay the obligation of Fort Bend County under the terms of this Agreement.



Robert Ed Sturdivant,
Fort Bend County Auditor