



# FORT BEND COUNTY, TEXAS PURCHASE ORDER

18B

**P.O.NUMBER:** 127455

**PAGE #:** Page 1 of 1

**P.O.DATE:** 7/10/2015

**DELIVERY BY:** 7/10/2015

**BUYER:** Danita Canty

**VENDOR:** 13869

CITY OF HOUSTON, WATER DEPT  
P O BOX 1560  
HOUSTON TX 77251  
THOMAS ARTZ

**SHIP TO:** Engineering  
301 Jackson Street 4th Floor  
Richmond TX 77469

**BILL TO:** COUNTY AUDITOR  
301 JACKSON  
RICHMOND, TX 77469

<b>DESCRIPTION</b>	<b>QUANTITY</b>		<b>UNIT COST</b>	<b>EXTEND COST</b>
1 WEST FUQUA ADDL COSTS 1: WEST FUQUA ADDL COSTS 13213	500,000	EA	\$1.00	\$500,000.00
2 WEST FUQUA PROJECT 1321: Initial payment West Fuqua 132  Initial payment West Fuqua 13213	1	EA	\$1800000.00	\$1,800,000.00
<b>GRAND TOTAL:</b>				<b>\$2,300,000.00</b>

18. **ENGINEERING:**

- A. **Take all appropriate action on a certain 5.388 acre tract of land for right of way dedication of Chimney Rock Road, Pct. 2, conveyed by Public Road Right of Way Dedication from Fresno Lakes, LTD. to Fort Bend County, Texas, and record same in Official Public Records.**

Moved by Commissioner Prestage, Seconded by Commissioner Morrison  
Duly put and unanimously carried (5-0), it is ordered to approve a certain 5.388 acre tract of land for right of way dedication of Chimney Rock Road, Pct. 2, conveyed by Public Road Right of Way Dedication from Fresno Lakes, LTD. to Fort Bend County, Texas, and record same in Official Public Records.

Judge Hebert	Yes
Commissioner Morrison	Yes
Commissioner Prestage	Yes
Commissioner Meyers	Yes
Commissioner Patterson	Yes

- B. **Take all appropriate action on Interlocal Agreement for Roadway Improvements between City of Houston and Fort Bend County in an amount not to exceed \$2,300,000 regarding West Fuqua, Mobility Bond Project No. 13213, Precinct 2. (Fund: 2013 Mobility Bonds)**

Moved by Commissioner Prestage, Seconded by Commissioner Morrison  
Duly put and unanimously carried (5-0), it is ordered to approve Interlocal Agreement for Roadway Improvements between City of Houston and Fort Bend County in an amount not to exceed \$2,300,000 regarding West Fuqua, Mobility Bond Project No. 13213, Precinct 2. (Fund: 2013 Mobility Bonds)

Judge Hebert	Yes
Commissioner Morrison	Yes
Commissioner Prestage	Yes
Commissioner Meyers	Yes
Commissioner Patterson	Yes

Commissioner Prestage stated, for the record, that this contract is a contribution towards the construction; which will be given upfront to the City of Houston to pay for a portion of the Engineering costs to have it moved up on their CIP list.

18B

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF FORT BEND §

**INTERLOCAL AGREEMENT**  
**FOR ROADWAY IMPROVEMENTS**  
**2013 MOBILITY BOND PROJECT NO. 13213**

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 Houston, a Texas home-rule city, 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 2013 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 to construct West Fuqua from the City of Houston city limits line approximately 450 feet west of Fondren Road to Chimney Rock 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 is providing initial funding for design of the project with the desire that the City accelerate the current City's construction project schedule.

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 as set forth herein in the actual costs of the Project, including, the cost of right of way acquisition, engineering, construction, construction management, construction inspection, and construction testing costs related to the Updated Project, hereinafter the "Costs" or the "Project Costs"; 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**  
**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.

**II**  
**ALLOCATION OF COSTS AND PAYMENT**

**A. Allocation of Costs for the Project:** For the purposes of this Agreement, the County's sole obligation is to provide the funding to the City as specified herein. Upon request for payment from the City, consistent with the terms herein, the County agrees to pay the City in an amount not to exceed \$2,300,000.00.

**B. Determination of eligible Project Costs:** County will participate in eligible Project Costs, as determined by the County. Eligible Project Costs shall be defined as engineering design and services related to the completion of Plans, Specifications and Estimates ("PS&E") and construction of roadway improvements. Eligible Project Costs shall exclude design and construction costs related to landscaping, irrigation, lighting, hike & bike trails, reconstruction of utilities, except utility conflicts created by the construction of project elements and similar facilities proposed to be part of the Project. The County's Share of the Project will not exceed 50% of the cost of eligible Project Costs.

**C. Payment:** Within thirty (30) days of execution of this Agreement, the County shall remit an initial \$1,800,000 to the City to pre-fund engineering design of the Project.

**D. Source of Funds:** County shall provide funding as described in Section II. A. above from the 2013 General Obligation Bonds for Mobility Projects. The County is not obligated to expend any further funds above \$2,300,000.00 on the Project from the 2013 General Obligation Bonds or any other sources of funding.

**III.**  
**DESIGN AND ENGINEERING FOR THE PROJECT**

**A.** The County will propose a selection of a registered civil engineer or civil engineering firms (the "Engineer" or "Engineers") for design of the Project. The County's selection will be subject to approval by the City. The City will not unreasonably withhold approval. The Engineer may subcontract surveying, geotechnical, and environmental services necessary for the Project provided such selection complies with all applicable laws and City of Houston contract requirements.

**B.** Upon execution of this Agreement, the City will enter into negotiations with the approved County selected Engineer for the Project. The City will enter into an engineering design contract on

or before October 1, 2015. This contract will include engineering required for the Project (preliminary, final, and construction phase engineering services), including geotechnical and environmental services. Should the selected Engineer not satisfactorily perform and the City terminates their services, the County will be allowed to propose for the City's approval the replacement Engineer to complete the Project.

C. As part of the Project, the City shall also acquire and deliver the necessary documentation for acquisition of right-of-way. The City shall obtain rights for the County to use all drawings, specifications and other documents obtained by the City for construction, and upon request shall provide such documents to the County for its own use. The City shall provide notification to the County on project schedules and approvals. All right-of-way acquisition for the Project is the sole responsibility of the City. The costs for acquisition of the necessary right-of-way are included in the City's financial share for the costs of the Project under this Agreement.

D. The City shall have "PS&E" prepared for the Project. PS&E shall be submitted to the County Engineer for review and approval, which approval shall occur promptly and shall not be unreasonably withheld.

#### **IV. COMPETITIVE BID AND AWARD**

A. Within 90 days after the City has approved final design for the Project, the City will competitively bid the Project and award a contract for the construction of the Project. The City will comply with competitive bid laws applicable to the City, and other existing laws and ordinances governing the City's construction of public works. If the lowest bid for construction of the Project is greater than the amount of funds allocated by the Parties for the Project, the City may reject all bids and re-advertise for bids for the construction of the Project according to the terms specified in this section of the Agreement.

B. Upon receipt of bids for the Project, the City will notify the County of the amount of the low bids, plus a fifteen percent (15%) contingency (the "Notice of Bid"). If a Party desires to object to the award of the contracts, it must provide written notice to the other Party within 15 days of the date the Notice of Bid is served on the Party. Otherwise, the Party will be deemed to have approved the award of the contract to the low bidder.

C. If there are no objections to the award of the contract to the low bidder, the County will pay remaining allocated Project funds (\$500,000.00) towards construction of the project, and the City will issue a notice to proceed to the contractor.

D. The City will enter into a contract with the qualified low bidder (the "Contractor"), which will be subject to change orders that may increase or otherwise alter the cost for the work to be done under such Contracts ("Change Orders"). The Change Orders shall not exceed the total funds allocated by the Parties under this Agreement.

**V.**  
**CONSTRUCTION**

A. The City shall administer the Contracts for the Project and provide on-site inspection of the construction. Administration duties include but are not limited to entering into all necessary change orders to the Contract, provided that all such change orders shall be provided to the County upon request.

B. The City shall inspect all construction for the conformity with City standards, and shall immediately request changes or corrections to the Contractor's work if the City finds such changes or corrections to be necessary upon inspection. County shall have the right to participate in the inspections and construction meetings related to the Project. The City shall approve all change orders to the Contract necessary by any request of 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 shall have the right to terminate the Contract awarded and enforce its remedies under this Agreement as determined to be necessary by the City. In the event of any such termination, the City shall have the right to complete and/or cause the completion of the Project itself through such other contractor as the City determines to be appropriate, provided that all work done in connection with such completion shall be in compliance with the City's standards for public works.

E. County shall have the right to participate in the final inspection of the Project. At that time, any deficiencies noted by County shall be promptly addressed by the City. The City shall provide to the County a certification of completion of the Project.

F. Upon completion of the Project, but no later than 60 days after, the City will furnish the County with a full accounting of the funds expended on the Project and an electronic copy of the record drawings showing the Project as constructed. The County Auditor may review the City's records regarding this Project.

G. If, after completion of Project and the City's receipt of the funds as stated in Section II, there are funds remaining and/or savings from Project, City shall return such funds to County within 30 days of County acceptance of full accounting required in Section V.E. above.

**VI.**  
**MAINTENANCE**

Upon completion of the Project, the City shall maintain all improvements constructed as part of the Project.

**VII.**  
**LIABILITY**

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

**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 \$2,300,000.00, 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 pay the City hereunder will not under any condition, circumstance or interpretation hereof exceed the sum of \$2,300,000.00.

**IX.**  
**INSURANCE REQUIREMENTS**

City agrees that it will require Contractor's insurance policies name County as well as City 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. City may require insurance in excess of the amount of coverage set out above, as it deems necessary, in such cases County shall remain an additional insured. City will provide County with proof of insurance within 30 days of City's award of the contract for the Project construction.

**X.**  
**TERMINATION**

A. This Agreement may be terminated by any of the following conditions:

I. By mutual agreement and consent of the City's Director of Public Works and Engineering Department ("Director") and the County Engineer up until the award of a construction contract for the Project.

2. By either Party, upon the failure of the other Party to fulfill its obligations as set forth in this Agreement. To the extent permitted by law, the breaching Party shall pay any cost incurred due to such breach.
  3. Termination for Convenience by City. The Director may terminate this Agreement at any time, up until the award of a construction contract for the Project, by giving 30 days written notice to County. Upon termination for convenience by the City, the City shall reimburse to the County all Project funds paid by the County related to this Agreement. The City's right to terminate this Agreement for convenience is cumulative of all rights and remedies which exist now or in the future.
- B. Should this Agreement terminate, for Section X.A.1 OR X.A.2 above, the City shall subtract half of any reasonable costs incurred by the City, from the County's financial share received under this Agreement, and return the balance of the County's payment to the County. Should this Agreement terminate for Section X.A.3 above, the City shall reimburse the County its allocation of costs for such Project that is the subject of termination under Section X.A.3.
- C. If either Party elects to terminate this Agreement prior to completion of the Project, it shall do so in such a manner that the roadways for the Project are operational and are not left in an unreasonably hazardous condition.
- D. If either Party elects to terminate this Agreement at any time, for any reason, then that Party shall notify the other not less than 30 days prior to the termination.

**XL**  
**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.

**XII.**  
**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.

**XIII.**  
**NOTICES**

All notices required or permitted hereunder shall be in writing and shall be delivered when actually received or, if earlier, on the third day following deposit in a United States Postal Service post office or receptacle with proper postage affixed (certified mail, return receipt requested), addressed to the respective other Party at the address prescribed hereinbelow or a such other address as the other Party may have theretofore prescribed by notice to the sending Party.

COUNTY:  
Honorable Robert Hebert  
County Judge  
401 Jackson Street  
Richmond, Texas

Copy to:  
Richard W. Stolleis, P.E.  
County Engineer  
301 Jackson Street  
Richmond, Texas 77469

CITY:

Department of Public Works and Engineering  
Engineering & Construction Division  
InterAgency Section  
611 Walker Street, 14<sup>th</sup> Floor  
P.O. Box 1562  
Houston, Texas 77251-1562  
Attention: Thomas A. Artz, P.E.

**XIV.**

**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.

**XV.**

**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.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

FORT BEND COUNTY

ATTEST:

FORT BEND COUNTY

Laura Richard  
Laura Richard, County Clerk

By: Robert Hebert  
ROBERT HEBERT, County Judge

June 9, 2015

APPROVED:

Richard W. Stolleis  
Richard W. Stolleis, P.E. County Engineer



COUNTY ATTORNEY

Marcus D. Spencer  
Assistant County Attorney

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$2,300,000.00 to accomplish and pay the obligation of Fort Bend County under the terms of this Agreement.

Robert Ed Sturdivant  
Robert Ed Sturdivant,  
Fort Bend County Auditor

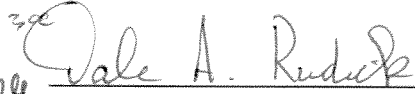
CITY OF HOUSTON

ATTEST/SEAL:



City Secretary

APPROVED:

<sup>302</sup>  
<sub>pk</sub> 

Director, Department of Public Works and Engineering

APPROVED AS TO FORM:



Assistant City Attorney

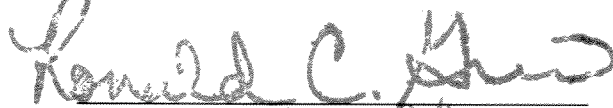
L.D. File No. 0520800019001

CITY OF HOUSTON



ANNISE PARKER, Mayor

COUNTERSIGNED:



City Controller

DATE COUNTERSIGNED:

8-6-15