

THE STATE OF TEXAS §  
COUNTY OF FORT BEND §

KNOW ALL MEN BY THESE PRESENTS:

**INTERLOCAL AGREEMENT FOR CONTRIBUTION OF RIGHT OF WAY FUNDS  
FM 2234 AT FM 521 AND UNION PACIFIC RAILROAD**

This Agreement is made and entered into pursuant to the Interlocal Cooperation Act, Chapter 791 of the TEXAS GOVERNMENT CODE, by and between the City of Pearland, a municipal corporation and home-rule city of the State of Texas, 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"). The City and the County may be referred to collectively herein as the "Parties".

**RECITALS**

WHEREAS, the Texas Department of Transportation ("TxDOT") has deemed it necessary to make certain highway improvements on Highway No. FM 2234 at Highway No. FM 521 and the crossing of the Union Pacific Railroad, and this section of highway improvements will necessitate the acquisition of certain right of way and the relocating and adjusting of utilities (the "Project"); and

WHEREAS, the TxDOT will assume responsibility for acquisition of all necessary right of way and adjustment of utilities for the Project upon County agreeing to enter a fixed price joint participation agreement ("TxDOT Agreement") to contribute to the costs of such acquisition of right of way ("ROW Costs") and relocating or adjusting utilities ("Reimbursable Utility Adjustments") for the Project ("Project Costs"); and

WHEREAS, the City and the County wish to jointly participate in the Project Costs proportionately on based on jurisdictional boundary limits; 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 believe it is in their respective best interests to enter into this Agreement to facilitate the provision of certain governmental functions to the citizens of Fort Bend County and 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:

## AGREEMENT

### **Section 1. 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.

### **Section 2. Local Participation**

2.1 The Project Costs are estimated to total \$1,600,000.00, as shown in Exhibit A, attached hereto and incorporated herein for all purposes.

2.2 County shall fund the ten percent (10%) local share of the Project Costs, for a total amount of \$160,000.00 under the TxDOT Agreement ("Local Participation"), including \$90,000.00 for ROW Costs and \$70,000.00 for Reimbursable Utility Adjustments.

2.3 The City agrees to reimburse the County for fifty percent (50%) of the ROW Costs and for Reimbursable Utility Adjustments attributable to the Project located within the jurisdictional boundary limits of the City. The Parties agree sixty-eight percent (68%) of the total amount right of way to be acquired for the Project is located within the jurisdictional boundary limits of the City. Therefore, the City agrees to reimburse the County an amount equal to \$54,400.00 as determined below:

Total Estimated ROW and Utilities Adjustments 100%	Outside City Boundary Limits 32%	Within City Boundary Limits 68%
\$160,000.00	\$51,200.00	\$108,800.00 <u>(County and City split) X 50%</u> <b>\$54,400.00</b>

2.4 Within thirty (30) days of final execution of this Agreement, the City shall payment in the amount \$54,400.00 to the County. The City shall take all necessary steps to ensure funds are properly appropriated to accomplish and pay the financial obligations of the City under this Agreement.

### **Section 3. Term**

This Agreement shall continue in force and effect from the date of execution of the last party hereto until the transaction contemplated in Section 2.4 above is consummated.

#### **Section 4. Insurance and Liability**

4.1 County and City are both governed by the Texas Tort Claims Act, Chapter 101.001 et seq., as amended, of the Texas Civil Practice and Remedies Code which sets limits of liability for certain causes of action. Each party to this Agreement warrants and represents that it is insured under a commercial insurance policy or is self-insured for all claims falling within the Texas Tort Claims Act.

4.2 Each party is solely responsible for the actions and omissions of its employees and officers. No party hereto waives or relinquishes any immunity or defense on behalf of itself, its trustees, its officers, employees, and agents as a result of the execution of this Agreement and the performance of the covenants contained herein.

#### **Section 5. Notices**

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

County: Fort Bend County Engineering Department  
Attn: Richard Stolleis, P.E., County Engineer  
301 Jackson Street  
Richmond, Texas 77469

With a copy to: Fort Bend County  
Attn: Robert E. Hebert, County Judge  
401 Jackson Street, 1<sup>st</sup> Floor  
Richmond, Texas 77469

City: City of Pearland, Texas  
Attn: Trent Epperson, Assistant City Manager  
3519 Liberty Drive  
Pearland, Texas 77581

#### **Section 6. Miscellaneous**

6.1 Each party shall make payments only from current revenues available to the party.

6.2 The parties may not amend or waive this Agreement, except by a written agreement executed by both parties.

6.3 The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive either party's sovereign immunity.

6.4 If a court finds or rules that any part of this Agreement is invalid or unlawful, the remainder of the Agreement continues to be binding on the parties.

6.5 This Agreement supersedes any and all other agreements, either oral or in writing between the parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

6.6 This Agreement cannot be assigned by either party.

6.7 This Agreement does not confer any enforceable rights or remedies upon any person other than the parties. No provision of this Agreement constitutes consent to suit.

6.8 The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

**Section 13. 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.

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FORT BEND COUNTY, TEXAS

*Robert E. Hebert*

Robert E. Hebert, County Judge

CITY OF PEARLAND, TEXAS

*Tom Reid*

Tom Reid, Mayor

Date: 1-5-2016

Date: \_\_\_\_\_

ATTEST:

*Laura Richard*

Laura Richard, County Clerk

ATTEST:

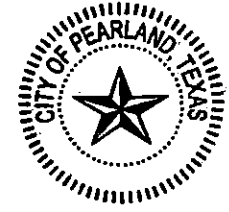
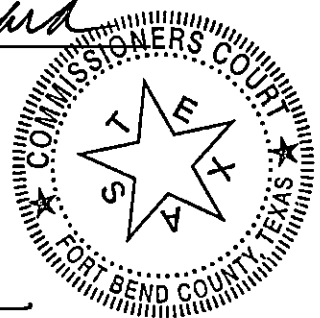
*Young Loring*

Young Loring, City Secretary

APPROVED:

*Richard W. Stolleis*

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



APPROVED AS TO LEGAL FORM:

*Marcus D. Spencer*

Marcus D. Spencer, First Assistant County Attorney

ATTACHMENT:

Exhibit A – Project Costs

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**EXHIBIT A**

**Standard Agreement to Contribute  
State Performs Work  
Attachment C**

Description	Total Estimated Cost	State Participation		Local Participation	
		%	Cost	%	Cost
Right of Way Acquisition	\$ 900,000.00	90%	\$810,000.00	10%	\$ 90,000.00
Reimbursable Utility Adjustments	\$ 700,000.00	0%	\$630,000.00	10%	\$ 70,000.00
	\$0	0%	\$0	0%	\$0
	\$0	0%	\$0	0%	\$0
	\$0	0%	\$0	0%	\$0
	\$	00%	\$0	0%	\$0
	\$	00%	\$0	0%	\$0
	\$	00%	\$0	0%	\$0
<b>TOTAL</b>	<b>\$1,600,000.00</b>	<b>90%</b>	<b>\$1,440,000.00</b>	<b>10%</b>	<b>\$160,000.00</b>

Except as otherwise provided in the Agreement, the fixed amount of Local Government participation will be that amount provided above.

STATE PROJECT  
 FORT BEND COUNTY  
 FM 2234

C. C. S. J. NO. 2105-01-048  
 R. C. S. J. NO. 2105-01-053

LIMITS: FM 2234 AT UPRR  
 STA. 427+80.36 TO STA. 460+00.00

NET LENGTH OF PROJECT = 3,219.64 FEET = 0.610 MILES

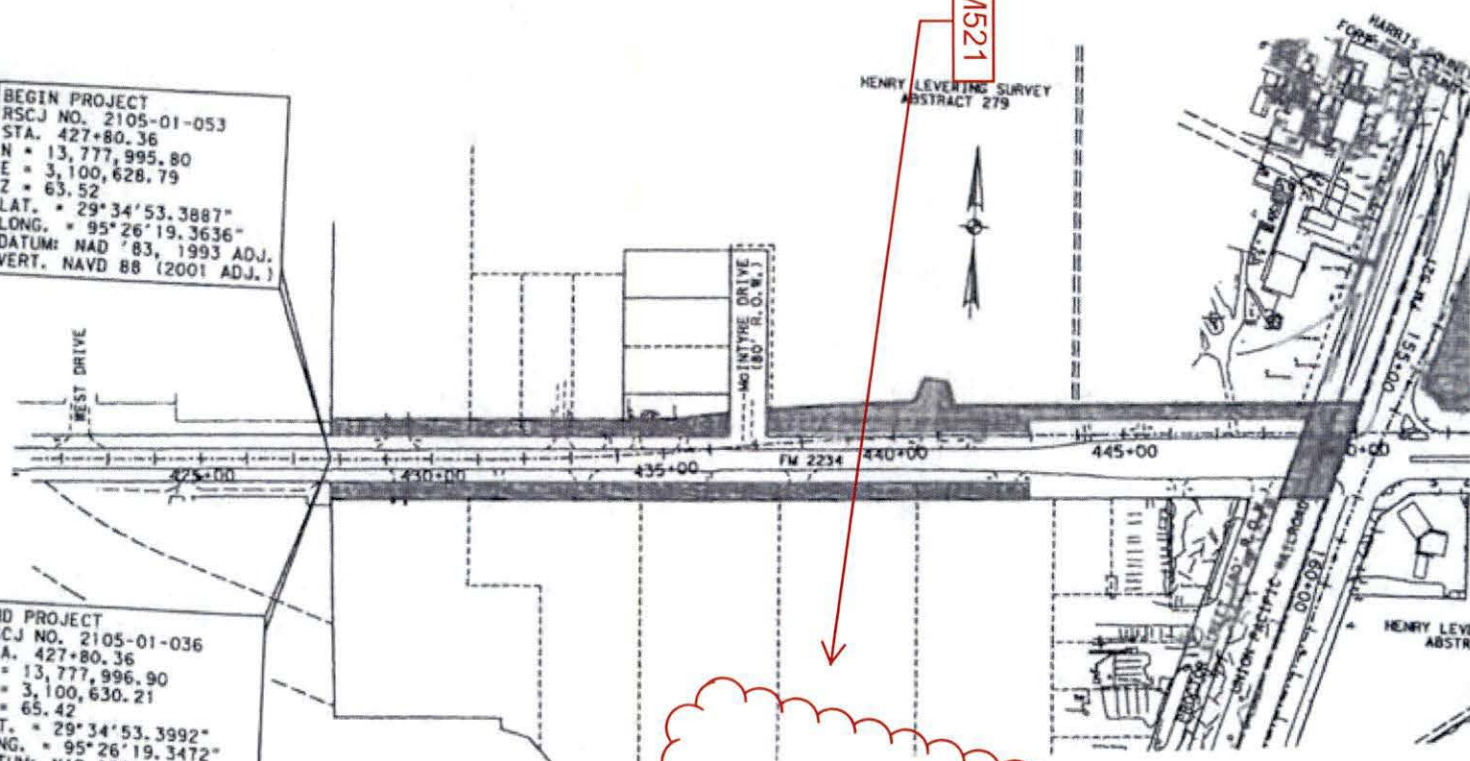
DISTRICT

BEGIN PROJECT  
 RSCJ NO. 2105-01-053  
 STA. 427+80.36  
 N = 13,777,995.80  
 E = 3,100,628.79  
 Z = 63.52  
 LAT. = 29° 34' 53.3887"  
 LONG. = 95° 26' 19.3636"  
 DATUM: NAD '83, 1993 ADJ.  
 VERT. NAVD 88 (2001 ADJ.)

END PROJECT  
 RSCJ NO. 2105-01-036  
 STA. 427+80.36  
 N = 13,777,996.90  
 E = 3,100,630.21  
 Z = 65.42  
 LAT. = 29° 34' 53.3992"  
 LONG. = 95° 26' 19.3472"  
 DATUM: NAD '83  
 VERT. NGVD 29 (1978 ADJ.)

FM521

FM2234



LAYOUT SCALE:

1 INCH = 200' FEET (23" x 34" SHEET)  
 1 INCH = 400' FEET (11" x 17" SHEET)

THIS MAP IS AN INTERNAL TxDOT DOCUMENT. ITS CONTENTS SHALL NOT BE USED FOR ANY OTHER PURPOSE.  
 PROPOSED RIGHT-OF-WAY BASELINE MAY NOT MATCH PROPOSED CONSTRUCTION BASELINE OR AS-BUILT BASELINE DUE TO DESIGN CHANGES.

Project ROW and  
 Utility Adjustments  
 with Cop City  
 Limits

Exhibit B

