

MULLER
LAW GROUP
A PROFESSIONAL LIMITED LIABILITY COMPANY

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16555 Southwest Freeway | Suite 200 | Sugar Land, TX 77479 | 281.500.6050


Direct Line: (281) 500-4686
Direct Fax: (281) 277-8207

Nancy@MullerLawGroup.com

Nancy K. Carter
Member

March 16, 2016

Mr. Marcus Spencer
First Assistant County Attorney
Fort Bend County
401 Jackson, 3rd Floor
Richmond, Texas 77469

Approved As To Legal Form:

Asst. County Atty. 3/17/2016
Date

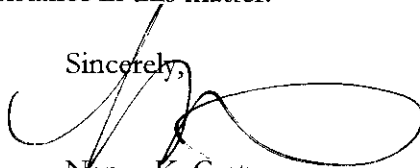
RE: Fort Bend County Levee Improvement District No. 19 ("District")
Interlocal Agreement for Lowering of LJ Parkway

Dear Mr. Spencer:

Enclosed for approval by Fort Bend County Commissioners Court, please find two (2) partially-executed originals of the Interlocal Agreement for Improvements to LJ Parkway between the District and the County.

Following execution of the Agreement, please return one fully-executed original to my attention. Thank you for your assistance in this matter.

Sincerely,



Nancy K. Carter
Attorney for the District

Enclosures

4840-8148-8687, v. 1

RECEIVED

MAR 17 2016

COUNTY ATTORNEY

**INTERLOCAL AGREEMENT FOR
IMPROVEMENTS TO LJ PARKWAY**

This Interlocal Agreement (the "Agreement"), effective as of the 12 day of April, 2016, is entered into between Fort Bend County Levee Improvement District No. 19 (the "District"), a political subdivision of the State of Texas, and Fort Bend County, Texas (the "County") (each a "Party" and collectively the "Parties"). This Agreement is entered into by the Parties pursuant to Chapter 791 of the Government Code, Chapter 7804 of the Special District Local Laws Code, Chapters 49 and 57 of the Water Code, and other general laws of the State of Texas.

RECITALS

WHEREAS, the District has been authorized by its enabling legislation to finance, construct, or acquire road projects to serve land within its boundaries; and

WHEREAS, LJ Parkway is a major thoroughfare owned and operated by the County that serves land within the District; and

WHEREAS, a portion of LJ Parkway, immediately north of its intersection with Hagerson Road, was previously elevated to accommodate a temporary levee that provided flood protection for the District; and

WHEREAS, the District has since completed the construction of its share of a permanent regional levee system that provides flood protection for the District; and

WHEREAS, the District has determined that the temporary levee is no longer needed; and

WHEREAS, the Parties have determined that lowering the elevation of LJ Parkway approximately two (2) feet below its current elevation (the "Project") is of the best interests of the public safety and welfare of the residents and visitors of the District and County; and

WHEREAS, the Parties have current revenues available to pay for the costs of the Project, as proposed in this Agreement; and

WHEREAS, the Parties have determined that it is in the best interest of the Parties and their constituents to pursue and enter into a shared contract for the costs of the Project, as proposed in this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises, obligations, and benefits set forth herein, the Parties contract and agree as follows:

Section 1. Scope of the Project. The Parties agree that the scope of the Project includes the design and construction of lowering the elevation of LJ Parkway by approximately two (2) feet from its current elevation, together with reasonable and appropriate repairs or restoration of existing landscaping within the right of way, beginning at LJ Parkway's intersection with Hagerson Rd. to

approximately 400 linear feet to the north in both north and south bound lanes of LJ Parkway, all as further shown on **Exhibit A** attached hereto.

Section 2. Estimation and Allocation of Project Costs. Each party hereby agrees to pay for 50% of all costs for the Project, including but not limited to design, construction, engineering, testing, or other related costs (the "Project Costs"). Current total Project Costs are estimated as follows:

Design	\$40,000
Construction	\$305,000
Landscape Repairs/Restoration	\$40,000
Total Estimated Project Costs	\$385,000

Section 3. Design, Competitive Bid, and Award of the Project. The District shall oversee the design and construction of the Project. The District's engineer shall design the Project in accordance with all applicable County requirements. The plans and specifications shall be subject to review and approval by the County, or its authorized agent, which review and approval shall not be unreasonably withheld or delayed.

Upon approval by the County, the District shall advertise for competitive bids for the construction of the Project in accordance with the requirements of § 49.273, Texas Water Code. Upon receipt of bids for the Project, the District shall submit a notice to the County ("Notice of Bid") containing the following information:

1. Bid tabulation and initial construction contract amount to recommended bidder
2. 10% contingency for construction contract
3. Design/engineering fees to date for the Project

If the County desires to object to the award of the contract, it must provide written notice to the District within fifteen (15) days of the date the Notice of Bid is sent to the County. Otherwise, the County will be deemed to have approved the award of the contract to the recommended bidder.

If there are no objections to the award of the contract to the recommended bidder, the County will advance its 50% share of Project Costs identified in the Notice of Bid to the District within forty-five (45) days of the date the Notice of Bid is sent to the County. Upon receipt of funds from the County, the District will enter into a contract with the recommended bidder (the "Construction Contract"), which may be subject to change orders that increase, decrease, otherwise alter the Project Costs under such contract.

Section 4. Construction. After award of the Construction Contract, the District shall administer the Construction Contract for the benefit of the Parties. The District, through its engineer or authorized representative, shall provide on-site inspection of the construction of the Project in accordance with the Construction Contract. The District shall approve or deny all pay applications and requests for extensions of time and shall pay all valid pay applications issued under the Construction Contract within forty-five (45) days of receipt.

Change orders submitted under the Construction Contract and recommended for approval by the District shall be subject to review and approval by the County, or its authorized agent, which review and approval shall not be unreasonably withheld or delayed. If the County desires to object to a proposed change order, it must provide written notice to the District within fifteen (15) days of the date the proposed change order is sent to the County. Otherwise, the County will be deemed to have approved the change order, except for change orders that would result in an increase of the total estimated Project Cost for Construction. No change order may be approved that exceeds the estimated Project Cost for Construction, including the contingency amount contained therein, without the express written approval of the County.

The County, through its authorized representative, the County Engineer, may observe and inspect all construction for conformity with applicable City or County standards and shall immediately request changes or corrections to work performed under the Construction Contract if it finds such changes or corrections to be necessary. Any change orders for work requested by the County shall be subject to review and approval by the District, which shall not be unreasonably withheld if the work being performed is clearly shown to be out of compliance with applicable City or County standards.

The County agrees the District does not warrant the quality of any engineering or construction work done by any third party in connection with, or materials provided for, the Project, nor for compliance of same with applicable City or County standards and other governmental codes and regulations applicable thereto, nor shall the District be deemed to be responsible for any such compliance.

The District shall have the right to terminate the Construction Contract and enforce its remedies thereunder, as determined by the District to be necessary. In the event of any such termination, the District shall have the right to complete or cause the completion of the Project; provided, however, that all work done in connection with such completion shall be in compliance with applicable City and County standards for road work. The cost of any necessary and approved completion work shall be considered a Project cost.

Section 5. Landscaping Repairs/Restoration. The Parties agree that Sections 3 and 4 shall not apply to Project Costs related to the repair or restoration of landscaping. The District, in accordance with all applicable provisions of Chapter 49, Water Code, shall enter into and administer any and all contracts to repair or restore landscaping disturbed or removed as a result of the Project. The District will make the initial payments for the landscaping repair/restoration, subject to reimbursement by the County of its 50% share of Project Costs as described in Section 6.

Section 6. Final Accounting of Costs. The District shall issue a final accounting of all Project Costs to the County within the earlier of (i) 60 days after completion of landscaping repairs/restoration, or (ii) 180 days of completion of the construction portion of the Project. If either Party's total expenditures are less than 50% of total Project Costs, such Party shall remit payment to the other Party within 60 days of invoicing. The District agrees to provide any records in its possession relating to the Project or Project Costs to the County within 10 business days of a request by the County.

Section 7. Notices. All notices, requests, demands, or other communications under this Agreement shall be given by electronic mail and either (i) first class mail or (ii) hand delivery addressed as follows:

If to the District: Fort Bend County Levee Improvement District No. 19
c/o Muller Law Group, PLLC
16555 Southwest Freeway, Suite 200
Sugar Land, Texas 77479
Attn: Nancy Kwon Carter
nancy@mullerlawgroup.com
Tel: (281) 500-4686
Fax: (281) 277-8207

If to the County: Fort Bend County
Attn: County Judge
401 Jackson Street, 1st Floor
Richmond, Texas 77469

With a copy to: Fort Bend County, Precinct 4
Attn: Commissioner James Patterson
12919 Dairy Ashford Road, Suite 200
Sugar Land, Texas 77478

And Fort Bend County Engineering Department
Attn: County Engineer
301 Jackson Street
Richmond, Texas 77469

Section 8. Entire Agreement; Modification. This Agreement constitutes the entire agreement between the Parties concerning the Project. No agreements, covenants, representations, or warranties between the Parties other than those expressly state or provided for herein exist. No modification hereof or subsequent agreement relative to the subject matter hereof shall be binding on the Parties unless reduced to writing and signed by each of them.

Section 9. Parties in Interest. This Agreement shall be for the sole and exclusive benefit of the District and County and shall not be construed to confer any benefit or right upon any other party, including particularly any resident of the District, County, or City.

Section 10. Severability. The provisions of this Agreement are severable. If any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement shall ever be held by any court to be invalid for any reason, such invalidity shall not cause the entire Agreement to be invalid. Rather, this Agreement shall be construed as if it did not contain the particular provision or provisions held to be invalid, and the remainder of the Agreement shall remain in full force and effect.

Section 11. Successors and Assigns. This Agreement shall apply to and be binding on the Parties hereto and their respective officers, directors, successors, and assigns. This Agreement, or any rights obtained hereunder, are not assignable by either Party without the express written consent of the other Party, which consent shall not be unreasonably withheld.

Section 12. Applicable Law. This Agreement shall be governed and construed in accordance with the laws of the State of Texas. In the event of a dispute in relation to this Agreement, venue shall be exclusively in Fort Bend County, Texas.

[EXECUTION PAGES FOLLOW]

FORT BEND COUNTY LEVEE
IMPROVEMENT DISTRICT NO. 19



President Board of Directors

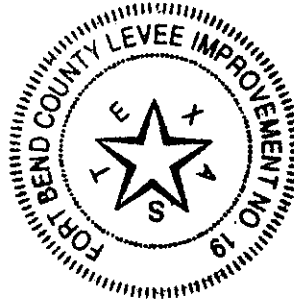
Date: 10/26/2015

ATTEST:



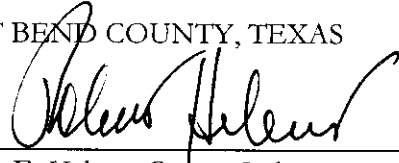
Secretary, Board of Directors

(SEAL)



IN WITNESS WHEREOF, the Parties have executed this Agreement in multiple counterparts, each of which shall be deemed to be an original.

FORT BEND COUNTY, TEXAS



Robert E. Hebert, County Judge

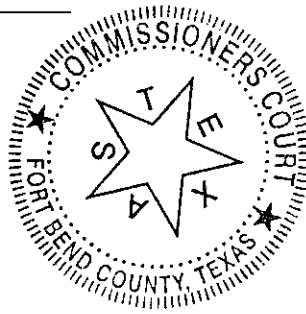
Date: April 12, 2016

ATTEST:

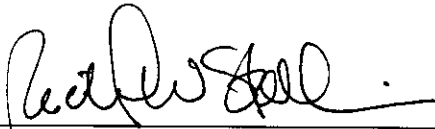


County Clerk

(SEAL)



APPROVED:



Richard W. Stolleis, P.E.
County Engineer

