

THE STATE OF TEXAS §
 §
 COUNTY OF FORT BEND §

**INTERLOCAL AGREEMENT
 GLENN LAKES BOULEVARD AT OYSTER CREEK TRIBUTARY –
 MOBILITY BOND PROJECT NO. 13414**

This Interlocal Agreement (the "Agreement"), is made and entered into pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, by and between FORT BEND COUNTY, TEXAS ("County"), a body corporate and politic, acting by and through its Commissioners Court, and the CITY OF MISSOURI CITY, TEXAS, a home-rule municipal corporation of the State of Texas, acting by and through its City Council ("City"). The County and City may be referred to collectively herein as the "Parties." This Agreement shall be in effect from the date of execution of the last party hereto (the "Effective Date").

RECITALS:

WHEREAS, in 2013 the citizens of Fort Bend County voted to approve the issuance of general obligation bonds that allow 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 of Texas and the federal government; and

WHEREAS, the project contemplated in this Agreement is the street or road improvements to Glenn Lakes Boulevard at Oyster Creek Tributary (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 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 connecting link with county roads or state highways in accordance with Section 251.012 of the Texas Transportation Code; and

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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 in this Project according to the terms of this Agreement; and

WHEREAS, the governing bodies of the City and the County have authorized this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

SECTION 1
PURPOSE

The purpose of this Agreement is to outline the funding obligations related to the improvements to Glenn Lakes Boulevard at Oyster Creek Tributary.

SECTION 2
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 3
COUNTY RIGHTS AND OBLIGATIONS

3.1 The County's sole financial obligation under this Agreement is to pay the City for a portion of the Eligible Project Cost, as defined herein, and advance the funding to facilitate early completion of the Project as specified in this Section.

3.1.1 Eligible Project Costs shall be defined as engineering design and services costs related to the completion of Plans, Specifications and Estimates ("PS&E") and construction costs of roadway improvements. Eligible Project Costs shall exclude design and construction costs related to landscaping, irrigation, lighting, hike and 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. County shall provide written determination of Eligible Project Costs upon receipt, from the City, of a notice of intent to award a construction contract.

3.1.2 The County agrees to pay fifty percent (50%) of the Eligible Project Costs up to a maximum amount of \$500,000.00.

3.1.3 The County agrees to advance an amount to fund costs, other than Eligible Project Costs, as determined by the City, for engineering design and services related to the completion of PS&E ("Design Costs") upon receipt of a request for advanced funding from the City, including a description of the scope and budget for the work..

3.1.4 Upon the City's award of the construction contract for the Project, City will forward to the County a request for advance funding of the construction of the Project ("Construction Costs") that includes sufficient detail for the County to review the successful bidder's submittal. The County will forward payment for Construction Costs to the City within thirty (30) days of approval of the construction contract by the City Council and receipt of a request from the City for the advance funding of the Construction Costs, whichever is later.

3.1.5 Notwithstanding the foregoing, the County's financial obligation under this Agreement shall remain limited to fifty percent (50%) of the Eligible Project Costs up to a maximum of \$500,000.

3.2 During the work on the Project, County shall have the right to review all drawings, maps, plats, records and drawings affecting the construction and to inspect the work in progress, provided however, that in conducting such inspections, County shall not interfere with the work in progress. Any deficiencies noted by County shall be brought to the attention of City and the deficiencies shall be promptly addressed by City.

3.3 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 City.

SECTION 4 **CITY RIGHTS AND OBLIGATIONS**

4.1 City is responsible for managing the design and overseeing the construction and completion of the Project and complying with the applicable state and federal laws. City shall use its approved contract letting and award procedures to let and award the construction contract.

4.2 In the event the City determines the Project lacks feasibility or for any other reason elects to forego its construction, the City shall provide written notice to the County of its decision to forego construction and, if requested by the County, refund all amounts provided by County upon thirty (30) days of said notice to the County.

4.3 City shall submit reports to the County describing in sufficient detail the progress of the Project. These reports shall be submitted to County at increments agreed to between the parties as appropriate for the various phases of the Project. 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.

4.4 City will submit the plans for the Project to the County Engineer for review in accordance with the 2013 General Obligation Bond requirements for the Project.

4.5 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.

4.6 If, after completion of Project and the City's receipt of the funds as stated in Sections 3.1.2 and 3.1.3, there are funds remaining and/or savings from Project, City shall return such funds to County within 30 days of County's acceptance of full accounting required in Section 4.5. above.

SECTION 5 **TERM**

This Agreement shall continue in force and effect from the Effective Date until September 30, 2020, or until the Project is complete and the obligations under Sections 3 and 4 of this Agreement are fulfilled, whichever is sooner.

SECTION 6 **INSURANCE AND LIABILITY**

6.1 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.

6.2 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 7 **NOTICES**

7.1 Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this

Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

7.2 Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

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

With a copy to: Fort Bend County
Attn: County Judge
401 Jackson Street
Richmond, Texas 77469

City: City of Missouri City
Attn: City Manager
1522 Texas Parkway
Missouri City, Texas 77489

7.3 A Notice is effective only if the party giving or making the Notice has complied with subsections 7.1 and 7.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

7.3.1 If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.

7.3.2 If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

SECTION 8 **MISCELLANEOUS**

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

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

8.3 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.

8.4 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.

8.5 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.

8.6 This Agreement cannot be assigned by either party.

8.7 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.

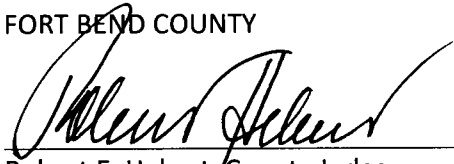
8.8 The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

8.9 In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

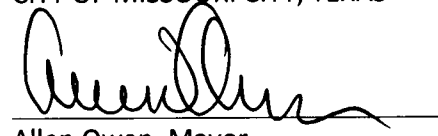
IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the date signed by the last party hereto.

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FORT BEND COUNTY


Robert E. Hebert, County Judge

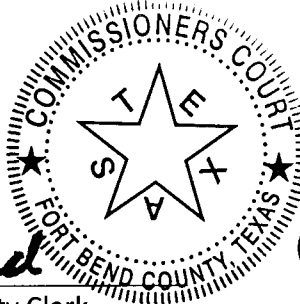

CITY OF MISSOURI CITY, TEXAS


Allen Owen, Mayor


1-2-2018
Date

12-4-2017
Date

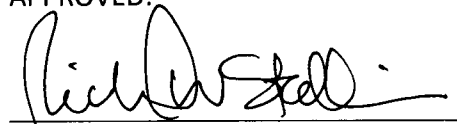
ATTEST:



Laura Richard, County Clerk

ATTEST:

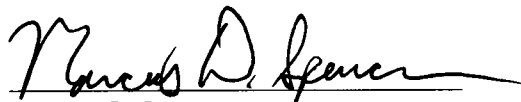

Maria Jackson, City Secretary

APPROVED:

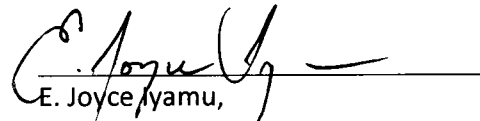

Richard W. Stolleis, County Engineer



APPROVED AS TO FORM:


Marcus D. Spencer,
First Assistant County Attorney

APPROVED AS TO FORM:


E. Joyce Ayamu,
City Attorney

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