

STATE OF TEXAS §
 §
 COUNTY OF FORT BEND §

**REIMBURSEMENT AGREEMENT
 RELATED TO THE REMOVAL OF DEBRIS IN THE
BRAZOS RIVER AT FM 1093**

This Reimbursement Agreement (this "Agreement") is made and entered into pursuant to Texas Government Code Chapter 791, by and between Fort Bend County, Texas, a body corporate and politic (the "County") and the Fort Bend County Toll Road Authority (the "Authority"), a transportation corporation organized and operating under the laws of the State of Texas. The County and the Authority may be referred to herein individually as a "Party" or collectively as the "Parties".

RECITALS:

WHEREAS, pursuant to Chapter 431 of the Texas Transportation Code, the Commissioners Court of the County created and organized the Authority to provide county roads and highways and other transportation related projects;

WHEREAS, the Authority was created as a local government corporation pursuant to state law and is a governmental unit within the meaning of Section 101.001 Texas Civil Practice and Remedies Code;

WHEREAS, the County entered an agreement with the State of Texas, acting by and through the Texas Department of Transportation ("TxDOT"), to remove debris from the Brazos River under FM 1093 (the "Project");

WHEREAS, the Authority desires to reimburse the County for a portion of the funds contributed by the County to TxDOT for costs associated with the Project; and

WHEREAS, the Parties believe it is in their respective best interests to enter into this Agreement setting forth the terms and conditions pursuant to which the Authority will reimburse the County for fifty percent (50%) of the funds contributed by the County for costs associated with the Project, up to a maximum of \$200,000.00.

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and benefits to the Parties, it is agreed as follows:

AGREEMENT:

1. Incorporation of Recitals. The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into this Agreement.

2. Purpose of the Agreement. The purpose of this Agreement is to outline the funding obligations related to the Project.
3. County's Obligations.
 - A. The County is responsible for fulfilling its obligations under the Advance Funding Agreement for Voluntary Local Government Contributions to Transportation Improvement Projects with TxDOT; specifically, the payment of twelve percent (12%) of the total actual cost of the Project, up to a maximum of \$400,000.00 (the "County Contribution").
 - B. Within fifteen (15) calendar days of the County's confirmation of the amount of the County Contribution, the County will furnish the Authority a request for payment with a full accounting of such actual costs.
4. Authority's Obligations.
 - A. The sole financial obligation of the Authority under this Agreement is to pay the County fifty percent (50%) of the County Contribution, with the Authority paying up to a maximum of \$200,000.00 (the "Authority Contribution").
 - B. Within sixty (60) days of the Authority's receipt of the County's request for payment, the Authority will forward the Authority Contribution to the County.
5. Right of Access. If the Authority is the owner of any part of the Project site, the Authority shall permit TxDOT or its authorized representative access to the site to perform any activities required to execute the work necessary to complete the Project. TxDOT or its authorized representative, as applicable, shall take precautions to minimize any potential damage to the existing railroad bridge.
6. Liability. The County and the Authority are entitled to the immunities and defenses of the Texas Tort Claims Act. Nothing in the Agreement shall be construed to waive either party's sovereign immunity. Each Party 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.

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.
7. Period of the Agreement and Termination. This Agreement becomes effective on the date signed by the last Party and shall remain in effect until completion of the Project and reimbursement payable under this Agreement unless terminated earlier pursuant to the terms hereof.
8. Miscellaneous.
 - A. In addition to specific obligations within this Agreement, each Party generally agrees that it will perform such other acts, and execute, acknowledge, and/or

deliver such other instruments, documents, and other materials as the other may reasonably request in order to achieve the intentions and objectives of this Agreement.

- B. This instrument contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. This Agreement may only be amended by a written instrument signed by both Parties.
- C. If any provision 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 provision and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.
- D. This Agreement shall be for the sole and exclusive benefit of the Parties and their successors and assigns and shall not be construed to confer any benefit or right upon any other party, including, without limitation, any resident of any Party.
- E. Nothing in this Agreement shall be deemed or construed as creating the relationship of principal and agent, partnership, or joint venture between the Parties, or a joint enterprise between the Parties and/or any other parties.
- F. The failure of any Party to insist, in any one or more instances, upon performance of any terms, covenants, or conditions of this Agreement shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant, or condition, but the obligation with respect to such future performance shall continue in full force and effect.
- G. The governing body of each Party has authorized its execution and the Agreement has been approved at a duly called and posted meeting, as applicable.

IN TESTIMONY HEREOF, the Parties have executed this Agreement in multiple counterparts.

FORT BEND COUNTY, TEXAS



County Judge KP George

KP George, Fort Bend County Judge

Date: 6-23-2020

Attest:



Laura Richard, County Clerk



FORT BEND COUNTY TOLL ROAD AUTHORITY

Bobbie Tallas

Bobbie Tallas (Jun 18, 2020 08:05 CDT)

Vice Chairman, Board of Directors

Date: Jun 18, 2020

Attest:

Assistant Secretary, Board of Directors