

INTERLOCAL GOVERNMENTAL AGREEMENT
FOR EXTENSION OF FALCON LANDING BOULEVARD SIDEWALK
BY AND AMONG FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 185
AND FORT BEND COUNTY, TEXAS

THE STATE OF TEXAS

COUNTY OF FORT BEND

This INTERLOCAL GOVERNMENTAL AGREEMENT FOR EXTENSION OF FALCON LANDING BOULEVARD SIDEWALK (the "Agreement") is entered into by and among FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 185, a body politic and corporate and a political subdivision of the State of Texas organized under the provisions of Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code, as amended (the "District") and FORT BEND COUNTY, TEXAS, a body corporate and politic acting herein by and through its Commissioners Court (the "County") (collectively "the Parties") effective as of _____, 2023.

RECITALS

WHEREAS, this Agreement is entered into pursuant to Chapter 791 of the Texas Government Code, as amended, the Interlocal Cooperation Act (the "Act"), which authorizes local governments to contract with one another to provide governmental functions, mutual, aid, and services under the terms of the Act; and

WHEREAS, County is a local government as defined by the Act with the authority to maintain a public road right-of-way, and as such is lawfully permitted to enter into an Interlocal Agreement; and

WHEREAS, pursuant to Chapter 49 of the Texas Water Code, as amended, the District has the authority to construct, improve or extend parks and recreational facilities for their residents and in connection therewith; and

WHEREAS, County maintains and holds a public road right-of-way known as Falcon Landing Boulevard (the "County Right-Of-Way") located in Commissioner Precinct 1 of Fort Bend County, Texas; and

WHEREAS, the District has decided to extend the existing sidewalk along the northern side of Falcon Landing Boulevard from its terminus east of the Willow Fork Branch bridge approximately 1740 feet to the east to meet the portion of the sidewalk where it ends across from the Katy ISD school property, all as depicted on that certain site plan attached hereto as Exhibit "A" (the "Project"); and

WHEREAS, the County desires that the District proceed with the Project and has agreed to share in the costs of the Project, subject to the satisfaction of certain conditions and pursuant to the terms set forth herein.

The District and the County have determined that it is in the best interest of their respective residents for the Parties to jointly participate in the Project and the Parties desire to enter into a definitive interlocal government agreement pursuant to the Act to specify the terms and conditions under which the District will receive participation from the County.

AGREEMENT

For and in consideration of the mutual promises, covenants, obligations and benefits of this Agreement, the District and the County contract and agree as follows:

Section 1. Purpose. The purpose of this Agreement is to outline the funding and other obligations related to the design, construction, repair, and maintenance of the Project in the County Right-Of-Way as provided on Exhibit "A" attached hereto and incorporated by reference herein.

Section 2. Design and Construction. District shall be responsible for the design and the construction of the Project. Prior to the commencement of the construction of the Project, plans and specifications for the construction of the Project will be prepared by the District and submitted to the County for review and approval.

Section 3. Costs and Payment. The County agrees to reimburse the District for fifty percent (50%) of the total costs of the Project incurred by District including construction, engineering and material testing costs as provided in the cost estimate attached hereto as Exhibit "B" and incorporated by reference herein. Upon completion of the Project, District shall submit to County two (2) original copies of invoices showing County's amount due for the Project in a form acceptable to County. County shall review such invoices and approve them within thirty (30) calendar days with such modifications as are consistent with this Agreement and forward the same to the County Auditor for processing. County shall pay each such approved invoice within thirty (30) calendar days.

Section 4. Availability of Funds and Limit of Appropriation. The Parties to this Agreement represent that funds are available from their respective budgets for the current fiscal year for payment of their respective obligations under this Agreement. District understands and agrees that the Maximum Payment for County's portion of the costs associated with the Project is \$105,770.00. In no event shall the amount paid by County to District under this Agreement exceed the Maximum Payment without a County approved change order. District further understands and agrees that County shall have available the total maximum sum of \$105,770.00 specifically allocated to fully discharge any and all liabilities County may incur under this Agreement.

Section 5. Ownership, Operations and Maintenance. Upon completion of the Project, the District will own, operate, repair, and maintain the Project (the "Repair and Maintenance Work"), at its sole cost and expense, in accordance with the requirements of all laws, rules and regulations applicable to the Project. Prior to the commencement of any Repair and Maintenance Work, District shall submit for review and approval by County a summary of the proposed repairs or maintenance activity to be conducted on the Project within the County Right-of-Way. Such submission shall include any design plans, diagrams, and specifications showing

the manner of work or construction and the materials to be used therein. Upon completion of such Repair and Maintenance Work, District shall further restore any disturbed surface area of the County Right-of-Way to an acceptable condition, as reasonably determined by County. District shall further provide at least 5 business day written notice to County in order to allow a County inspector to be present during any such Repair and Maintenance Work.

Section 6. Termination of Agreement. This Agreement is subject to termination by the Parties if construction of the Project does not begin within twelve (12) months from the effective date of this Agreement. Otherwise, this Agreement is to remain in full force and effect until final completion of the Project.

Section 7. Address and Notices. All notices provided or permitted to be given under this Agreement must be in writing and may be served by (i) depositing same in the United States mail, addressed to the party to be notified, postage prepaid and registered or certified with return receipt requested; (ii) by delivering the same in person to such party, (iii) by prepaid telegram or telex; or (iv) by facsimile transmission. Notice given by mail shall be effective upon deposit in the United States mail system. Notice given in any other manner shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the parties shall be as follows:

If to the District: Fort Bend County Municipal Utility District No. 185
c/o Coats Rose, P.C.
9 Greenway Plaza, Suite 1000
Houston, Texas 77046
Attention: John G. Cannon

If to the County: Fort Bend County, Texas
401 Jackson St.
Richmond, Texas 77469
Attention: County Judge

And Fort Bend County Commissioner, Precinct 1
22333 Grand Corner Drive
Katy, Texas 77494
Attention: Commissioner

Any party hereto may change its address for notice by giving seven (7) days prior written notice to the other parties.

Section 8. Entire Agreement; Modification. This Agreement constitutes the entire agreement between the District and the County concerning the Project. There have been and are no agreements, covenants, representations or warranties between the Parties other than those expressly stated or provided for herein. No modification hereof or subsequent agreement relative to the subject matter hereof shall be binding on any party unless reduced to writing and signed by the Parties.

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

Section 10. No Waiver of Immunity. County and District are each entitled to the immunities and defenses of the Texas Tort Claims Act. Nothing in this 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, inactions, and/or 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 11. Limited Scope. This Agreement is only for the design, construction, repair, and maintenance of the Project located in the County Right-of-Way. Any additional improvements that are not the subject of this Agreement, including landscaping, vegetation, or irrigation shall not be installed or constructed in the County Right-of-Way without the prior written approval of County.

Section 12. Severability. The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section or other part of this Agreement or the application thereof to any other person or circumstance shall ever be held by any court of competent jurisdiction to contravene or be invalid under the constitution or laws of the State of Texas for any reason, that contravention or invalidity shall not invalidate the entire Agreement. Instead, this Agreement shall be construed as if it did not contain the particular provision or provisions held to be invalid, the rights and obligations of the parties shall be enforced accordingly, and this Agreement shall remain in full force and effect, as construed. The remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section or other part of this Agreement to the other parties or circumstances shall not be affected thereby.

Section 13. Successors and Assigns. This Agreement shall apply to and be binding upon the parties hereto and their respective officers, directors, successors and assigns. This Agreement and any of the rights obtained hereunder are not assignable by any party hereto without the express written consent of the other parties, which consent shall not be unreasonably withheld.

Section 14. Authorization. Each party represents that (i) execution and delivery of this Agreement by it has been duly authorized by its governing body or other persons from whom such party is legally bound to obtain authorization; (ii) that the consummation of the contemplated transactions will not result in a breach or violation of, or a default under, any agreement by which it or any of its properties is bound, or by any statute, rule, regulation, order or other law to which it is subject; and (iii) this Agreement is a binding and enforceable agreement on its part.

Section 15. Applicable Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Texas and exclusive venue of any claim or legal

action arising out of or relating to the subject matter of this Agreement shall lie in Fort Bend County, Texas.

Section 16. Effective Date. This Agreement will be effective as of the date and year first above written.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple counterparts, each of which shall be deemed to be an original, as of the date and year first written herein.

FORT BEND COUNTY MUNICIPAL UTILITY
DISTRICT NO. 185

By: 

President, Board of Directors

ATTEST:



Secretary, Board of Directors

(SEAL)

FORT BEND COUNTY, TEXAS

By: 

KP George, County Judge

ATTEST:



Laura Richard, County Clerk

(SEAL)

Agreed as to Form:



By: 

EXHIBIT "A"

Site Plan (attached)

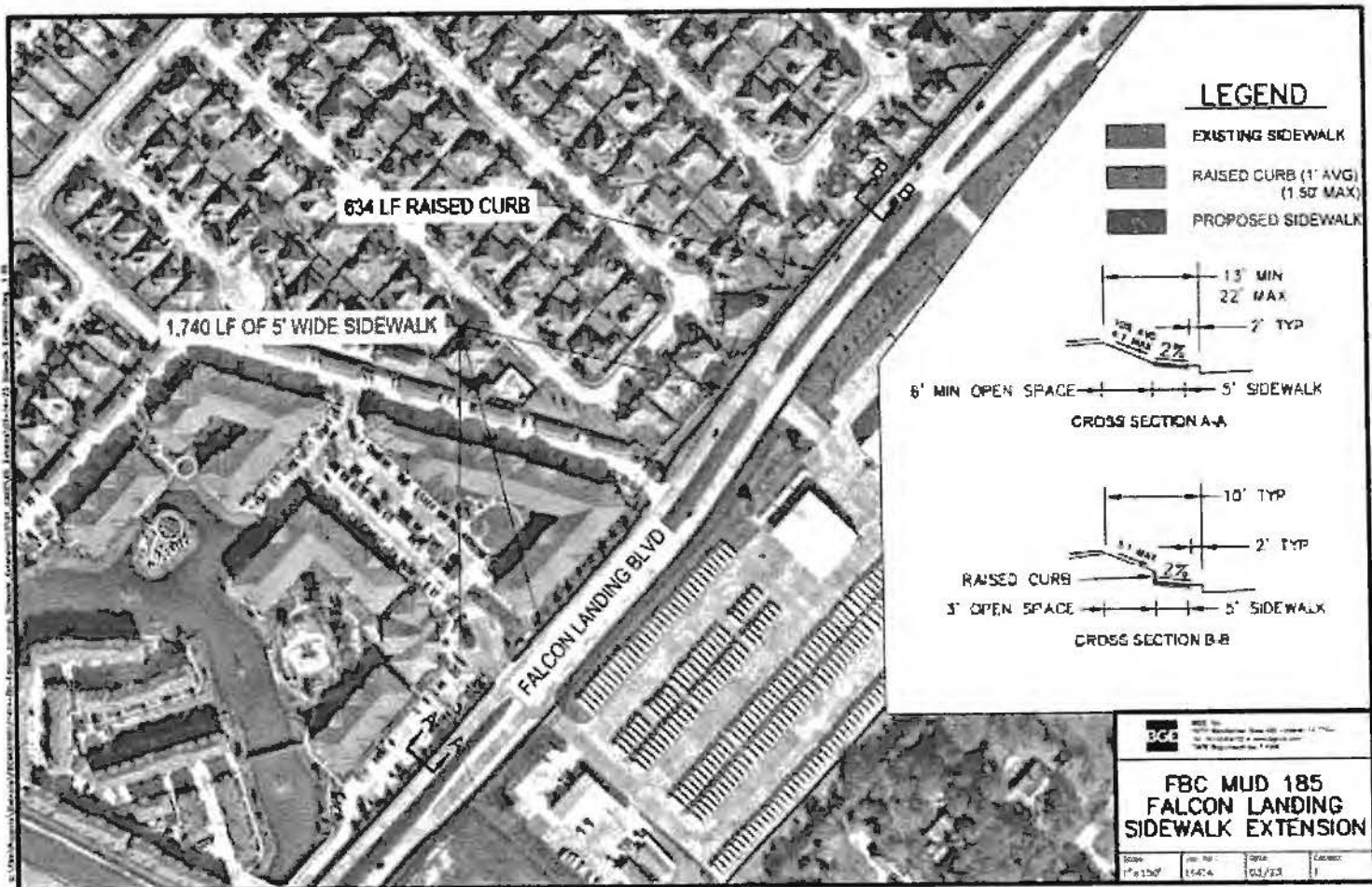


EXHIBIT "B"

Fort Bend County Municipal Utility District No. 183

Falcon Landing Sidewalk Extension

Cost Estimate

ITEM	QUANTITY & UNIT	UNIT COST	ITEM TOTAL
<u>UNIT A: SITE PREPARATION</u>			
1 Mobilization and Demobilization	1 LS	\$ 15,000.00	\$ 15,000.00
2 Site Preparation	0.5 AC	\$ 4,000.00	\$ 2,000.00
3 Traffic Control During Construction	1.0 LS	\$ 10,000.00	\$ 10,000.00
TOTAL, UNIT A			\$ 27,000.00
<u>UNIT B: REINFORCED CONCRETE PAVING</u>			
1 6' Wide, 4 1/2-inch thick Concrete Sidewalk (includes 2-inch Compact Sand Bedding, proof-rolling, scarifying and compaction to 95% ASTM D968)	850 SY	\$ 70.00	\$ 66,500.00
2 Excavation (not including disposal) to grade the site per plans	150 CY	\$ 20.00	\$ 3,000.00
3 ON-SITE Disposal of Excavation within Right-of-Way as shown on Grading Plan	50 CY	\$ 20.00	\$ 1,000.00
4 OFF-SITE Disposal of Excavation within Right-of-Way as shown on Grading Plan	100 CY	\$ 30.00	\$ 3,000.00
5 Wheelchair Ramp (Type 7)	4 EA	\$ 3,500.00	\$ 14,000.00
6 Relocate Signage	2 EA	\$ 1,000.00	\$ 2,000.00
7 Miscellaneous Items:			
a. 0.5-foot to 2.0-foot Curb	700 LF	\$ 20.00	\$ 14,000.00
b. Tree Protection Fence	100 LF	\$ 10.00	\$ 1,000.00
c. Dowel into Existing Sidewalk and Connect Proposed Concrete	2 EA	\$ 1,000.00	\$ 2,000.00
TOTAL, UNIT B			\$ 106,500.00
<u>UNIT C: STORM WATER POLLUTION CONTROL</u>			
1 Stabilized Construction Exit (Item 1575)	1 EA	\$ 3,000.00	\$ 3,000.00
2 Concrete Truck Washout Area	1 EA	\$ 1,500.00	\$ 1,500.00
3 Reinforced Filter Fabric Fence (Spec. Item 1580)	1,700 LF	\$ 2.00	\$ 3,400.00

Fort Bend County Municipal Utility District No. 185

Falcon Landing Sidewalk Extension

Cost Estimate

ITEM	QUANTITY & UNIT	UNIT COST	ITEM TOTAL
4 Sod Grass (2' wide strip on both sides of proposed sidewalk)	8,700 SF	\$ 1.00	\$ 8,700.00
5. Enforcement and Maintenance of TPDES Requirements for Duration of Contract (As Shown and Specified)	1 LS	\$ 3,000.00	\$ 3,000.00
TOTAL, UNIT C			\$ 17,600.00

SUMMARY

Unit A: Site Preparation	\$ 27,000.00
Unit B: Reinforced Paving Concrete	\$ 106,500.00
Unit C: Storm Water Pollution Control	\$ 17,600.00
SUBTOTAL	\$ 151,100.00
Contingency (15%)	\$ 22,665.00
Engineering & Surveying (20%)	\$ 30,220.00
Materials Testing (5%)	\$ 7,555.00
TOTAL ESTIMATE	\$ 211,540.00