

RESOLUTION NO. R-3506

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE, FOR AND ON BEHALF OF THE CITY OF ROSENBERG, TEXAS, AN INTERLOCAL AGREEMENT FOR THE FORT BEND COUNTY 2020 MOBILITY PROJECT - KOEBLEN ROAD SEG. 3 - PROJECT NO. 20115, BY AND BETWEEN THE CITY OF ROSENBERG, TEXAS, AND FORT BEND COUNTY FOR THE CONSTRUCTION OF THE PROJECT SEGMENT OF KOEBLEN ROAD AT THE INTERSECTION OF FM 2218 TO THE FUTURE RIGHT-OF-WAY OF SPACEK ROAD, IN AN AMOUNT OF FIFTY PERCENT (50%) OF THE TOTAL PROJECT COST, OR \$2,050,000.

* * * * *

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ROSENBERG:

Section 1. The City Council of the City of Rosenberg hereby authorizes the Mayor to execute an Interlocal Agreement for the Fort Bend County Mobility Project - Koeblen Road Seg. 3 - Project No. 20115 (Interlocal Agreement) with Fort Bend County, for the construction of the project segment of Koeblen Road at the intersection of FM 2218 to the future right-of-way of Spacek Road, in an amount of fifty percent (50%) of the total project cost, or \$2,050,000.

Section 2. A copy of said Interlocal Agreement is attached hereto as Exhibit "A" and made a part hereof for all purposes.

PASSED, APPROVED, AND RESOLVED this 5th day of September 2023.

ATTEST:

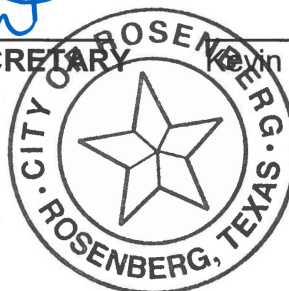
APPROVED:

Danyel Swint

Danyel Swint, TRMC, CITY SECRETARY

K.R.

Kevin Raines, MAYOR



INTERLOCAL AGREEMENT

(Koeblen Road Seg. 3 – Project No. 20115)

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This Interlocal Agreement ("Agreement") is made and entered into by and between FORT BEND COUNTY, TEXAS (the "County"), a political subdivision of the state of Texas, and the City of Rosenberg, Texas (the "City"), a municipality established under the laws of the state of Texas. County and City may be collectively referred to as the "Parties" and each individually a "Party."

WHEREAS, this Agreement is entered into pursuant to Chapter 791 of the Texas Government Code, 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, the Parties are each a local governmental entity and are authorized under the Act to provide certain governmental functions, including, but not limited to the provision of road and drainage improvements; and

WHEREAS, County and City desire to improve a portion of Koeblen Road utilizing funds from the Fort Bend County Mobility Bond Project No. 20115, which funds may only be expended on city streets that are an integral part of or connecting link with county roads or state highways pursuant to Article III, Section 52 (b) and (c) of the Texas Constitution and Section 251.012 of the Texas Transportation Code; and

WHEREAS, the Parties assert that the portion of Koeblen Road to be improved under this Agreement is part of a city street that is an integral part of or a connecting link with a County road or state highway; and

WHEREAS, County and City have determined it would be in the best interest of County and City, and to the inhabitants thereof, that provisions be made for the improvement of Koeblen Road Road in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, obligations, and mutual benefits, the Parties hereto agree as follows:

1. Scope of Work.

- (a) The Parties acknowledge and agree that this Scope of Work represents the general requirements for the Project to facilitate the completion of the design and construction of certain improvements to a portion of Koeblen Road (the "Road")

beginning at the intersection of Farm to Market Road 2218 ("FM-2218"), continuing in a Southeasterly direction along the right-of-way of Koeblen Road, and ending at a point in the future right-of-way of Spacek Road ("Spacek Rd"). Such improvements to the Road shall replace the existing 2-lane asphalt Road with a concrete boulevard (including curb, gutter, storm sewers, and sidewalks) as follows:

- (1) design and construction of a concrete half boulevard section from FM 2218 to approximately 1000 feet west of future Spacek Rd; and
 - (2) design and construction of a full boulevard for the remaining stretch of the Road to future Spacek Rd (hereinafter, collectively the "Project").
- (b) The Project shall be facilitated, managed, and administered by County. County shall take all reasonable actions to ensure that the Project is constructed in a good and workmanlike manner with all reasonable diligence.
- (c) County shall only be obligated to design and construct the Project to the extent that sufficient funds are provided by City for the same pursuant to the terms of Section 2 of this Agreement.

2. Allocation of Project Costs.

- (a) City Project Costs: The estimated cost of the Project is Four Million One Hundred Thousand and 00/100 Dollars (\$4,100,000.00). City understands and agrees that such Project Costs may be higher or lower than the estimate provided herein. In any event, City shall contribute fifty percent (50%) of the total Project Costs to County. Such costs will be based on actual costs incurred by County for the Project.
- (b) Initial Payment: Within thirty (30) days of the Effective Date of this Agreement, City shall make an initial payment of Two Million Fifty Thousand and 00/100 Dollars (\$2,050,000.00) to County (the "Initial Payment"). Upon receipt of the Initial Payment, County shall instruct its engineers to commence design of plans and preparation of specifications for the construction of the Project in accordance with Section 3 of this Agreement.
- (c) Final Payment: Within thirty (30) days of Completion of the Project, County shall furnish City with a full accounting of the funds expended on the Project. Within thirty (30) days of City's acceptance of the full accounting provided by County, City shall remit payment to County of any unpaid amounts due for the work performed and completed on the Project.

- (d) **Excess Funds:** If, during the course of full accounting of the Project referenced in Section 2(c) above, it is discovered that excess funds were received by County from City for the Project, County shall remit such excess funds that have not been used for City's portion of the Project to City within thirty (30) days of County's full accounting of the Project.
3. **Design and Specifications.** County shall select the design engineer and design all aspects of the Project in accordance with County standards and regulations. The plans and specifications shall be reviewed and approved by the Fort Bend County Engineer. City, upon reasonable notice to County, shall have the right and opportunity to review all documents pertaining to the design of the Project, including any maps, records, photographs, reports, and drawing affecting the construction of the Project. City shall provide any comments or feedback regarding the design of the Project to the County Engineer no later than thirty (30) calendar days after its review. City acknowledges and agrees that the comments and feedback provided to County shall not be binding upon County and the County Engineer, in his sole discretion, shall have the final determination regarding any comments or feedback received from the City for the design of the Project.
4. **Competitive Bid and Award.** Upon completion of final plans and specifications, County will advertise for competitive bids for construction of the Project (together or in separate contracts) in accordance with requirements applicable to County. Upon receipt of bids for the Project, County will notify the City of the amount of the recommended bid ("Notice of Bid"). If the City desires to object to the award of the contract, it must provide written notice to County within fifteen (15) days of City's receipt of the Notice of Bid. Otherwise, the City will be deemed to have approved the award of the contract to the lowest responsible bidder, in County's judgment, who would be most advantageous to the Parties and would result in the best and most economical completion of the Project. County will enter into a contract with the qualified bidder ("Construction Contract"), which may be subject to change orders that increase, decrease, or otherwise alter the Project Costs under such contract. If County constructs the Project in multiple contracts, the provisions of this Agreement shall apply to each Construction Contract.
5. **Insurance Requirements.** County will require its Contractor's insurance policies to name City, in addition to County, as additional insured on all policies except for Worker's Compensation and Professional Liability. Any such insurance policies shall include at least the following minimum coverage:
- (a) Workers Compensation in accordance with the laws of the State of Texas. Substitutes to genuine Workers' Compensation Insurance will not be allowed.

- (b) Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
 - (d) Business Automobile Liability coverage applying to owned, non-owned and hired automobiles with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.
- 6. **Construction of the Project.** After awarding the Construction Contract, County shall administer the Construction Contract for the benefit of the Parties. County shall provide on-site inspection of the construction of the Project in accordance with the terms of the Construction Contract(s). County shall approve or deny all applications for payment and requests for extensions of time and shall pay all valid pay applications issued under the Construction Contract(s). County shall approve or deny all change orders submitted under the Construction Contract(s). County shall have the right to terminate the Construction Contract(s) and to enforce its remedies thereunder, as determined by County to be necessary. In the event of any such termination, County shall have the right to complete and/or cause the completion of the Project itself and/or through such other contractor(s) as County determines to be appropriate; provided that all work done in connection with such completion shall be in compliance with County's standards for road work. The costs of any necessary and approved completion work shall be considered part of the Project.
- 7. **Administration of County Funds for the Project.** The County's sole financial obligation under this Agreement is to provide the funding in the amount of fifty percent (50%) of the total Project Costs. The funds provided by the County are from a Mobility Road Bond initiative and no other funds will be available, regardless and irrespective of any cost overruns or unanticipated expenditures.
- 8. **Appropriation of Project Costs.** Each Party represents and warrants to the other that, as of the Effective Date of this Agreement, the governing body of each Party hereto has identified, appropriated, and set aside sufficient monies to fund the costs of the Project pursuant to the terms of this Agreement.
- 9. **Completion of the Project; Ownership of Project Improvements.** Completion of the Project shall occur upon the Parties' final inspection of the Project and certified as complete by County and District's Engineers. Upon Completion of the Project, County, at its sole cost and expense, will be responsible for all maintenance and repairs relating to the portion of the Road that extends beyond the Rosenberg city limits boundary line. The City of Rosenberg, at its sole cost and expense, will be responsible for all maintenance and repairs relating to the portion of the Road located within the Rosenberg city limits.

10. **Inspection and Deficiencies.** City shall have the right to enter the Project Site and inspect the work performed by County for the Project. Within ten (10) business days of completion of the Project, City shall notify County in writing of any complaints regarding any deficiencies and the quality of workmanship by County for the Project. County shall address and correct such deficiencies within a reasonable time, if the County Engineer determines that such deficiencies are actionable under the terms of the County's construction contract(s). Notwithstanding the foregoing, all final decisions regarding the correction of any deficiencies shall be at the County's sole discretion.
11. **Time of Performance.** Time for performance of the obligations of the Parties hereunder shall commence no later than twelve (12) months after the Effective Date of this Agreement, or within such time as may be extended by the Parties.
12. **Notice.** Any and all notices required or permitted under this Agreement shall be in writing and shall be properly addressed and sent via personal delivery, US first class postage prepaid, registered or certified mail, return receipt requested, Federal Express, Express Mail, or other overnight delivery service as follows:

If to County: Fort Bend County Engineering Department
Attn: County Engineer
301 Jackson St.
Richmond, Texas 77469

And

Fort Bend County, Texas
Attn: County Judge
401 Jackson St, 1st Floor
Richmond, Texas 77469

If to City: City of Rosenberg
Attn: Kevin Raines, Mayor
2110 4th Street
P.O. Box 32
Rosenberg, Texas 77471

13. **Entire Agreement and Modification.** This Agreement constitutes the entire Agreement between the Parties and supersedes any and all previous agreements, written or oral, pertaining to the subject matter of this Agreement. This Agreement may only be amended or modified by written agreement executed by both Parties.
14. **No Waiver of Immunity.** Neither the execution of this Agreement nor any other conduct of either Party to this Agreement shall be considered a waiver or surrender of its

governmental powers or immunity under the Texas Constitution or the laws of the State of Texas.

15. **Benefit.** This Agreement shall be for the sole and exclusive benefit of County and City and shall not be construed to confer any benefit or right upon any other party.
16. **Applicable Law and Venue.** This Agreement shall be construed according to the laws of the state of Texas. Venue for any claim arising out of or relating to the subject matter of this Agreement shall lie in a court of competent jurisdiction of Fort Bend County, Texas.
17. **Assignment.** Neither Party may assign its rights, duties, or obligations hereunder, without the prior written consent of the other, which consent shall not be unreasonably withheld.
18. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
19. **Effective Date.** The Effective Date of this Agreement shall be the date this Agreement is signed by the last Party hereto.
20. **Captions.** The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of the Agreement.
21. **Electronic and Digital Signatures.** The Parties to this Agreement agree that any electronic and/or digital signatures of the Parties included in this Agreement are intended to authenticate this writing and shall have the same force and effect as the use of manual signatures.
22. **Multiple Counterparts.** This Agreement may be executed in multiple counterparts, each having equal force and effect of an original.
23. **Human Trafficking.** BY ACCEPTANCE OF THIS AGREEMENT, CITY ACKNOWLEDGES THAT FORT BEND COUNTY, TEXAS IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.
24. **Authorization.** This Agreement shall become binding and effective only after it has been authorized and approved by the governing bodies of each Party, as evidenced by the signature of the appropriate authority. Each Party further represents that, by execution

of this Agreement, it has been duly authorized by its governing body or other appropriate authority from whom such Party is legally bound to obtain authorization.

FORT BEND COUNTY, TEXAS



County Judge KP George

KP George, County Judge

September 26, 2023

Date

ATTEST:



Laura Richard, County Clerk

APPROVED:



J. Stacy Slawinski, P.E.,
County Engineer



CITY OF ROSENBERG, TEXAS



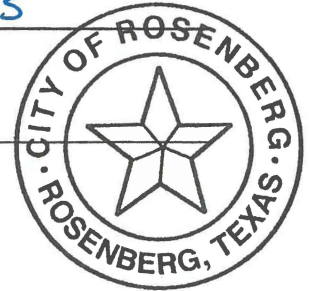
Name - Signature

Kevin Raines

Name - Printed Name

Mayor

Title



ATTEST:



Name - Signature

Danyel Swint

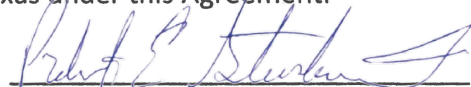
Name - Printed

City Secretary

Title

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ 2,050,000.00 to accomplish and pay the obligation of Fort Bend County, Texas under this Agreement.



Robert E. Sturdivant,
County Auditor