

INTERLOCAL AGREEMENT BETWEEN CHAMBERS COUNTY, TEXAS
AND
CEDAR PORT NAVIGATION & IMPROVEMENT DISTRICT
for Texas Water Development Board Flood Infrastructure Fund
Project No. 40018

This Interlocal Agreement is made and entered into effective as of _____ by and between Chambers County ("COUNTY"), a political subdivision of the State of Texas, and Cedar Port Navigation & Improvement District ("DISTRICT") (collectively, the "Parties").

WHEREAS, COUNTY and DISTRICT, pursuant to the provisions of Chapter 791, Interlocal Cooperation Act, Texas Government Code, as amended have determined that it would be in the best interest of COUNTY and DISTRICT, and to the residents of Chambers County, Texas, to have a comprehensive drainage study performed in Chambers County, Texas, Cedar Port Navigation & Improvement District and other areas impacted by the proposed project;

WHEREAS, the ~~parties~~Parties desire to enter into this Agreement for the purpose of facilitating the COUNTY completing a comprehensive drainage study as described herein (the "Project") for the use and benefit of COUNTY and its residents, including the District;

WHEREAS, the "Project" relates to work in connection with the Texas Water Development Board (TWDB) Flood Infrastructure Fund Project No. 40018, which includes a comprehensive drainage plan or study, and a combined drainage report in the Chambers County, Texas area. The Project was approved by TWDB Action on September 17, 2020, and named by the TWDB, the "Flood Protection Planning for Watersheds – Chambers County and City of Mont Belvieu." The total estimated Project Cost is defined as \$6,208,000, with an eligible grant reimbursement amount equal to 75 percent and the non-reimbursable local sponsor match of 25 percent of total Project cost;

WHEREAS, prior to the submission of the application to the TWDB for consideration, the COUNTY and DISTRICT agreed to share in the funding of the local sponsor match, and to otherwise work together and cooperate with each other with respect to the Project in the an area within Chambers County, Texas, as more specifically set forth in **Exhibit A**, attached and incorporated herein to this Agreement.

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The COUNTY shall remain the direct contracting party between the TWDB as to the Grant and shall assume all responsibilities under the Grant save and except for the DISTRICT's pre-agreed upon portion of the Project as outlined in this Agreement.
2. Upon written request, the COUNTY and DISTRICT agree to supply each other with copies of all correspondence sent to and received from any federal, state or local government authorities or agencies concerning the Project. Should any meeting

or hearing, whether onsite or offsite, regarding the DISTRICT's operations on the Project be required, the DISTRICT agrees to notify the COUNTY at least ten (10) days prior to the date and time of the event, and a COUNTY representative shall have the right to be present;

3. The DISTRICT shall:

- a. Work closely with the COUNTY as needed to develop aligned goals for outcomes and deliverables for the Project such that a cohesive final deliverable is provided to the TWDB at the conclusion of the project.
- b. Complete all Project-related work by appropriate deadlines set forth by the TWDB and/or COUNTY;
- c. Conduct all activities related to this Project in compliance with all applicable laws and in accordance with the terms of this Agreement and with the TWDB grant of funds pursuant to the Project;
- d. Be responsible for the safety of its employees, agents, representatives and contractors;
- e. Allow the COUNTY and TWDB to inspect, examine, review, audit and copy all records of the DISTRICT related to this Agreement and the Project and to retain such records in accordance with the TWDB grant requirements.
- f. Cooperate with the COUNTY to effectuate the purposes of and comply with the grant, including to the extent applicable, compliance und 2 CFR 200 et al.

4. The DISTRICT, in consideration for completion of their (portion of the Project), shall pay the COUNTY the DISTRICT's portion of the local sponsor match funds for work completed on geographical areas ~~commonly~~commonly referred to "HUCs" as more particularly described in -Exhibit A. Notwithstanding anything herein to the contrary, in no event shall DISTRICT be required to pay COUNTY any amount in excess of **\$51,473** for the Project in consideration of the COUNTY's performance hereunder. Such consideration shall be paid by the DISTRICT to the COUNTY in accordance with the Grant during the term of the study and final payment shall be made within thirty (30) days after DISTRICT receives from COUNTY a final invoice detailing the remaining costs incurred by the COUNTY to ensure the invoice is accurate and in accordance with the terms of this Agreement. All payments from DISTRICT to COUNTY hereunder shall be paid in full from current revenues available to DISTRICT. COUNTY shall INVOICE DISTRICT for work completed related to the Project. DISTRICT shall pay each invoice submitted by the COUNTY within thirty (30) days of the DISTRICT's receipt of the invoice.

5. During the completion of the Project, if the COUNTY and/or TWDB determine any noncompliance with the agreed upon scope of the work, COUNTY and DISTRICT shall immediately address the issues raised by the TWBD, and the parties will attempt to satisfy any issues of noncompliance within a period of 30 days.

Commented [DB1]: Method of calculation in exhibit?

6. In the completion of the Project, the COUNTY agrees:

a. Engineering Criteria

- i. Rainfall data will be updated to follow Atlas-14. Chambers County Drainage Criteria will be used for the Project. For the sake of consistency, if Chambers County Criteria requires supplemental criteria, hydrologists from both consultant teams of the District and County will collaborate and reach agreement before any supplemental criteria is used or submitted for the Project.

b. Work Deliverables

- i. A single report will be submitted to the TWDB that details work completed as part of this grant Project. The County and District teams will meet at the 30/60/90 stage of work to develop the format of the report, and otherwise collaborate and agree on a final product before submittal to the TWDB.

c. Incorporation of District Data

- i. The County will incorporate the material drainage information provided by the District and the District's engineers into the comprehensive report submitted at the end of the Project.
- ii. The County will account for the material drainage improvements constructed in the District in the comprehensive report submitted at the end of the Project.
- iii. The County recognizes that development in the District is ongoing and that drainage improvements are currently under construction in the District. The County will account for all drainage improvements for which construction has not yet begun or is incomplete, but for which plans have been approved by the County in the Project.
- iv. In the event of a conflict between District drainage data and County data, the County agrees to work with the District in good faith and to collaborate with the District to resolve such conflict before the Project is -completed.

d. Work closely with the DISTRICT as needed to develop aligned goals for outcomes and deliverables for the Project such that a cohesive final deliverable is provided to the TWDB at the conclusion of the Project.

e. Make best efforts to complete all Project-related work by appropriate deadlines set forth by the TWDB, inclusive of extensions, as necessary;

f. Conduct all activities related to this Project in compliance with all applicable laws and in accordance with the terms of this Agreement and with the TWDB grant of funds pursuant to the Project;

g. Be responsible for the safety of its employees, agents, representatives and contractors;

- h. Upon receiving ten (10) days' prior written notice, allow the DISTRICT to inspect, examine, review, audit and copy all records of the COUNTY's related to this Agreement and the Project and to retain such records in accordance with the grant requirements, at County's place of business during normal County operating hours.
 - i. Cooperate with the DISTRICT to effectuate the purposes of and comply with the grant, including to the extent applicable, compliance und 2 CFR 200 et al.
- 7. TO THE EXTENT PERMITTED BY APPLICABLE LAW, COUNTY AND DISTRICT AGREE TO MUTUALLY INDEMNIFY, DEFEND AND HOLD EACH OTHER, THEIR SUCCESSORS, ASSIGNS, EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES, COMMISSIONERS, ELECTED OFFICIALS, SHAREHOLDERS, PARTNERS, PERSONAL REPRESENTATIVES, HEIRS, LEGATEES, ATTORNEYS AND AGENTS (COLLECTIVELY HEREIN THE "INDEMNIFIED PARTIES") HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, SUITS, LOSSES, DAMAGES, FINES, PENALTIES, LIABILITIES AND EXPENSES (INCLUDING REASONABLE ATTORNEY'S FEES AND OTHER COSTS INCURRED IN CONNECTION THEREWITH) RESULTING FROM ANY ACTUAL OR ALLEGED INJURY (INCLUDING DEATH) OF ANY PERSON OR FROM ANY ACTUAL OR ALLEGED INJURY (INCLUDING DEATH) OF ANY PERSON OR FROM ANY ACTUAL OR ALLEGED LOSS OF OR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE COMPLETION OF THE PROJECT UNDER THIS AGREEMENT AND THE COUNTY'S ADMINISTRATION OF THE GRATNS UNDER THIS AGREEMENT, AND AS TO EACH INDEMNIFIED PARTIES' NEGLIGENCE, GROSS NEGLIGENCE AND/OR WILLFUL MISCONDUCT WHICH CAUSED THE DAMAGE OR INJURY MADE THE BASIS OF A CLAIM OR SUIT.
- 8. In the event there is a default of this Agreement by a party, the non-defaulting party shall give the defaulting party written notice of such default. After receipt of such written notice, the party in default shall have thirty (30) days to cure any such default. Failure by the defaulting party to cure its default during such cure period shall result in a breach of this Agreement, and the non-defaulting party may terminate this Agreement and pursue remedies available hereunder, at law, or in equity.
- 9. The Parties agree to the following miscellaneous terms:
 - a. DISTRICT shall not assign or subcontract this Agreement or its obligations hereunder without the written consent of COUNTY.
 - b. Notices hereunder shall be sent by certified U.S. mail, postage prepaid, return receipt requested at the following addresses:

If to COUNTY:
Chambers County, Texas
Attention: Presiding County Judge
404 Washington Ave
Anahuac, TX 77514

If to DISTRICT:
Cedar Port Navigation & Improvement District
2727 Allen Parkway, Suite 1100
Houston, Texas 77019

- c. This Agreement and the performance thereof shall be governed, interpreted and regulated by the laws of the State of Texas. This Agreement contains the entire agreement of the parties. This Agreement can be amended, or any right or provision waived, only by a written document signed by both parties. This Agreement is deemed performable in Chambers County, Texas. Any and all suits related to this Agreement shall be instituted and maintained in Chambers County, Texas.
- d. Nothing in this Agreement shall be construed to waive either party's right to immunity.
- e. The parties represent and warrant that they have the authority to enter into this Agreement.
- f. In the event that any provision of this Agreement shall be held invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement shall not in any way be affected thereby. The parties hereto acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is their desire and intention that such provision be reformed and construed in such a manner that it will, to the extent practicable, be deemed to be validated and enforceable. This Agreement may be executed in separate counterparts, and electronic copies of this Agreement shall be enforceable as if such a copy was an original document. This Agreement shall be fully executed when each party whose signature is required has signed at least one counterpart even though no one counterpart contains the signatures of all the parties.
- g. If either party hereto fails to perform any of its obligations under this Agreement or if any dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Agreement, then the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party on account of such default or enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorney's fees.

Cedar Port Navigation & Improvement District

By: _____
Print Name: _____
Date: _____

Chambers County, Texas

By: _____
Print Name: Jimmy Sylvia
Date: _____

