

INTERLOCAL AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

THIS INTERLOCAL AGREEMENT (the "Agreement") is made and entered into by and between the City of Sugar Land, Texas (the "City"), acting by and through its City Council, and the Fort Bend County Levee Improvement District No. 2 (the "District"), acting by and through its Board of Directors, (collectively, hereinafter sometimes referred to as "Party" or "Parties"). This Agreement is made pursuant to Chapter 791 of the Texas Government Code (Act).

RECITALS:

The Parties hereto recognize the people and property located within the District and the City are susceptible to damages, injuries, and loss of life and property resulting from flooding.

The District has previously created a two-dimensional hydraulic model (the "Model") of the area located inside the boundaries of the District depicting drainage channels, pumping stations, and other District's drainage components (collectively, the "Drainage Facilities"). In conjunction with the creation of the Model, the City provided GIS files with the location and size of inlets, stormwater sewers, and other City owned drainage infrastructure.

The Parties desire to update and calibrate the Model with data obtained during and after Hurricane Harvey (the "Event") to both more fully understand how the Drainage Facilities performed during the Event and determine possible modifications to the Drainage Facilities' functionality, if any, for future flooding events.

The Act authorizes local governmental entities such as the City and the District to enter into interlocal agreements for governmental functions and services as set forth in the Act.

The City and the District find that entering into this Agreement will serve a public purpose of both the City and the District.

NOW, THEREFORE, the City and the District, in consideration of the mutual covenants and agreements herein contained, agree as follows:

I.

The District has or will enter into a contract with Freese and Nichols, Inc. ("FNI") to complete the following update of the Model (the "Work"):

A. Inclusion of the City's underground storm sewers. The City will provide FNI with the GIS data necessary for completion of this item.

B. Application of rainfall-on-grid data (15-minute interval NEXRAD rainfall). The District will provide FNI with the data necessary for completion of this item.

C. Comparison of the Model results to:

1. Field-collected high water marks and slab elevations. The City and the District will provide the data necessary for the completion of this item.
2. Time-stamped water surface data. The District will provide FNI with data necessary for completion of this item and such data will be based on security camera images obtained from homeowners with property located within the District's boundaries.

D. Calibration and adjustment of the Model based upon the comparisons gained in item C. above.

II.

The Parties will attempt to have the Work completed by October 31, 2017. Upon completion, the results of the Work will be provided to Mike Stone, as the District's representative and Jessie Li, as the City's representative. The results will include:

A. An executive summary of the Event in a format suitable to explain the results to elected officials and residents.

B. Maps depicting the "calibrated" ponding areas.

C. Graphs depicting:

1. Cumulative rainfall in the District during the Event;
2. Internal elevations at the pump station during the Event;
3. Recorded elevations on Ditch "H" near outfalls from the flooded sections; and
4. Recorded internal elevations on Upper Ditch "A" near outfalls from the flooded sections.

III.

The cost of the Work will not exceed \$108,000. This cost will be split equally between the Parties with each Party paying up to \$54,000. The City will remit payment to the District within 30 days from the date of completion of the Work.

IV.

Neither Party to this Agreement waives or relinquishes any immunity or defense on behalf of itself, its officers, employees, agents, and volunteers as a result of its execution of this Agreement and the performance of the covenants contained herein. Furthermore, no provision in this Agreement prohibits either Party from seeking financial aid or in-kind reimbursement from any state or federal agency or program.

V.

Any notice required to be given under this Agreement will be deemed received when sent by United States Mail, Postage Prepaid, Certified Mail, Return Receipt Requested, by hand delivery or electronic or facsimile transmission confirmed by mailing written confirmation substantially the same time as such electronic or facsimile transmission, and addressed to the respective Party at the following address:

To the District: Fort Bend Levee Improvement District No. 2
Allen Boone Humphries Robinson LLP
3200 Southwest Freeway, Suite 2600
Houston, TX 77027
Attention: David Oliver

To the City: City of Sugar Land
PO Box 110
Sugar Land, Texas 77478-0110
Attention: City Engineer

VI.

The Parties will observe and comply with all applicable federal, state, and local laws, rules, ordinances, and regulations affecting the conduct of services provided and the performance of obligations undertaken by this Agreement. In case any one or more provisions contained in this Agreement is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

VII.

This Agreement will be construed in a manner consistent with the Act, as it may hereafter be amended.

VIII.

Mandatory and exclusive venue of any dispute between the Parties to this Agreement will be in a court of competent jurisdiction located in Fort Bend County, Texas.

IX.

This Agreement represents the entire agreement among the Parties with respect to the subject matter covered by this Agreement. This Agreement may only be amended by the mutual written agreement of the Parties. Notwithstanding the foregoing, the Parties recognize that the Work may identify certain recommended improvements to the Drainage Facilities that would be beneficial to further protect property located within the District's boundaries from future flooding

events. The Parties agree to work cooperatively and in good faith to negotiate any further written agreements necessary to ensure that the recommendations determined as a result of the Work will be implemented to the extent that the Parties hereto determine is in the best interest of both the District and the City.

X.

Each Party represents and warrants that it has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have the authorization to sign on behalf of their respective organizations.

[Signature Pages Follow.]

This Agreement, which may be signed in multiple counterparts with each constituting an original, is effective as of the date of the latest signature below.

Fort Bend Levee Improvement District No. 2

City of Sugar Land, Texas

By: [Signature]

By: _____

Title: President, Board of Directors

Title: _____

Date: November 1, 2017

Date: _____

Attest:

By: _____

Title: _____

Date: _____

Approved as to Form:

By: _____

Title: _____

Date: _____