

**INTERLOCAL PROJECT AGREEMENT
(Elevated Storage Tank)**

This Interlocal Project Agreement (the "Agreement"), effective as of the 28th day of May, 2020, is made and entered into pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, among **Lago Mar Development Authority**, a not-for-profit local government corporation organized and existing under the laws of the State of Texas (the "Authority"); **City of Texas City**, a municipal corporation and a home-rule city in the State of Texas (the "City"); and **Land Tejas Lago Mar, L.L.C.**, a Texas limited liability company (the "Developer") (each a "Party" and collectively, the "Parties").

RECITALS

WHEREAS, the City is willing to construct the elevated storage tank as shown generally on **Exhibit A** attached hereto (the "Project"), but does not have funds on hand at this time to pay the entire costs of the Project; and

WHEREAS, the City, the Developer and Galveston County Municipal Utility District No. 56 previously entered into that certain Cost Sharing Agreement for Water Storage Facilities dated November 20, 2019 (the "Original Cost Sharing Agreement") whereby the Developer agreed to advance funds to the City for 50% of the actual design and construction costs of the Project (the "Developer Contribution"); and

WHEREAS, the Parties have each determined that the completion of the Project serves a public purpose and each Party will receive a benefit from completion of the Project; and

WHEREAS, the Authority and the City are authorized to provide certain governmental functions, including but not limited to, the provision of water, sanitary sewer, drainage and road improvements; and

WHEREAS, the Parties wish to enter into this agreement to contribute to the Developer's obligations under the Original Cost Sharing Agreement and to provide for funding, design and construction of the Project; and

WHEREAS, the Authority and the City have funds available to pay or caused to be paid the costs of the Project, as proposed under this Agreement;

NOW THEREFORE, in consideration of the mutual promises, obligations, and benefits herein set forth, the Parties contract and agree as follows:

AGREEMENT

Section 1. Scope of the Improvements. The Parties agree that the construction of the Project will benefit the City and the public. The Parties further agree that the Project should include the design and construction of the elevated storage tank as shown generally on **Exhibit A**. The Project may be completed in one or more phases.

Section 2. Cost Allocation of Improvement Costs. The "Project Costs" are the actual costs of all the engineering, materials, labor, construction and inspection fees and expenses arising in connection with the design and construction of the Project. The Authority agrees to fund a maximum of \$2,200,0000 of actual Project Costs (the "Authority Contribution"). The Authority's Contribution will count toward the Developer's Contribution under the Original Cost Sharing Agreement as if the payment had been made by the Developer. Upon payment of the Authority Contribution, the Developer shall continue to be responsible under the Original Cost Sharing Agreement for an amount equal to the Developer Contribution minus the Authority Contribution. The City agrees to pay the remaining actual Project Costs not funded by the Authority and the Developer.

Section 3. Construction Financing.

a. Deposit of Funds. Not later than 10 days after the execution of this Agreement, the Authority will deposit the Authority Contribution with the City. The City agrees to deposit the Authority's funds into a designated fund for the design and construction of the Project (the "Construction Fund") to be accounted for separately from other City funds. Such funds may be invested or reinvested, from time to time, as provided in the investment policy of the City and in the manner provided by applicable law and regulations. The City further agrees that the Construction Fund, and any interest earned thereon, will be used only for purposes of making payment for the Project Costs of the Project.

b. Final Accounting. The City agrees to have a final accounting done of the Construction Fund upon final completion of the Project. In the event that the final Project Costs of the Project, as adjusted for final quantities and properly approved change orders, results in funds (including actual interest earned) remaining in the Construction Fund, the City will return to the Authority and to the Developer each a proportionate share of any such funds remaining within 30 calendar days of final completion of the Project or the final phase thereof.

Section 4. Construction.

a. Bidding. The City will advertise each phase of the Project for bid, and award to and execute a construction contract (the "Construction Contract")

with the winning bidder, in accordance with the City's standard procedures and in accordance with all laws and regulations applicable to the City.

b. Construction Management. The City will be responsible for providing construction phase engineering services for the Project utilizing appropriately qualified personnel and/or contractors. The City is required to submit monthly reports on the progress of the construction work to the Authority in a format agreed to by the Administrator of the Authority or her appointed designee.

c. Pay Application and Change Order Approval. The City has the right to approve or deny all pay applications, change orders and requests for extensions of time and shall pay all valid pay applications issued under the Construction Contract. The City will notify the Authority and Developer in writing of any change orders that increase the costs associated with the Construction Contract prior to approval of any such change order. Notwithstanding the foregoing, approval of change orders shall be in the City's sole and reasonable discretion.

Section 5. Ownership and Maintenance of the Improvements. After the completion of final inspection of the Project, the City shall accept the Project for ownership and maintenance by the City of Texas City.

Section 6. Notices. All notices, requests, demands, and other communications under this Agreement shall be given by (i) electronic mail, (ii) overnight courier or (iii) hand delivery addressed as follows:

If to the Authority: Lago Mar Development Authority
c/o Allen Boone Humphries Robinson LLP
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027
Attn: David Oliver
doliver@abhr.com
Tel: (713) 860-6485

If to the City: City of Texas City
928 5th Avenue North
PO Box 2608
Texas City, Texas 77590
Attn. Doug Kneupper
(409)643-5882

If to the Developer: Land Tejas Lago Mar, LLC
2450 Fondren, Suite 210
Houston, Texas 77063
Attn: Collin Campbell

Section 7. Termination of Agreement. This Agreement is to remain in full force and effect unless terminated by mutual agreement of the parties hereto, or upon the completion of the Project.

Section 8. Entire Agreement; Modification. This Agreement is intended to supplement and amend the Original Cost Sharing Agreement. The City specifically agrees and acknowledges that the Authority Contribution satisfies the first \$2,200,000 of the Developer's obligation under the Original Cost Sharing Agreement. 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 Parties and shall not be construed to confer any benefit or right upon any other party.

Section 10. 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 11. 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 12. 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 13. Applicable Law. This Agreement shall be governed and construed in accordance with the laws of the State of Texas. Venue shall be in Galveston County.

Section 14. Effective Date. This Agreement will be effective as of the date of the execution by the last party to execute this Agreement.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have executed this Agreement in multiple counterparts, each of which shall be deemed to be an original.

LAGO MAR DEVELOPMENT AUTHORITY

/s/ Chris Doyle
Chairman, Board of Directors

ATTEST:

/s/ Genie Jennings
Secretary, Board of Directors

(SEAL)



CITY OF TEXAS CITY, TEXAS



Mayor

ATTEST/SEAL:



City Secretary

LAND TEJAS LAGO MAR, L.L.C.,
a Texas limited liability company

By: Brende Lago Mar, L.L.C.,
a Texas limited liability company,
as Manager

By: 

Al P. Brende, Manager

ACKNOWLEDGED AND CONSENTED TO this 15 day of July, 2020.

GALVESTON COUNTY MUNICIPAL
UTILITY DISTRICT NO. 56

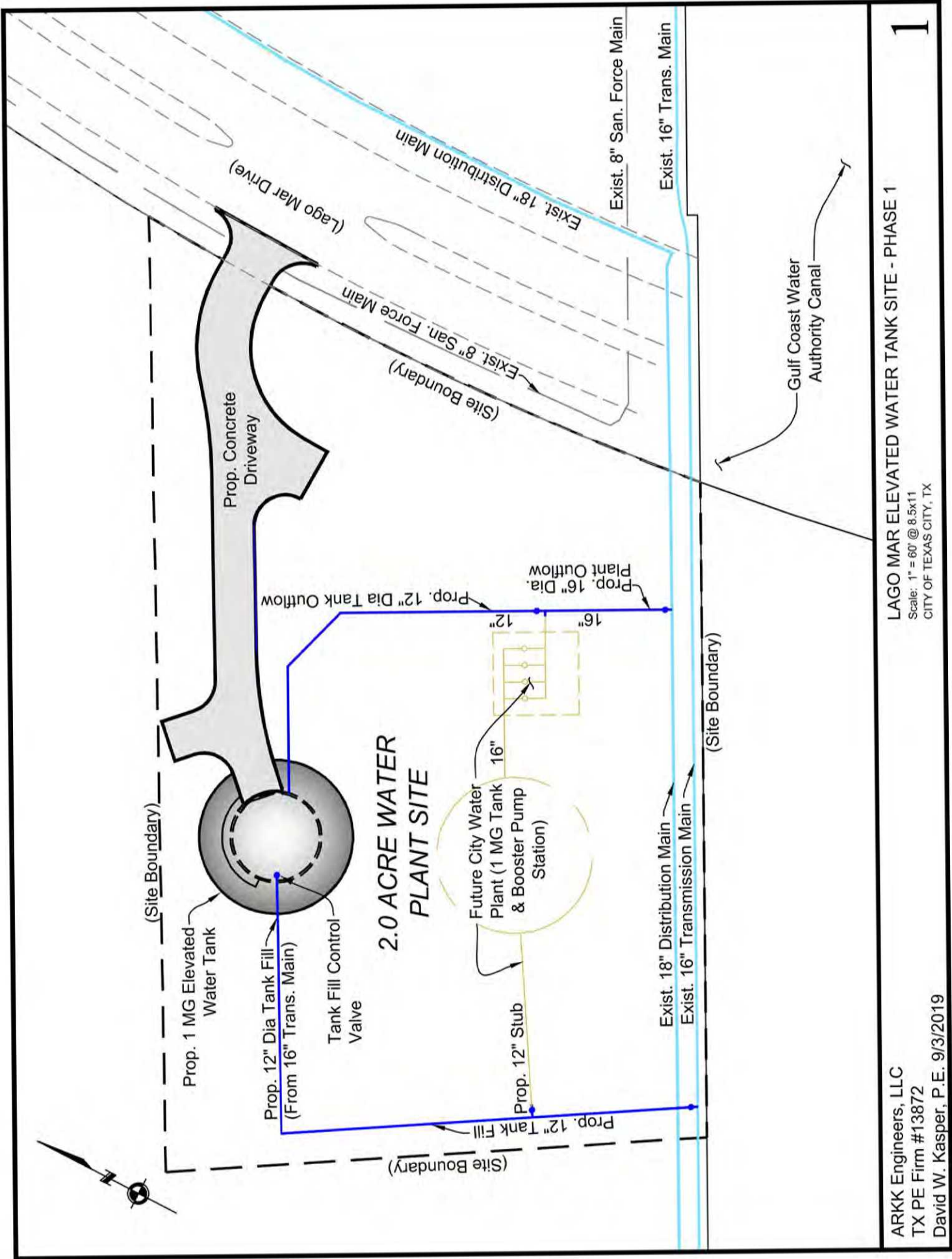
By: Bruce Bure
President, Board of Directors

ATTEST:

By: Chris Wilson
Secretary, Board of Directors

(SEAL)





LAGO MAR ELEVATED WATER TANK SITE - PHASE 1

Scale: 1" = 60' @ 8.5x11
CITY OF TEXAS CITY, TX