

INTERLOCAL AGREEMENT
REGARDING THE CITY/COUNTY PARTICIPATION IN THE DESIGN AND
CONSTRUCTION COSTS RELATED TO CR 245 CONSTRUCTION PROJECT

THE STATE OF TEXAS §
 § KNOW ALL BY THESE PRESENTS:
COUNTY OF WILLIAMSON §

THIS INTERLOCAL AGREEMENT (“Agreement”) is entered into between the City of Georgetown, Texas, a Texas municipal corporation (the “City”) and Williamson County, a political subdivision of the State of Texas (the “County”). In this Agreement, the City and the County are sometimes individually referred to as “a Party” and collectively referred to as “the Parties”.

WHEREAS, V.T.C.A., Government Code, Chapter 791, the Texas Interlocal Cooperation Act, provides that any one or more public agencies may contract with each other for the performance of governmental functions or services for the promotion and protection of the health and welfare of the inhabitants of this State and the mutual benefit of the parties;

WHEREAS, the County is and has been in the process of designing an improvement to CR 245 from RM 2338 to Ronald Reagan Blvd, the approximate location being shown on **Exhibit “A”**, attached hereto, (the “County Project”); and

WHEREAS, the City desires to cooperate with the County to facilitate the construction of the County Project; and

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements of the Parties contained in this Agreement, the Parties agree as follows:

I.
PURPOSE

1.01 General. The purpose of this Agreement is to provide for the City’s participation in the design and construction of the County Project. The County Project includes planning of a future six-lane divided facility from RM 2338 to CR 241 and design and construction of the first phase, a three-lane roadway from RM 2338 to Ronald Reagan Blvd.

II.
CONSTRUCTION OF COUNTY PROJECT

2.01 County Obligations. The County shall be responsible for all costs associated with the preliminary and final design, construction bidding and management, right-of-way acquisitions,

utility relocations, and all other costs related to the construction of the County Project, unless otherwise specified herein (“County Project Costs”).

2.02 Construction Plans. The County shall submit to the City at least thirty (30) days prior to putting the County Project out to bid the plans and specifications related to the County Project for the Parties’ mutual review and approval. Any changes or modifications to the approved plans and specifications will be submitted to the City for review and approval prior to commencing construction.

2.03 Inspection. The City may inspect all aspects of the County Project during construction. Upon receipt of notification from the City that the City’s inspectors determine the construction by the County is not in accordance with the approved project plans, the County shall cease construction until the deficiency can be identified and a corrective plan of construction implemented with the agreement of the City.

2.04 Permits. The County shall be responsible for obtaining permits, if any, required for the construction of the Project. The City agrees to credit the County for all permitting, and other fees due to the City from the County related to the County Project.

2.05 Insurance, Bonds and Warranties. The County shall require the contractor for the Project to name the City as an additional insured on any policies related to the County Project. The County shall require the contractor to provide performance bonds and maintenance bonds in favor of the City for the County Project in amounts satisfactory to the City. The County shall transfer all warranties for the County Project to the City upon final completion and acceptance of the Project.

III.

GEORGETOWN OBLIGATIONS

3.01 ROW Design. The City and the County agree that the future right-of-way footprint for the County Project will be 135’ wide from Williams Drive to CR 241. The County will be responsible for the acquisition of all right-of-way needed for the County project.

3.02 Permission to Construct. The City agrees to allow the County to construct the portions of County Project within the City’s boundaries.

3.03 Acquisition of Real Property Rights. The City hereby authorizes the County to undertake the acquisition of right-of-way, drainage easements, utility easement, and other real property rights and interests, through negotiation or condemnation, within the city limits and its extra territorial jurisdiction, which are necessary for the completion of the County Project. This authorization is subject to the following conditions for any property rights acquired after the Effective Date of this Agreement:

1. Property rights which are within the City Limits shall be acquired in the name of the City, utilizing only published City standard forms, or forms with those changes as are approved by the City Attorney; and,

2. Property rights which are acquired within the Extra-territorial Jurisdiction of the City of Georgetown shall include only those terms and conditions, and carry such warranty of title, as are acceptable to the City Attorney; and,
3. An Owner's Title Insurance Policy (OTP) shall be acquired in the name of the City for all interests conveyed in accordance with Item 1 of this Section. The OTP shall be subject only to such exceptions as are authorized or accepted by the City Attorney.

3.04 Operation, & Maintenance. The City agrees to accept maintenance of the County Project within the City Limits as exist at the time of completion of County Project and those portions of the County Project, if any, annexed pursuant to Section 3.06 after completion of the County Project, subject to the following conditions:

1. Inspections have been completed, and any deficiencies or defects have been cured in accordance with Section 2.03 of this Agreement; and,
2. All bonds or other securities have been provided to, and accepted by, the City in accordance with Section 2.05 of this Agreement.

3.05 Ownership. The County agrees to transfer property rights including any fee or easements interests, permits and licenses for: (1) those portions of the County Project within City Limits as exist at the time of the completion of the County Project, which are not held by the City at time of completion of the County Project; and (2) those portions of the County Project not within City Limits at the time of the completion of the County Project that are annexed at a later date pursuant to Section 3.06, via documents approved by the City Attorney. All property rights shall be transferred with the same warranty with which they were received by the County, and shall be provided with an OTP subject only to such exceptions as are authorized or accepted by the City Attorney.

3.06 Annexation. The City may, at its election, annex such sections of the County Project as allowed by law after the Effective Date of this Agreement. For the avoidance of doubt, the County's approval of this Agreement shall constitute a request for the City to annex the subject right-of-way under Section 43.1055 of the Texas Local Government Code. Within 60 days of request by the City, County shall provide all such documentation and authorizations as are necessary to effect such annexation(s).

3.07 Utility Relocations. The City agrees to be solely responsible for the relocation of any City utilities within the right-of-way or otherwise affected by the County Project. The County shall make an effort to design the County Project so as to allow the current City utilities to remain in place. The County shall be solely responsible for the relocation of all other utilities required by the County Project, unless the City requires existing overhead utilities to be re-installed underground.

IV.
DISPUTES

4.01 Material Breach; Notice and Opportunity to Cure.

(a) In the event that one Party believes that another Party has materially breached one of the provisions of this Agreement, the non-defaulting Party will make written demand to cure and give the defaulting Party up to 30 days to cure such material breach or, if the curative action cannot reasonably be completed within 30 days, the defaulting Party will commence the curative action within 30 days and thereafter diligently pursue the curative action to completion. Notwithstanding the foregoing, any matters specified in the default notice which may be cured solely by the payment of money must be cured within 10 days after receipt of the notice. This applicable time period must pass before the non-defaulting Party may initiate any remedies available to the non-defaulting party due to such breach.

(b) Any non-defaulting Party will mitigate direct or consequential damage arising from any breach or default to the extent reasonably possible under the circumstances.

(c) The Parties agree that they will negotiate in good faith to resolve any disputes and may engage in non-binding mediation, arbitration or other alternative dispute resolution methods as recommended by the laws of the State of Texas.

4.02 Equitable Relief. In recognition that failure in the performance of the Parties' respective obligations could not be adequately compensated in money damages alone, the Parties agrees that after providing notice and an opportunity to cure in accordance with Section 4.01 above, the Parties shall have the right to request any court, agency or other governmental authority of appropriate jurisdiction to grant any and all remedies which are appropriate to assure conformance to the provisions of this Agreement. The defaulting Party shall be liable to the other for all costs actually incurred in pursuing such remedies, including reasonable attorney's fees, and for any penalties or fines as a result of the failure to comply with the terms including, without limitation, the right to obtain a writ of mandamus or an injunction requiring the governing body of the defaulting party to levy and collect rates and charges or other revenues sufficient to pay the amounts owed under this Agreement.

4.03 Agreement's Remedies Not Exclusive. The provisions of this Agreement providing remedies in the event of a Party's breach are not intended to be exclusive remedies. The Parties retain, except to the extent released or waived by the express terms of this Agreement, all rights at law and in equity to enforce the terms of this Agreement.

V.
GENERAL PROVISIONS

5.01 Authority. This Agreement is made in part under the authority conferred in Chapter 791, *Texas Government Code*.

5.02 Term. This Agreement shall commence upon execution of this Agreement and shall end on the date that all obligations of the Parties with respect to this Agreement have been satisfied.

5.03 Severability. The provisions of this Agreement are severable and, if any provision of this Agreement is held to be invalid for any reason by a court or agency of competent jurisdiction, the remainder of this Agreement will not be affected and this Agreement will be construed as if the invalid portion had never been contained herein.

5.04 Payments from Current Revenues. Any payments required to be made by a Party under this Agreement will be paid from current revenues or other funds lawfully available to the Party for such purpose.

5.05 Cooperation. The Parties agree to cooperate at all times in good faith to effectuate the purposes and intent of this Agreement.

5.06 Entire Agreement. This Agreement contains the entire agreement of the Parties regarding the subject matter hereof and supersedes all prior or contemporaneous understandings or representations, whether oral or written, regarding the subject matter and only relates to those portions of the County Project shown in the plans attached hereto as Exhibit "A."

5.07 Amendments. Any amendment of this Agreement must be in writing and will be effective if signed by the authorized representatives of the Parties.

5.08 Applicable Law; Venue. This Agreement will be construed in accordance with Texas law. Venue for any action arising hereunder will be in Williamson County, Texas.

5.09 Notices. Any notices given under this Agreement will be effective if (i) forwarded to a Party by hand-delivery; (ii) transmitted to a Party by confirmed telecopy; or (iii) deposited with the U.S. Postal Service, postage prepaid, certified, to the address of the Party indicated below:

GEORGETOWN: P.O. Box 409, Georgetown, Texas 78627
300-1 Industrial Ave, Georgetown, Texas 78626
Attn: City Manager
Telephone: (512) 930-3652
Facsimile: (512) 930-3559
Email: david.morgan@georgetown.org

COUNTY: 710 S. Main Street, Georgetown, Texas 78626
Attn: William Gravell, Jr.
Telephone: (512) 943-1550
Facsimile: (512) 943-1662

5.10 Counterparts; Effect of Partial Execution. This Agreement may be executed simultaneously in multiple counterparts, each of which will be deemed an original, but all of which will constitute the same instrument.

5.11 Authority. Each Party represents and warrants that it has the full right, power and authority to execute this Agreement.

5.12 Effective Date. This Agreement is executed to be effective on the date the last Party signs this Agreement.

5.13 No Joint Venture. The County Project is a sole project of the County and is not a joint venture or other partnership with the City.

(SIGNATURES ON FOLLOWING PAGE)

CITY OF GEORGETOWN, TEXAS

By: _____

Josh Schroeder, Mayor

ATTEST:

By: _____

Robyn Densmore

Robyn Densmore, City Secretary

APPROVED AS TO FORM:

By: _____

Skye Masson

Skye Masson, City Attorney

THE STATE OF TEXAS §

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COUNTY OF WILLIAMSON §

February **THIS INSTRUMENT** was acknowledged before me on this *8th* day of *February*, 2022 by Josh Schroeder as Mayor of the City of Georgetown, a Texas home-rule city, on behalf of said city.



Linda Ruth White

Notary Public, State of Texas

WILLIAMSON COUNTY, TEXAS

By: _____
William Gravell, Jr., County Judge

ATTEST:

By: _____
Nancy Rister, County Clerk

THE STATE OF TEXAS §

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COUNTY OF WILLIAMSON §

THIS INSTRUMENT was acknowledged before me on this ____ day of _____, 2022, by William Gravell, Jr., County Judge of Williamson County, Texas, on behalf of said County.

Notary Public, State of Texas