

INTERLOCAL AGREEMENT BETWEEN
UPPER BRUSHY CREEK WATER CONTROL AND IMPROVEMENT
DISTRICT AND WILLIAMSON COUNTY

THE STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

This Interlocal Agreement (the "Agreement") is entered into as of this _____ day of _____, 2015, by and between the Upper Brushy Creek Water Control and Improvement District, a political subdivision of the State of Texas (the "District") and Williamson County, Texas (the "County") (collectively, the "Parties").

RECITALS

WHEREAS, V.T.C.A., Government Code, Chapter 791, cited as the Texas Interlocal Cooperation Act, provides that any one or more local governments 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; and

WHEREAS, the District and the County desire to cooperate in the replacement of the portion of the Brushy Creek Regional Trail located on the embankment of Dam #7 (the "Dam #7 Trail"); and

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

A.
TERMS AND CONDITIONS

1. Project Improvement.

A 0.32 mile segment of the Dam #7 Trail, being shown on **Exhibit "A"**, attached hereto and incorporated herein, is to be rehabilitated (the "Trail Project").

2. District Obligations.

The District shall be responsible for the design and construction of the Trail Project. The District will contract with a consulting firm/team to provide surveying, design, land planning, permitting, and construction phase services as needed to complete the Trail Project. The District shall consult with and obtain the consent from the County prior to construction. The costs associated with the design and construction of the Trail Project shall initially be incurred by the District.

3. **County Obligations.**

The County agrees to be responsible for 50% of the project construction costs, as described below. After project completion, the County will own, operate and maintain the Dam #7 Trail improvements.

4. **Project Funding.**

a. **County.**

- i. The County agrees to be responsible for up to 50% of Project Construction Costs (as described below), for a total amount not to exceed \$327,200. Project Construction Costs include all Trail Project costs incurred by the District for construction of the trail as shown in Exhibit "A". Any major trail enhancements desired by the County and not shown in Exhibit "A" would be at their expense.
- ii. Upon the District's approval of each invoice for Projects Costs, the District will transmit a copy of the invoice to the County. Each invoice shall identify all Projects Costs incurred by the District relating to the Project. Each invoice submitted by the District for reimbursement will clearly describe the work done for which reimbursement is sought, will not seek reimbursement or payment for any costs or expenses other than Projects Costs. Upon request of the County, the District agrees to make available documentation in reasonable detail evidencing all Projects Costs for which reimbursement is sought. Upon timely receipt, proper documentation and approval of each invoice, County shall make a good faith effort to pay the amount which is due and payable within sixty (60) days of the County Auditor's receipt. Payment not mailed within 60 calendar days of receipt by the County Auditor will accrue interest at the rate set forth in Government Code Section 2251.025(b).

b. **District.**

- i. The District shall be responsible for securing all funding for all aspects the Trail Project, conditioned upon the County meeting its financial obligations as stated above.

B.

MISCELLANEOUS PROVISIONS

1. **Execution.**

This Agreement may be simultaneously executed in any number of counterparts, each of which will serve as an original and will constitute one and the same instrument.

2. **Governing Law.**

This Agreement will be governed by the Constitution and laws of the State of Texas.

3. **Successors and Assigns.**

The assignment of this Agreement by either Party is prohibited without the prior written consent of the other Party.

4. **Headings.**

The captions and headings appearing in this Agreement are inserted merely to facilitate reference and will have no bearing upon its interpretation.

5. **Partial Invalidity.**

If any of the terms, covenants or conditions of this Agreement, or the application of any term, covenant, or condition, is held invalid as to any person or circumstance by any court with jurisdiction, the remainder of this Agreement, and the application of its terms, covenants, or conditions to other persons or circumstances, will not be affected.

6. **Waiver.**

Any waiver by any party of its rights with respect to a default or requirement under this Agreement will not be deemed a waiver of any subsequent default or other matter.

7. **Amendments.**

This Agreement may be amended or modified only by written agreement duly authorized and executed by the duly authorized representatives of the Parties.

8. **Cooperation.**

Each Party agrees to execute and deliver all such other and further instruments and undertake such actions as are or may become necessary or convenient to effectuate the purposes and intent of this Agreement.

9. **Venue.**

All obligations of the Parties are performable in Williamson County, Texas and venue for any action arising hereunder will be in Williamson County.

10. Third Party Beneficiaries.

Except as otherwise expressly provided herein, nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties, any rights, benefits, or remedies under or by reason of this Agreement.

11. Representations.

Unless otherwise expressly provided, the representations, warranties, covenants, indemnities, and other agreements will be deemed to be material and continuing, will not be merged, and will survive the termination or expiration of this Agreement.

12. Exhibits.

All exhibits attached to this Agreement are hereby incorporated in this Agreement as if the same were set forth in full in the body of this Agreement.

13. Entire Agreement.

This Agreement, including any attached exhibits, contains the entire agreement between the Parties with respect to the subject matter and supersedes all previous communications, representations, or agreements, either verbal or written, between the Parties with respect to such matters.

14. Term.

This Agreement shall automatically terminate if a construction contract is not awarded for the Trail Project by the District within four (4) years after this Agreement is executed by both parties.

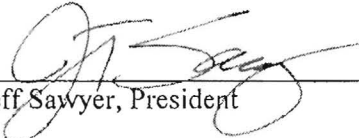
15. No Joint Venture

This Agreement is not intended to create, nor should it be construed as creating, a partnership, association, joint venture, or trust.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be signed, sealed and attested in duplicate by their duly authorized officers, as of the Effective Date.

(signatures on following page)

UPPER BRUSHY CREEK WATER CONTROL
AND IMPROVEMENT DISTRICT

By: 
Jeff Sawyer, President

Date: September 18, 2015

WILLIAMSON COUNTY, TEXAS

By: 
Dan A. Gattis, County Judge

Date: 10-01-2015

Attest:

County Clerk

EXHIBIT A

The extents of the Project Improvement is shown in red in the figure below.

