

**INTERLOCAL AGREEMENT REGARDING
RELOCATION OF WATER SYSTEM IMPROVEMENTS
(CR 110 MIDDLE PROJECT)**

THE STATE OF TEXAS
COUNTY OF WILLIAMSON

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KNOW ALL BY THESE PRESENTS:

THIS INTERLOCAL AGREEMENT REGARDING RELOCATION OF WATER SYSTEM IMPROVEMENTS ("Agreement") is entered into between Jonah Special Utility District (the "**District**") and Williamson County, a political subdivision of the State of Texas (the "**County**"). In this Agreement, the District and the County are sometimes individually referred to as "**a Party**" and collectively referred to as "**the Parties**".

WHEREAS, the County is and has been in the process of improving the Middle portion of CR 110 (the "**County Project**"); and

WHEREAS, some of the proposed CR 110 Middle roadway improvements include the widening of the right-of-way into easements in which the District's water system improvements are or will be located; and

WHEREAS, the parties have determined that, because of the re-alignment of CR 110 Middle, additional easements and the relocation of District waterlines (the "**Waterlines**") are necessary; and

WHEREAS, in connection with the construction of the roadway improvements, the County desires to relocate portions of the Waterlines into new right-of-way in areas of conflict in lieu of obtaining new easements for the Waterlines; and

WHEREAS, Jonah desires to cooperate with the County to facilitate the construction of the roadway improvements and simplify relocation of the Waterlines by replacing the Waterlines with a single 16-in waterline (the "**16" Waterline**"); and

WHEREAS, this Agreement sets forth the terms and conditions pursuant to which the County shall relocate the District's water system improvements in certain segments of the County Project into the new CR 110 Middle right-of-way.

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.
STATEMENT OF INTENT**

1.01 General. The purpose of this Agreement is to provide for the County's relocation and construction of District waterline improvements caused by the County's re-alignment of the Middle portion of CR 110.

1.02 Relocation of Waterlines and Provision of Easement Rights. The County will, at its own expense, relocate the Waterlines to construct the 16" Waterline as described in the construction plans (the "Project Plans") and the specifications associated with the Project Plans (the "Project") and convey a water line easement to Jonah in a form mutually agreeable to the parties that contains provisions regarding the following:

(a) grants Jonah an exclusive right to at least a 15-foot wide designated portion of the right-of-way for its water line and an additional 15-wide construction easement to be used in the event repairs to the water line are required;

(b) provides Jonah the right to make any repairs or improvements to its water line with no obligation to repair the overlying roadway improvements, including but not limited to sidewalks and driveways; and

(c) requires the County (or the City, in the future) to relocate Jonah's facilities if necessary in the future and acquire and provide any future easements or the same right-of-way rights in favor of Jonah at the County's sole expense.

The Project Plans are those plans prepared by Coyote Consulting, LLC, dated May 1, 2017 and entitled 2016 C.R. 110 Middle; Utility Relocation, which are incorporated herein by reference, and generally include the following:

(i) From CR 109 (Limmer Loop) north along CR 110, District has an existing 4" waterline (to be abandoned in place) on the west side and a 12" waterline (to be abandoned in place) on the east side of the road up until University Blvd., both in private easement and to be abandoned in place in exchange for a 16" waterline to be installed in the right-of-way with easement rights pursuant to this Agreement;

(ii) From University Blvd. north to CR 107, District has an existing 4" waterline (to be abandoned in place) on the west side and a 16" waterline (to remain in service) and a 12" waterline (to be abandoned in place) on the east side, all in private easements, and the 4" and 12" waterlines are to be abandoned in place and replaced with a single 12" waterline that is to be installed on the west side of CR 110 in right-of-way with easement rights pursuant to this Agreement; and

(iii) From CR 107 North to the limits of the CR 110 Middle project, District has an existing 12" waterline (to be abandoned in place) on the west side and an existing 16" waterline (to remain in service) on the east side of CR 110, and the existing 12" waterline is to be abandoned in place and replaced with a 12" waterline that is to be

installed on the west side of CR 110 in right-of-way with easement rights pursuant to this Agreement.

(iv) To the extent the Project Plans conflict with the general description set forth above, the Project Plans control.

1.03 Continuation of Service. The County agrees that the County Project shall be undertaken so as to minimize any disruption of water service to existing customers of the District and will not result in the permanent loss of water service to any such customers.

II. CONSTRUCTION OF PROJECT

2.01 General. The Parties mutually acknowledge and agree that the County shall, at its own expense, construct all physical improvements that constitute the Project.

2.02 Construction Plans. The County shall submit the Project Plans and specifications related to relocation of the Waterline, and any changes or modifications thereto, to the District for review and approval prior to commencing construction.

2.03 Inspection. The District may inspect the Project Plans and the physical improvements relocated Waterline during construction. If the District's inspectors determine that the construction by the County is not in accordance with the approved Project Plans and upon receipt of such notification from the District, the County shall cease construction until the deficiency can be identified and a corrective plan of construction implemented with the agreement of the District.

2.04 Future Relocations. Should the County or other entity require the relocation of the District water system improvements previously relocated by this Agreement, the County shall, at its own expense, be responsible for the relocation expenses, including the acquisition of new easements, if necessary.

2.05 Permits. The District shall be responsible for obtaining permits required for the construction of the Project.

2.06 Other Costs. The County shall reimburse the District for all costs that the District incurs for inspections, permitting, engineering and legal services and other services related to the Project within 30 days of receipt of an invoice for those costs.

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

III. DISPUTES

3.01 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.

3.02 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.

3.03 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.

IV. GENERAL PROVISIONS

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

4.02 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.

4.03 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.

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

4.05 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 Project Plans.

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

4.07 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.

4.08 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:

DISTRICT:

Jonah Water Special Utility District
4050 FM 1660
Hutto, Texas 78634
Attn: General Manager
Telephone: (512) 759-2983

COUNTY:

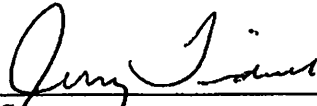
Williamson County
710 Main Street, Suite 101
Georgetown, Texas 78626
Attn: Judge Dan Gattis
Telephone: (512) 943-1577

4.09 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.

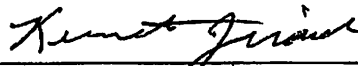
4.10 Authority. Each Party represents and warrants that it has the full right, power and authority to execute this Agreement.

(SIGNATURES ON FOLLOWING PAGE)

ATTEST:


Secretary

JONAH WATER SPECIAL UTILITY
DISTRICT:

By: 
Printed Name: Kenneth Jirasek
Title: President

Date: July 6, 2017

ATTEST:

County Clerk

WILLIAMSON COUNTY:

By: 
Printed Name: Dan A. Gattis
Title: County Judge

Date: 07-20-2017