

INTERLOCAL MOWING REIMBURSEMENT AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

THIS AGREEMENT is made and entered into pursuant to the Interlocal Cooperation Act, Tex. Govt. Code Ann., Ch. 791, as amended, and executed by and between the **Harris County Flood Control District**, a body corporate and politic under the laws of the State of Texas, hereinafter called "HCFCD," or the "District," and **Harris County Municipal Utility District No. 391**, a conservation and reclamation district created and operating under the provisions of Article XVI, Section 59, of the Constitution of Texas, and Chapters 49 and 54 of the Texas Water Code, hereinafter called "MUD."

WITNESSETH, that

WHEREAS, the District owns or has accepted drainage property rights on a flood control channel known as HCFCD Unit K145-05-00, hereinafter the "Unit"; and

WHEREAS, the District performs certain maintenance services, including mowing services, on drainage and flood control channels located within, adjacent to, and downstream of the boundaries of the MUD; and

WHEREAS, the MUD desires to perform certain of said maintenance services, namely, mowing and related services, in the District's stead and upon the terms and conditions hereinafter stated; and

WHEREAS, the District is willing to pay the MUD for performing such services.

NOW, THEREFORE, in consideration of the mutual covenants, agreements, and benefits to the parties herein named, the parties agree as follows:

Section 1

The MUD shall perform maintenance services on the following HCFCD Unit located within, adjacent to, or downstream of the MUD boundary, comprising 12.5 acres as shown in Exhibit "A" and the District will pay for the MUD services as listed in Exhibit "B," both exhibits attached hereto:

Along both sides of HCFCD Unit K145-05-00 beginning approximately 256 feet upstream of Louetta Road continuing downstream approximately 4,126 feet.

Section 2

The District mowing season begins on May 1 and ends on November 30 of each year, and consists of three (3) mowing cycles. The term of this Agreement shall be five (5) District mowing seasons, consisting of fifteen (15) mowing cycles, as shown below, unless earlier terminated pursuant to Section 11 of this Agreement or modified pursuant to Section 3 of this Agreement. If the first mowing season begins before this Agreement is fully executed, the number of mowing cycles eligible for reimbursement during that season will be reduced to the number of cycles remaining in which mowing services were actually performed. The District will pay the MUD for performing maintenance and mowing services on the designated Units one (1) time per mowing cycle during the term of this Agreement, as provided hereunder in Section 10.

The District mowing seasons for the term of this Agreement shall be:

First Mowing Season:	May 1, 2023, through November 30, 2023
3 Mowing Cycles:	May 1, 2023, through July 10, 2023 July 11, 2023, through September 19, 2023 September 20, 2023, through November 30, 2023
Second Mowing Season:	May 1, 2024, through November 30, 2024
3 Mowing Cycles:	May 1, 2024, through July 10, 2024 July 11, 2024, through September 19, 2024 September 20, 2024, through November 30, 2024
Third Mowing Season:	May 1, 2025, through November 30, 2025
3 Mowing Cycles:	May 1, 2025, through July 10, 2025 July 11, 2025, through September 19, 2025 September 20, 2025, through November 30, 2025
Fourth Mowing Season:	May 1, 2026, through November 30, 2026
3 Mowing Cycles:	May 1, 2026, through July 10, 2026 July 11, 2026, through September 19, 2026 September 20, 2026, through November 30, 2026
Fifth Mowing Season:	May 1, 2027, through November 30, 2027
3 Mowing Cycles:	May 1, 2027, through July 10, 2027 July 11, 2027, through September 19, 2027 September 20, 2027, through November 30, 2027

The maintenance and mowing services to be performed by the MUD shall consist of mowing or cutting the grass of the berms and slopes along the channels delineated in Section 1 between the channel right-of-way boundaries at such intervals to prevent the grass from attaining a height in excess of twenty-four (24) inches. The MUD shall perform such other maintenance as it, in its sole discretion, deems reasonably necessary to provide for an attractive appearance of the channels, at no additional cost to the District. The MUD will not engage in herbicide operations or remove trees without authorization from the District's Executive Director. The District may continue to mow, provide herbicide application and maintenance services at its discretion, but shall not be obligated to do such. The District will inspect the Units during each mowing cycle to make sure the Units are being maintained according to this Agreement. If the District discovers during said inspection that grass on any part of the Units has attained a height in excess of twenty-four (24) inches, as determined in the District's sole discretion, the District will mow the Units and the MUD will not be reimbursed for its mowing or maintenance services performed during that mowing cycle.

Section 3

Should the District have need, the mowing cycles may be adjusted. In such instances, the MUD will not be reimbursed for the mowing or maintenance services performed during any removed cycles. In such instance, the District will provide the MUD thirty (30) days written notice of such change. Further, should the District remove a mowing cycle, the MUD will not be penalized should the grass on the Unit attain a height in excess of twenty-four (24) inches during the removed cycle.

Section 4

All or a portion of the mowing services will be completed on the District land or right-of-way. The District authorizes the MUD to enter upon its land and has no objection to it entering upon its right-of-way for the limited purpose of performing the mowing and maintenance services, subject to the District's rights thereto. The MUD's authority to enter upon the right-of-way is expressly limited to the purposes set forth herein; is subject at all times to the District's right to enter upon and use its land or right-of-way for flood control purposes, as is more fully provided in Section 9 hereof; and is expressly limited to the extent of the District's right, title, or interest, if any, in and to the land or right-of-way used by the MUD, and the District makes no representation or warranty regarding its right, title, or interest, if any, in and to the land or right-of-way used by the MUD for performing the mowing and maintenance services.

Section 5

The MUD shall provide or contract for all labor, equipment, fuel, and supplies necessary to perform the mowing delineated in Section 2 above. The MUD shall provide the District a written mowing schedule to be performed by the MUD's mowing contractor including the names and telephone numbers of the MUD's mowing contractor and the contractor's contact person within thirty (30) days of the date of execution of this Agreement as notification and commencement of work to be completed. **It is understood and agreed between the parties, such understanding and agreement being of the absolute essence of this Agreement, that the District shall have no obligation to pay any compensation to the MUD, unless the MUD has submitted the mowing schedule and contact information of the MUD's mowing contractor.**

Section 6

It is understood and agreed that the District's personnel shall not be considered employees, agents, partners, joint venturers, ostensible or apparent agents, servants or borrowed servants of the MUD. It is also understood and agreed that the MUD and the MUD's personnel shall not be considered employees, agents, partners, joint venturers, ostensible or apparent agents, servants, or borrowed servants of the District.

Section 7

The MUD will cause to be inserted in the MUD's contractor's contract for mowing and maintenance the statement attached hereto as Exhibit "C," providing that the contractor will save and hold harmless the MUD and the District and all their representatives from all suits, actions, or claims of any character brought on account of any injuries or damages sustained by any person or property in consequence of any neglect in safeguarding the work or through the use of unacceptable materials in the mowing and maintenance of the District land or right-of-way or any associated improvements, or on account of any act of omission by the contractor, provided, however, that the liability of the contractor under such indemnification shall not exceed \$400,000.00 per occurrence.

The MUD shall further require that the MUD's contractor's insurance policies name the District as an additional insured. Such insurance policies shall include not less than the minimum coverages as stated in the current "Harris County General Conditions for Roads, Bridges and Related Work."

The MUD shall deliver the contractor's save and hold harmless statement and the contractor's insurance policies to the District within thirty (30) days of the date of execution of this Agreement or the District will not be obligated to pay the MUD for services performed under this Agreement.

Section 8

THE MUD COVENANTS NOT TO SUE AND AGREES TO RELEASE THE DISTRICT FROM AND AGAINST ANY AND ALL LOSSES, LIABILITIES, CLAIMS, DEMANDS, FINES, COSTS, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER ON ACCOUNT OF PERSONAL INJURIES, ILLNESS, OR DEATH OF PERSON(S), OR DAMAGE TO OR LOSS OF PROPERTY INCURRED BY THE MUD, ITS EMPLOYEES, AGENTS, LICENSEES, INVITEES, REPRESENTATIVES, CONTRACTORS, OR SUBCONTRACTORS, IN PERFORMING THE ACTIVITIES PERMITTED BY THIS AGREEMENT, OR ARISING FROM OR INCIDENT TO ANY DEFECT IN OR CONDITION OF ANY PROPERTY, FACILITIES, EQUIPMENT, TOOLS, OR OTHER ITEMS PROVIDED BY THE DISTRICT WHETHER OR NOT SUCH DEFECT OR CONDITION IS KNOWN OR SHOULD HAVE BEEN KNOWN TO THE DISTRICT, ITS EXECUTIVE DIRECTOR, OFFICIALS, AGENTS, SERVANTS, EMPLOYEES, REPRESENTATIVES, LICENSEES, INVITEES, CONTRACTORS, OR SUBCONTRACTORS.

THE MUD AGREES NOT TO IMPEAD OR BRING ANY ACTION AGAINST THE DISTRICT, ITS EXECUTIVE DIRECTOR, OFFICIALS, AGENTS, SERVANTS, EMPLOYEES, REPRESENTATIVES, LICENSEES, INVITEES, CONTRACTORS, OR SUBCONTRACTORS BASED ON ANY CLAIM BY ANY PERSON FOR PERSONAL INJURY, DEATH, OR PROPERTY LOSS THAT OCCURS IN THE COURSE OR SCOPE OF EMPLOYMENT OF SUCH PERSON BY THE MUD AND THAT ARISES OUT OF ACTIVITIES PERMITTED UNDER THIS AGREEMENT.

Section 9

The MUD agrees that the District at all times retains the right to demand immediate removal of any and all equipment, personal property, and personnel from the drainage and flood control channels, or to take such steps as may be necessary to remove the same. The District assumes no responsibility for the wellbeing or disposition of any items of equipment or personal property removed hereunder. Furthermore, the District reserves the right to, at any time, enter upon and use the subject property for flood control purposes and to take such actions with respect to such property or any personal property located thereon as, in its Executive Director's sole discretion, may be desirable for flood control purposes, and the MUD shall have no claim for damages of any character on account thereof against the District, its Executive Director, agents, representatives, employees, or other contractors.

Section 10

For and in consideration of the services to be performed by the MUD under this Agreement and subject to compliance with the provisions herein, the District may pay the MUD based upon acreage of 12.5 acres and the District's average contract mowing cost of \$156.98 per acre per mowing cycle, or the amount stated on the invoice provided to HCFCD, whichever amount is less. One (1) invoice per mowing season shall be submitted to the District on or before December 31st of each calendar year during the term of this Agreement. Subject to the certification of funds by the Harris County Auditor and the issuance of a purchase order by the Harris County Purchasing Agent, the HCFCD will pay the MUD at the end of each mowing season within sixty (60) days of receiving a completed invoice, blank version attached hereto as Exhibit "D," with contractor's dated invoices for each mowing cycle showing services rendered attached thereto. Under no circumstances will the HCFCD pay an invoice submitted after December 31st of the calendar year in which the mowing services were rendered.

The HCFCD shall only pay invoices submitted for services performed within the designated HCFCD mowing cycles described in Section 2. The HCFCD shall not pay for mowing the Unit more than one (1) time per mowing cycle or three (3) times each mowing

season, nor for invoices submitted for a mowing cycle during which the HCFCD mowed the Unit under the conditions described in Section 2 or removed the mowing cycle under Section 3.

Notwithstanding anything contained herein that may be construed to the contrary, while actual payment may be less according to the terms and provisions of this Agreement, the MUD has been advised by the District, and the MUD clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the District has available the maximum sum of \$5,886.75 each year specifically allocated to fully discharge any and all liabilities that may be incurred by the District pursuant to the terms of this Agreement, and that the maximum compensation the MUD may become entitled to hereunder and the maximum sum the District shall become liable to pay to the MUD hereunder, shall not under any conditions, circumstances, or interpretations hereof exceed the said maximum sum provided for in this Section and certified as available therefor by the County Auditor and evidenced by the issuance of a purchase order from the Harris County purchasing agent, except to the extent that additional funds are certified as available in accordance with purchase orders issued as described above. The total amount of funds which can be certified without amendment to this Agreement for the five years of this Agreement shall not exceed \$29,433.75.

All parties shall comply with all applicable bidding laws.

Section 11

Either party may terminate this Agreement, without cause, by giving thirty (30) days written notice to the other party. In the event of termination before completion of performance hereunder, the HCFCD shall pay the MUD pro rata for the services performed to the date of termination at the rate of One Hundred Fifty Six and 98/100 Dollars (\$156.98) per acre per mowing cycle, but in no event shall the amount paid by HCFCD to the MUD hereunder exceed the sum certified as available by the County Auditor.

Section 12

All notices, invoices, and communications under this Agreement shall be mailed by certified mail, return receipt requested, addressed as follows:

If to the HCFCD, to:

Harris County Flood Control District
9900 Northwest Freeway
Houston, Texas 77092
Attention: Executive Director

If to the MUD, to:

Harris County Municipal Utility District No. 391
c/o Allen Boone Humphries Robinson LLP
Houston, TX 77027
Attention: Kerri Houck

The MUD may designate an authorized representative for invoicing purposes. The MUD shall submit the name and contact information of the MUD's authorized representative to the HCFCD within thirty (30) days of the date of execution of this Agreement.

Section 13

This instrument contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any modifications concerning this instrument shall be of no force or effect, excepting a subsequent modification in writing signed by all parties hereto.

EXECUTED on _____.

APPROVED AS TO FORM:

CHRISTIAN D. MENEFFEE
Harris County Attorney

HARRIS COUNTY FLOOD CONTROL
DISTRICT


DocuSigned by:

By: _____
EMILY KUNST
Assistant County Attorney

By: _____
LINA HIDALGO
County Judge

ATTEST:

HARRIS COUNTY MUNICIPAL UTILITY
DISTRICT NO. 391

DocuSigned by:

By: _____
CATHERINE SHOOK
Secretary

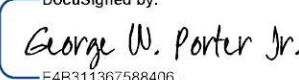



DocuSigned by:

By: _____
GEORGE PORTER
President of the Board

EXHIBIT "A"

Harris County Flood Control District
Harris County Municipal Utility District No. 391
Mowing Reimbursement Agreement
HCFCU Unit: K145-05-00



R.O.W

	City of Houston
	H.C.F.C.D
	Public

Agreement Area = 



EXHIBIT "B"
Mowing Reimbursement Agreement
Project ID K145-05-00-V005
Agreement No. 1485

Unit	Unit Tract	Mowing Acreage	Reimbursable Acreage	Cost per Acre	Cost per Cycle	Cost for One Year	Cost for Five Years
K145-05-00	02-004.0	12.5	12.5	\$156.96	\$1,962.25	\$5,886.75	\$29,433.75
TOTALS					\$1,962.25	\$5,886.75	\$29,433.75

Total Cost of Agreement: **\$29,433.75**

EXHIBIT "C"

SAVE AND HOLD HARMLESS AGREEMENT

I HEREBY ASSUME ALL RISKS ASSOCIATED WITH THE MOWING AND MAINTAINING OF HARRIS COUNTY FLOOD CONTROL DISTRICT ("HCFCD") LAND OR RIGHT-OF-WAY OR ANY ASSOCIATED IMPROVEMENTS PURSUANT TO THE CONTRACT BETWEEN THE HCFCD AND THE HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 391 (THE "CONTRACT"). I FURTHER AGREE TO RELEASE, INDEMNIFY, HOLD HARMLESS, AND COVENANT NOT TO SUE THE HCFCD, ITS EXECUTIVE DIRECTOR, OFFICIALS, SERVANTS, EMPLOYEES, AGENTS, REPRESENTATIVES, LICENSEES, INVITEES, AND CONTRACTORS, FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, AND EXPENSES, INCLUDING ATTORNEY'S FEES, OF ANY CHARACTER, TYPE, OR DESCRIPTION, ARISING OUT OF MY PARTICIPATION AND ACTIVITY IN THE MOWING AND MAINTAINING OF HCFCD LAND OR RIGHT-OF-WAY OR ANY ASSOCIATED IMPROVEMENTS PURSUANT TO THE CONTRACT THAT MAY RESULT IN THE INJURY TO OR DEATH OF, MYSELF, MY EMPLOYEE(S), OR ANY THIRD PARTY, OR DAMAGE TO PROPERTY.

I FURTHER AGREE TO RELEASE, INDEMNIFY, HOLD HARMLESS, AND COVENANT NOT TO SUE THE HCFCD, ITS EXECUTIVE DIRECTOR, OFFICIALS, SERVANTS, EMPLOYEES, AGENTS, REPRESENTATIVES, LICENSEES, INVITEES, AND CONTRACTORS FROM THE ABOVE DESCRIBED CLAIMS, EVEN THOUGH SUCH INJURY TO OR DEATH OF MYSELF, MY EMPLOYEE(S), OR ANY THIRD PARTY, OR DAMAGE TO PROPERTY IS CAUSED, IN WHOLE OR IN PART, BY ANY DEFECT IN OR CONDITION OF THE HCFCD LAND OR RIGHT-OF-WAY OR ANY ASSOCIATED IMPROVEMENTS, OR HCFCD EQUIPMENT OR MACHINERY USED, AND WHETHER OR NOT SUCH DEFECT OR CONDITION IS KNOWN OR SHOULD HAVE BEEN KNOWN TO THE HCFCD, ITS EXECUTIVE DIRECTOR, OFFICIALS, SERVANTS, EMPLOYEES, AGENTS, REPRESENTATIVES, LICENSEES, INVITEES, OR CONTRACTORS, AND WHETHER OR NOT SUCH CLAIMS ARISE FROM NEGLIGENCE ATTRIBUTABLE TO THE HCFCD, ITS EXECUTIVE DIRECTOR, OFFICIALS, SERVANTS, EMPLOYEES, AGENTS, REPRESENTATIVES, LICENSEES, INVITEES, OR CONTRACTORS. THE INDEMNITY PROVIDED HEREIN SHALL NOT BE CONSTRUED IN ANY WAY TO LIMIT INSURANCE COVERAGES PROVIDED BY THE MUD FOR THE HCFCD PURSUANT TO THE TERMS OF THE CONTRACT, WHICH INSURANCE REQUIREMENT IS INDEPENDENT FROM AND IN ADDITION TO SUCH IDEMNITY.

THIS AGREEMENT SHALL BE BINDING UPON THE PARTIES, AND UPON THEIR HEIRS, EXECUTORS, PERSONAL REPRESENTATIVES, ADMINISTRATORS, AND ASSIGNS.

Signature

Date

Printed Name / Title

Company Name

Address

Telephone Number

EXHIBIT "D"

NAME OF UTILITY DISTRICT AS LISTED IN THE AGREEMENT

Utility District Address

City, State Zip Code

Utility District Contact Information

Authorized Billing Representative

Address

City, State, Zip Code

Representative Contact Information

Attention:

INVOICE

Executive Director
Harris County Flood Control District
9900 Northwest Freeway
Houston, Texas 77092

Invoice No.: _____
Date of Invoice: _____

RE: Requested Reimbursement Season 20 ____
HCFCF Agreement No. 1485
HCFCF Project ID k145-05-00-V005
HCFCF Purchase Order No. P _____

Interlocal Agreement between (Name of Utility District) and HCFCF for the reimbursement of mowing services performed for the (Mowing Season) Mowing Season (Season _ of 5).

<u>Mowing Cycle Services Performed</u>	<u>Requested Reimbursement Amount</u>
Mowing Cycle: _____	\$ _____
Mowing Cycle: _____	\$ _____
Mowing Cycle: _____	\$ _____
Requested Reimbursement Total: <i>(Contractor's Invoices attached)</i>	\$ _____

I do hereby certify this to be a true and correct invoice and the above work has been performed.

Name
Bookkeeper

Date

FOR HCFCF USE ONLY:

<u>Mowing Season ()</u>	<u>Purchase Order Information</u>
Authorized Season ____ \$ _____	Purchase Order Amount \$ _____
This Invoice \$ _____	Previously Billed \$ _____
Authorized Season ____ Balance \$ _____	This Invoice \$ _____
	Purchase Order Balance \$ _____

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on _____, with the following members present, to wit:

Lina Hidalgo	County Judge
Rodney Ellis	Commissioner, Precinct No. 1
Adrian Garcia	Commissioner, Precinct No. 2
Tom S. Ramsey, P.E.	Commissioner, Precinct No. 3
Lesley Briones	Commissioner, Precinct No. 4

and the following members absent, to wit: _____, constituting a quorum, when among other business, the following was transacted:

ORDER APPROVING INTERLOCAL AGREEMENT BETWEEN THE HARRIS COUNTY FLOOD CONTROL DISTRICT AND THE HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 391 HCFCU UNIT K145-05-00; TRACT NO. 02-004.0; PRECINCT 3

Commissioner _____ introduced an order and made a motion that the same be adopted. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

		Yes	No	Abstain
AYES:	Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NAYS:	Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ABSTENTIONS:	Comm. Tom S. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Comm. Lesley Briones	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

WHEREAS, the District owns or has accepted drainage property rights on a flood control channel known as HCFCU Unit K145-05-00 hereinafter the "Unit"; and

WHEREAS, the District performs certain maintenance services, including mowing services, on drainage and flood control channels located within, adjacent to, and downstream of the boundaries of the MUD; and

WHEREAS, the MUD desires to perform certain of said maintenance services, namely, mowing and related services, in the District's stead and upon the terms and conditions hereinafter stated; and

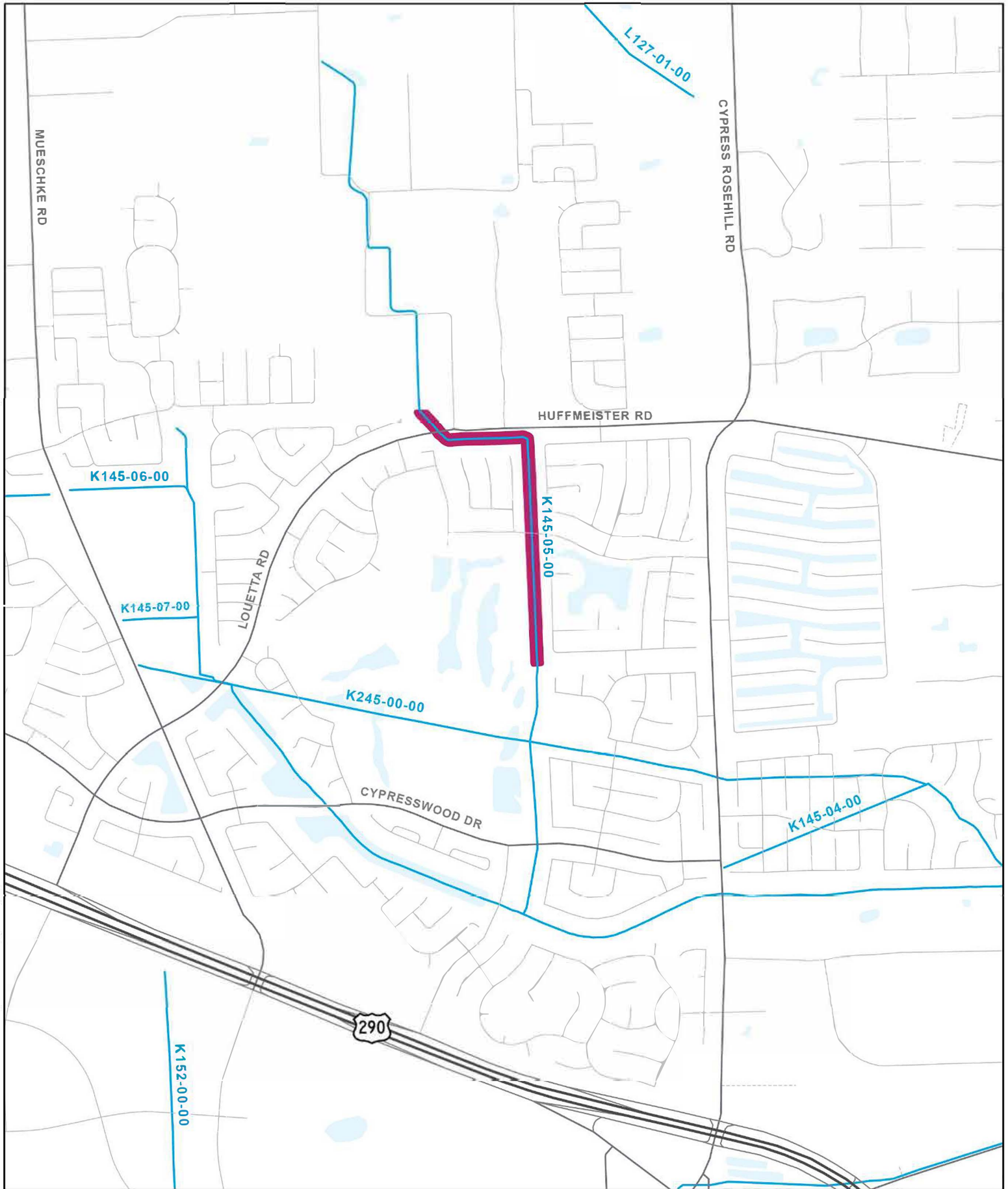
WHEREAS, the District is willing to pay the MUD for performing such services.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF HARRIS COUNTY, TEXAS THAT:

Section 1: The recitals set forth in this order are true and correct.

Section 2: County Judge Lina Hidalgo is hereby authorized to execute for and on behalf of the Harris County Flood Control District, an Interlocal Agreement by and between the Harris County Flood Control District and Harris County Municipal Utility District No. 391, for a maximum contribution to be paid by the HCFCD of Twenty Nine Thousand Four Hundred Thirty-Three and 75/100 Dollars (\$29,433.75), said Agreement being incorporated herein by reference for all purposes as though fully set forth verbatim herein.

prm hcmud 391 K145-05-00-V005 1485



Project ID: K145-05-00-V005

Watershed: Cypress Creek

Precinct: 3

- Project Boundary
- Harris County Precincts**
Judge Lina Hidalgo
- 1 - Rodney Ellis
- 2 - Adrian Garcia
- 3 - Tom S. Ramsey, P.E.
- 4 - Lesley Briones

