

AMENDMENT TO INTERLOCAL AGREEMENT

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

THIS AMENDMENT TO AGREEMENT is made, entered into, 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 "District," and **Harris County Water Control and Improvement District No. 109**, a body corporate and politic under the laws of the State of Texas, hereinafter referred to as the "WCID 109," each a "Party" to this Agreement, and are collectively referred to herein as the "Parties."

WITNESSETH, THAT

WHEREAS, the District and WCID 109 previously entered into an Interlocal Agreement for drainage improvements to Green Springs Drive and Pinewood Springs Drive in the Greenwood Forest Subdivision and construct a detention pond for the use and benefit of the public, and to facilitate the District's desire to reduce flooding in the Greenwood Forest subdivision and surrounding Greens Bayou area ("the Agreement"), dated April 30, 2019; and

WHEREAS, the WCID 109 publicly bid and managed the construction contract for the Project; and the parties now want to amend the Agreement to increase the District's share to the Project costs; and.

WHEREAS, the District contributed one-half of the estimated total Project cost of \$721,250.00, an estimated \$360,625.00 ("District's share"); and

WHEREAS, the final Project cost accounting at completion of the Project is \$901,126.00, which exceeds the initial estimated project cost, and

WHEREAS, the cost overrun resulted from a higher than expected contract award amount, two (2) change orders, which were not approved by the District, and additional costs from an Adjustment of Quantities, and

WHEREAS, the District is willing to contribute an additional \$14,338.00 to the Project, one-half of the higher contract award amount and one-half of the additional costs from an Adjustment of Quantities; but the District is unwilling to pay for the change orders, as shown in Exhibit A.

NOW, THEREFORE, the District and WCID 109 in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

SECTION V of the Agreement, reading in part:

"The WCID 109 has been advised by the District and the WCID 109 clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the District shall have available the total maximum sum of Three Hundred Sixty Thousand Six Hundred Twenty-Five and No/100 dollars (\$360,625.00) 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 total maximum compensation the WCID 109 may become entitled to hereunder and the total maximum sum the District shall become liable to pay to the WCID 109 hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the said total maximum sum provided for in this Article and certified as available by the County Auditor."

is hereby amended to read in part:

"The WCID 109 has been advised by the District and the WCID 109 clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the District shall have available the total maximum sum of Three Hundred Seventy-Four Thousand Nine Hundred Sixty-Three and No/100 dollars (\$374,963.00) 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 total maximum compensation the WCID 109 may become entitled to hereunder and the total maximum sum the District shall become liable to pay to the WCID 109 hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the said total maximum sum provided for in this Article and certified as available by the County Auditor."

All other terms and provisions of the original Agreement shall remain in full force and effect as originally written.

EXECUTED on _____.

APPROVED AS TO FORM:

CHRISTIAN D. MENESEE
HARRIS COUNTY ATTORNEY

HARRIS COUNTY FLOOD CONTROL
DISTRICT

DocuSigned by:

By FD17653073344AD
Emily Kunst
Assistant County Attorney

By _____
Lina Hidalgo
County Judge

ATTEST:

HARRIS COUNTY WATER CONTROL AND
IMPROVEMENT DISTRICT NO. 109

By 
Allen Schreiber
Secretary of the Board

By 
Warren Carroll
President of the Board

EXHIBIT A**Cost Share**

(1)	Estimated Cost (2/21/2019)	\$ 721,250.00
	WCID 109 Share (50%)	\$ 360,625.00
	HCFCF Share (50%)	\$ 360,625.00
(2)	Original Awarded Contract Amount (8/5/2019)	\$ 734, 846.00
	Overrun from Estimate	\$ 13,596.00
	WCID 109 Total Share (50%)	\$ 367,423.00
	WCID 109 Overrun Share (50%)	\$ 6,798.00
	HCFCF Total Share (50%)	\$ 367,423.00
	HCFCF Overrun Share (50%)	\$ 6,798.00
(3)	Change Order No. 1; Approved by WCID 109 only (3/9/2020)	\$ 16,200.00
	WCID 109 Change Order No. 1 Share (100%)	\$16,200.00
	HCFCF Change Order No. 1 Share (0%)	\$ 0.00
	Change Order No. 2; Approved by WCID 109 only (4/8/2020)	\$ 135,000.00
	WCID 109 Change Order No. 2 Share (100%)	\$ 135,000.00
	HCFCF Change Order No. 2 Share (0%)	\$ 0.00
	Final Adjustment to Quantities; Approved by WCID 109 (7/12/2021)	\$ 15,080.00
	WCID 109 Share of Adjustment (50%)	\$ 7,540.00
	HCFCF Share of Adjustment (50%)	\$ 7,540.00
	Total Construction Cost	\$ 901,126.00
	Total WCID 109 Share	\$ 526,163.00
	Total HCFCF Share	\$ 374,963.00
	Previous HCFCF Payment	[\$ 360,625.00]
(4)	Remaining Amount of HCFCF Cost Share	\$ 14,338.00

Notes:

(1) Estimated Construction Cost as of February 21, 2019, and the costs referenced in the Interlocal Agreement between WCID 109 and HCFCF.

(2) Original Contract Amount per the bid received from GW Philips, dated August 5, 2019. HCFCF will accept a fifty percent (50%) share of the cost overrun between the estimate and original contract award amount.

(3) While Article I of the Agreement allows HCFCF to elect to contribute more to the construction of the Project, Article V of the Agreement is the total amount HCFCF is required to contribute. However, pursuant to Article III, HCFCF agreed to reasonably negotiate the payment of additional costs *should WCID 109 give HCFCF 30 days notice of any changes that will result in additional Project costs and obtain HCFCF approval prior to making such changes*. Because WCID 109 did not provide HCFCF notice as required, and because documentation suggests that work performed on Change Order No. 2 was scoped by WCID 109 in a separate project prior to execution of their Agreement with HCFCF, HCFCF will not pay any portion of the additional costs caused by the change orders. HCFCF will pay fifty percent (50%) of the Final Adjustment to Quantities.

(4) The additional amount HCFCF will pay WCID 109.

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
R. Jack Cagle	Commissioner, Precinct No. 4

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

**ORDER AUTHORIZING EXECUTION OF AN AMENDMENT TO
 INTERLOCAL AGREEMENT BETWEEN
 THE HARRIS COUNTY FLOOD CONTROL DISTRICT AND
 HARRIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 109**

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"/>
NAYS:	Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ABSTENTIONS:	Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Comm. Tom S. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Comm. R. Jack Cagle	<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 and WCID 109 previously entered into an Interlocal Agreement for drainage improvements to Green Springs Drive and Pinewood Springs Drive in the Greenwood Forest Subdivision and construct a detention pond for the use and benefit of the public, and to facilitate the District's desire to reduce flooding in the Greenwood Forest subdivision and surrounding Greens Bayou area ("the Agreement"), dated April 30, 2019; and

WHEREAS, the WCID 109 publicly bid and managed the construction contract for the Project; and the parties now want to amend the Agreement to increase the District's share to the Project costs; and

WHEREAS, the District contributed one-half of the estimated total Project cost of \$721,250.00, an estimated \$360,625.00 ("District's share"); and

WHEREAS, the final Project cost accounting at completion of the Project is \$901,126.00, which exceeds the initial estimated project cost, and

WHEREAS, the cost overrun resulted from a higher than expected contract award amount, two (2) change orders, which were not approved by the District, and additional costs from an Adjustment of Quantities, and

WHEREAS, the District is willing to contribute an additional \$14,338.00 to the Project, one-half of the higher contract award amount and one-half of the additional costs from an Adjustment of Quantities; but the District is unwilling to pay for the change orders, as shown in Exhibit A.

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 Amendment to Interlocal Agreement by and between the Harris County Flood Control District and Harris County Water Control and Improvement District No. 109, for additional compensation to be paid by the District in the amount of \$14,338.00, said Amendment to Interlocal Agreement being incorporated herein by reference for all purposes as though fully set forth verbatim herein.

