

HARRIS COUNTY

OFFICE OF THE COUNTY ENGINEER

1001 Preston, Suite 500
Houston, Texas 77002
(713) 755-5370

March 18, 2021

Honorable County Judge
& Commissioners

SUBJECT: Partnership Agreement

Recommendation for authorization to execute an interlocal agreement with Harris County Municipal Utility District No. 213-A to construct facilities allowing for outfall into the District's Storm Sewer System to accommodate drainage for 4.3 acre-feet of detention volume in connection with improvement to Wallisville Road from its current two-lane asphalt condition to a four-lane concrete boulevard, divided by a raised median where possible, from 500' west of John Martin Road to 350' west of Garth Road, UPIN 19102MF0YS01, Precinct 2.

Sincerely,

A handwritten signature in black ink that reads "John R. Blount for JRB".

John R. Blount, P.E.
County Engineer

Attachment

cc: Commissioner Adrian Garcia
Mike Lykes
Milton Rahman, P.E.
Tiko Reynolds-Hausman
Faustino Benavidez, P.E.
Misty Rios
Rosalie Brockman
Juan Hernandez
Reynaldo Guerra
Jose Jimenez
Chris Saddler
Tiffany Harding

INTERLOCAL AGREEMENT

This Interlocal Agreement (“Agreement”) is entered into by and between **Harris County** (“County”), a body corporate and politic under the laws of the State of Texas, and the **Harris County Municipal Utility District No. 213-A** (“District”), a body corporate and politic under the laws of the State of Texas, pursuant to the Interlocal Cooperation Act, Tex. Gov’t Code Ch. 791.001, *et seq.* County and District may each be referred to herein individually as a “Party” or collectively as the “Parties.”

RECITALS

County intends to construct improvements to Wallisville Rd. from its current two-lane asphalt condition to a four-lane concrete boulevard, divided by a raised median where possible, from 500’ W of John Martin Road to 350’ W of Garth Rd. located in Precinct 2 (“Project”).

A storm sewer, pump system and detention ponds, more particularly described in Exhibit “A” attached hereto and made a part hereof for all purposes (“Storm Sewer System”), is located within District in proximity to the Project.

County desires to construct facilities allowing for outfall into the Storm Sewer System’s detention basin (“Storm Sewer Joinder”) to accommodate 4.3 acre-feet of detention volume for the Project, which volume is based on the assumptions provided in the Drainage Analysis for the Proposed 76.7 Acre Wooster Crossing Development by Jones & Carter, Inc. dated March 6, 2019 (“Drainage Study”).

The Parties have determined that it would be a mutual benefit to the Parties for the Storm Sewer Joinder to be accomplished.

NOW, THEREFORE, the Parties desire to cooperate in accordance with the terms of this Agreement for the accomplishment of the County Storm Sewer Joinder.

TERMS

I. Responsibilities of the Parties

A. County’s Responsibilities:

County will, at no cost to District:

- (i) Construct, operate and maintain the Project.
- (ii) Provide or cause to be provided, engineering, and related services, to prepare plans, specifications, and estimates (PS&E) necessary to accomplish the Storm Sewer Joinder in order for the Storm Sewer System to accommodate the required 4.3 acre-feet of detention volume (based on the Drainage Study) for the Project, and such PS&E shall be subject to the review and approval of the District, which approval shall not be unreasonably withheld or conditioned.

- (iii) Upon approval by County and the District of the PS&E for the Storm Sewer Joinder, County will advertise for and receive bids for the Storm Sewer Joinder in a manner similar to other County projects.
- (iv) Upon receipt of bids for the Storm Sewer Joinder, the County will determine the lowest and best bid in a manner similar to other County projects.
- (v) Upon award of the Storm Sewer Joinder contract by the County:
 - (a) Manage and inspect the construction of the Storm Sewer Joinder, including providing construction materials testing by a qualified testing laboratory,
 - (b) Through its contractor, accomplish the construction of the Storm Sewer Joinder in accordance with the PS&E, and
 - (c) Allow for the District to inspect and approve completion of the Storm Sewer Joinder, which approval shall not be unreasonably withheld or conditioned.
- (vi) Upon completion of the construction of the Storm Sewer Joinder, County will retain full ownership of and responsibility for the maintenance and repair of the portion of the storm sewer located within the public right-of-way pursuant to Harris County standards to the extent and in the same manner as other like construction within the County. This section (I)(A)(vi) shall survive the early termination or expiration of this Agreement.

B. District's Responsibilities:

District will, at no cost to County:

- (i) Review the PS&E to determine necessary easements for the construction and maintenance of the Storm Sewer Joinder.
- (ii) Promptly provide any necessary easements in order for County to (i) construct the Storm Sewer Joinder and (ii) provide maintenance of the portion of the storm sewer located in the public right-of way.
- (iii) Provide unfettered and unimpeded use of the Storm Sewer System to accommodate the required 4.3 acre-feet of detention volume for the Project (based on the Drainage Study).
- (iv) At all times maintain the Storm Sewer System, including the storm sewer within the District's right-of-way.

II. Limitation of Appropriation

The Parties understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the County is not appropriating any funds in connection with this Agreement. The County may appropriate funds, but such funds shall not under any conditions, circumstances, or interpretations thereof exceed the sum certified available by the Harris County Auditor.

III. District's Right of Access

During construction of the Storm Sewer Joinder, District has the right of access to the construction site and the right to review all documents, maps, plats, records, photographs, reports or drawings affecting the construction. However, District shall give notice by telephone to the County Engineer prior to any inspection of either the construction site or documents. In conducting said inspections, District shall not interfere with the work in progress.

IV. Additional Construction

During construction of the Storm Sewer Joinder, the County Engineer may determine that revisions to the PS&E are necessary to satisfactorily complete the construction ("Additional Construction"). The County Engineer will then notify District of the need for Additional Construction and will issue to District a CIC covering the Additional Construction that County will complete.

V. Term and Termination

- A. This Agreement begins upon final execution by all the Parties and remains in full force and effect until such time as the Agreement is terminated in accordance with the provisions herein.
- B. This Agreement may be terminated by (i) the County at any time, without cause, by providing the District with thirty (30) days' written notice; or (ii) at any time by the mutual consent of the Parties. In the event of termination, the County will have no further obligation pursuant to this Agreement.

VI. Assignment

The County and District bind themselves and their successors, executors, administrators, and assigns to the other Party of this Agreement and to the successors, executors, administrators, and assigns of such other Party, in respect to all covenants of this Agreement. Neither County nor District shall assign, sublet, or transfer its interest in this Agreement without the prior written consent of the other Party, which will not be unreasonably withheld.

VII. Notice

Any notice required to be given under this Agreement (“Notice”) shall be in writing and shall be duly served when it shall have been personally delivered to the address below, or deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to County or District at the following addresses:

District: Samuel Johnson, Associate
Coats Rose, P.C.
9 Greenway Plaza #1000
Houston, Texas 77046
Phone: 713-653-5722
Email: sjohnson@coatsrose.com

County: Harris County Engineering Department
1001 Preston Avenue, 7th Floor
Houston, Texas 77002-1893
Attention: Interagency Agreement Coordinator

Any Notice given hereunder is deemed given upon hand delivery or three (3) days after the date of deposit in the United States Mail.

Each Party shall have the right to change its respective address by giving at least fifteen (15) days’ written notice of such change to the other Party.

Other communications, except for Notices required under this Agreement, may be sent by electronic means or in the same manner as Notices described herein.

VIII. Liability of the Parties

To the extent allowed by law, each Party shall be responsible for all claims and liability due to the activities of the Party’s employees, officials, agents or subcontractors arising out of or under this Agreement and which result from any act, error, or omission, intentional tort, intellectual property infringement, or failure to pay a vendor, committed by the Party or its employees, officials, agents, consultants under contract, or any other entity over which it exercises control. Nothing in this provision requires that funds be assessed or collected or that a sinking fund be created.

IX. Miscellaneous

- A. Independent Parties. It is expressly understood and agreed by the Parties that nothing contained in this Agreement shall be construed to constitute or create a joint venture, partnership, association or other affiliation or like relationship between the Parties, it being specifically agreed that their relationship is and shall remain that of independent parties to a contractual relationship as set forth in this Agreement. The County is an independent contractor and neither it, nor its employees or agents shall be considered to be an employee, agent, partner, or representative of the District for any purpose. Neither the District, nor its employees, officers, or agents shall be considered to be employees, agents, partners or

representatives of the County for any purposes. No Party has the authority to bind the other Parties.

- B. No Third Party Beneficiaries. The County is not obligated or liable to any party other than District for the performance of this Agreement. Nothing in the Agreement is intended or shall be deemed or construed to create any additional rights or remedies upon any third party. Further, nothing contained in the Agreement shall be construed to or operate in any manner whatsoever to increase the rights of any third party, or the duties or responsibilities of County with respect to any third party.
- C. Waiver of Breach. A waiver by any Party of a breach or violation of any provision of the Agreement shall not be deemed or construed to be a waiver of any subsequent breach.
- D. No Personal Liability; No Waiver of Immunity.
 - (1) Nothing in the Agreement is construed as creating any personal liability on the part of any officer, director, employee, or agent of any public body that may be a Party to the Agreement, and the Parties expressly agree that the execution of the Agreement does not create any personal liability on the part of any officer, director, employee, or agent of the County.
 - (2) The Parties agree that no provision of this Agreement extends the County's or the District's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas.
 - (3) Neither the execution of this Agreement nor any other conduct of either Party relating to this Agreement shall be considered a waiver by either Party of any right, defense, or immunity on behalf of itself, its employees or agents under the Texas Constitution or the laws of the State of Texas.
- E. Applicable Law and Venue. This Agreement shall be governed by the laws of the State of Texas and the forum for any action under or related to the Agreement is exclusively in a state or federal court of competent jurisdiction in Texas. The exclusive venue for any action under or related to the Agreement is in a state or federal court of competent jurisdiction in Houston, Harris County, Texas.
- F. No Binding Arbitration; Right to Jury Trial. The County does not agree to binding arbitration, nor does the County waive its right to a jury trial.
- G. Contract Construction.
 - (1) This Agreement shall not be construed against or in favor of any Party hereto based upon the fact that the Party did or did not author this Agreement.
 - (2) The headings in this Agreement are for convenience or reference only and shall not control or affect the meaning or construction of this Agreement.

- (3) When terms are used in the singular or plural, the meaning shall apply to both.
- (4) When either the male or female gender is used, the meaning shall apply to both.
- H. Recitals. The recitals set forth in this Agreement are, by this reference, incorporated into and deemed a part of this Agreement.
- I. Entire Agreement; Modifications. This Agreement contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein assumed. This Agreement supersedes and replaces any prior agreement between the Parties pertaining to the rights granted and the obligations assumed herein. This Agreement shall be subject to change or modification only by a subsequent written modification approved and signed by the governing bodies of each Party.
- J. Severability. The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person, entity, or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons, entities, or circumstances shall not be affected thereby.
- K. Survival of Terms. Any provision of this Agreement that, by its plain meaning, is intended to survive the expiration or earlier termination of this Agreement shall survive such expiration or earlier termination. If an ambiguity exists as to survival, the provision shall be deemed to survive.
- L. Multiple Counterparts/Execution. This Agreement may be executed in several counterparts. Each counterpart is deemed an original and all counterparts together constitute one and the same instrument. In addition, each Party warrants that the undersigned is a duly authorized representative with the power to execute the Agreement.
- M. Warranty. By execution of this Agreement, the District warrants that the duties accorded to the District in this Agreement are within the powers and authority of the District.

EXECUTION PAGE FOLLOWS

HARRIS COUNTY

By: _____
Lina Hidalgo
County Judge

APPROVED AS TO FORM:

VINCE RYAN
County Attorney

By: /s/ Bobbie K. Risner
Bobbie K. Risner
Assistant County Attorney
CAO File No.: 19GEN2177

**HARRIS COUNTY MUNICIPAL
UTILITY DISTRICT NO. 213-A**

DocuSigned by:
By: James Coursey
6320173E2232430...
James Coursey
President, Board of Directors

ATTEST

DocuSigned by:
By: W. Fritz Maxwell
1094686C0DF04493...
W. Fritz Maxwell
Secretary, Board of Directors

0 1 2 3 4 5 ORIGINAL SCALE IN INCHES FOR REDUCED PLANS

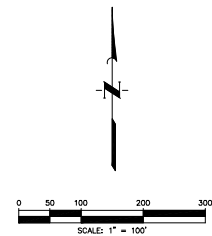
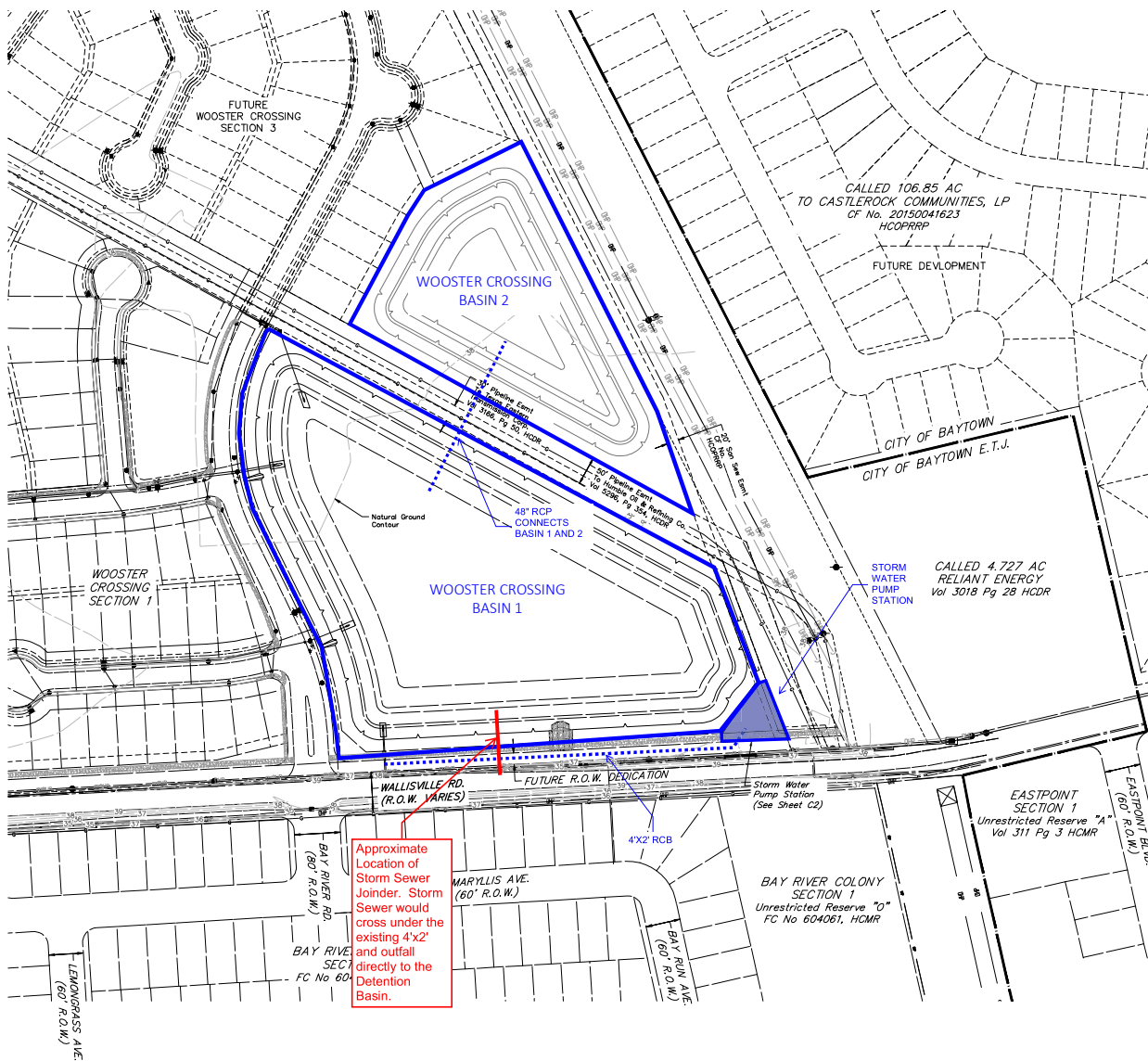


EXHIBIT "A"
STORM SEWER SYSTEM

ORDER OF COMMISSIONERS COURT
Authorizing the Execution of an Interlocal Agreement

The Commissioners Court of Harris County, Texas, met in regular session at its regular term at the Harris County Administration Building in the City of Houston, Texas, on _____, with all members present except _____.

A quorum was present. Among other business, the following was transacted:

ORDER AUTHORIZING EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN HARRIS COUNTY AND HARRIS COUNTY MUNICIPAL UTILITY DISTRICT 213-A FOR JOINT PARTICIPATION TO ALLOW COUNTY TO CONSTRUCT FACILITIES ALLOWING FOR OUTFALL INTO THE DISTRICT’S STORM SEWER SYSTEM TO ACCOMMODATE DRAINAGE FOR 4.3 ACRE- FEET OF DETENTION VOLUME IN CONNECTION WITH IMPROVEMENTS TO WALLISVILLE RD. FROM ITS CURRENT TWO-LANE ASPHALT CONDITION TO A FOUR-LANE CONCRETE BOULEVARD, DIVIDED BY A RAISED MEDIAN WHERE POSSIBLE, FROM 500’ W OF JOHN MARTIN RD. TO 350’ W OF GARTH RD LOCATED IN PRECINCT 2

Commissioner _____ introduced an order and moved that Commissioners Court adopt the order. 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
Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Steve Radack	<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:

IT IS ORDERED THAT:

1. The Harris County Judge is authorized to execute on behalf of Harris County the attached Interlocal Agreement between Harris County and Harris County Municipal Utility District 213-A for the District to construct facilities allowing for outfall into the District’s Storm Sewer System to accommodate drainage for 4.3 acre-feet of detention volume in connection with improvements to Wallisville Rd. from its current two-lane asphalt condition to a four-lane concrete boulevard, divided by a raised median where possible, from 500’ W of John Martin Rd. to 350’ W of Garth R. located in Precinct 2 (“Project”). The Agreement is attached hereto and incorporated herein as if set out in full word for word.
2. All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purposes of this order.