

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. 238** 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 HCFCD owns or constructed a drainage and flood control channel known as HCFCD Unit U101-01-00; and

WHEREAS, the HCFCD 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 HCFCD's stead and upon the terms and conditions hereinafter stated; and

WHEREAS, the HCFCD is willing to pay the MUD fair value 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:

I.

The MUD shall perform maintenance services on the following HCFCD Unit U101-01-00, hereinafter "Unit U101-01-00," located within, adjacent to, or downstream of the MUD boundary, comprising 16.5 acres as shown in Exhibit "A" and further listed in Exhibit "B," both exhibits attached hereto:

1. Along both sides of HCFCD Unit U101-01-00 from beginning of channel downstream approximately 2,670 feet.

II.

The HCFCD 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) HCFCD mowing seasons, consisting of fifteen (15) mowing cycles, as shown below, unless earlier terminated pursuant to Article X. of this Agreement; provided however, that 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 MUD will be reimbursed 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 Article IX.

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

First Mowing Season:	May 1, 2021 through November 30, 2021
3 Mowing Cycles:	May 1, 2021 through July 10, 2021 July 11, 2021 through September 19, 2021 September 20, 2021 through November 30, 2021
Second Mowing Season:	May 1, 2022 through November 30, 2022
3 Mowing Cycles:	May 1, 2022 through July 10, 2022 July 11, 2022 through September 19, 2022 September 20, 2022 through November 30, 2022
Third 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
Fourth 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
Fifth 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

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 Article I. 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 HCFCD. The MUD will not engage in herbicide operations or remove trees without authorization from the HCFCD's Executive Director. The HCFCD may continue to mow, provide herbicide application and maintenance services at its discretion, but shall not be obligated to do such. The HCFCD will inspect the Units during each mowing cycle to make sure the Units are being maintained according to this Agreement. If the HCFCD 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 HCFCD's sole discretion, the HCFCD will mow the Units and the MUD will not be reimbursed for its mowing or maintenance services performed during that mowing cycle.

III.

All or a portion of the mowing services will be completed on the HCFCD land or right-of-way. The HCFCD 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 HCFCD'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 HCFCD's right to enter upon and use its land or right-of-way for flood control purposes, as is more fully provided in Article VIII. hereof; and is expressly limited to the extent of the HCFCD's right, title, or interest, if any, in and to the land or right-of-way used by the MUD, and the HCFCD 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.

IV.

The MUD shall provide or contract for all labor, equipment, fuel, and supplies necessary to perform the mowing delineated in Article II. above. The MUD shall provide the HCFCD 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 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 HCFCD 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.**

V.

It is understood and agreed that the HCFCD and the HCFCD'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 HCFCD.

VI.

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 HCFCD 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 HCFCD 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 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 HCFCD within thirty (30) days of the date of execution of this Agreement or the HCFCD will not be obligated to pay the MUD for services performed under this Agreement.

VII.

THE MUD COVENANTS NOT TO SUE AND AGREES TO RELEASE THE HCFCD 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 HCFCD 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 HCFCD, 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.

VIII.

The MUD agrees that the HCFCD 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 HCFCD assumes no responsibility for the wellbeing or disposition of any items of equipment or personal property removed hereunder. Furthermore, the HCFCD 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 HCFCD, its Executive Director, agents, representatives, employees, or other contractors.

IX.

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 HCFCD may pay the MUD based upon acreage of 16.5 acres and HCFCD's average contract mowing cost of \$147.60 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, 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 the HCFCD mowing cycles described in Article II. The HCFCD shall not pay for mowing the Units 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 Units under the conditions described in Article II.

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 \$7,306.20 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 Article 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 shall not exceed \$36,531.00.

All parties shall comply with all applicable bidding laws.

X.

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 Forty-Seven and 60/100 Dollars (\$147.60) 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.

XI.

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. 238
c/o Roach & Associates, PLLC
2001 Timberloch Place, Suite 500
The Woodlands, Texas 77381
Attention: Jonathan A. Roach

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.

XII.

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

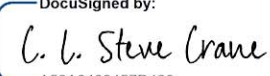
DocuSigned by:

By: _____
MITZI TURNER
Assistant County Attorney

By: _____
LINA HIDALGO
County Judge

ATTEST:

HARRIS COUNTY MUNICIPAL UTILITY
DISTRICT NO. 238

DocuSigned by:

By: _____
C. L. STEVE CRANE
Board Secretary

DocuSigned by:

By: _____
RANDY LOVE
Board President

EXHIBIT "A"

Harris County Flood Control District
Harris County MUD 238
Mowing Reimbursement Agreement
HCFCF Unit U101-01-00

**R.O.W.**

- Harris County
- City of Houston
- H.C.F.C.D.
- Public
- State of Texas

Agreement Area =



EXHIBIT "B"

Mowing Reimbursement Agreement

Project ID: U101-01-00-V004

Agreement No. 1403

Harris County Municipal Utility District No. 238

Unit Tract	Unit Type	Mowing Acreage	Reimbursable Acreage	Cost per Acre	Cost per Cycle	Cost for One Year	Cost for Five Years
U101-01-00-01-004.0	Channel Fee	2.95	2.95	\$147.60	\$435.42	\$1,306.26	\$6,531.30
U101-01-00-01-005.0	Channel Easement	11.91	11.91	\$147.60	\$1,757.92	\$5,273.75	\$26,368.74
U101-01-00-01-006.0	Channel Easement	1.64	1.64	\$147.60	242.06	726.19	3,630.96
TOTALS		16.50	16.50		\$2,435.40	\$7,306.20	\$36,531.00

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 MUD (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 INDEMNITY.

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 ____
 HCFCD Agreement No. 1403
 HCFCD Project ID U101-01-00-V004
 HCFCD Purchase Order No. P _____

Interlocal Agreement between (Name of Utility District) and HCFCD 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: (Contractor's Invoices attached)	\$ _____

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

 Name
 Bookkeeper

 Date

FOR HCFCD USE ONLY:

<u>Mowing Season ()</u>	<u>Purchase Order Information</u>
Authorized Season ____ \$ _____	Purchase Order Amount \$ _____
	Previously Billed \$ _____
This Invoice \$ _____	This Invoice \$ _____
Authorized Season ____ Balance \$ _____	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
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 APPROVING INTERLOCAL AGREEMENT BETWEEN
 THE HARRIS COUNTY FLOOD CONTROL DISTRICT AND THE
 HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 238
 HCFCD UNIT U101-01-00; TRACT NOS. 01-004.0, 01-005.0 AND 01-006.0 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	☐	☐	☐
Comm. Rodney Ellis	☐	☐	☐
NAYS: Comm. Adrian Garcia	☐	☐	☐
ABSTENTIONS: Comm. Tom S. Ramsey, P.E.	☐	☐	☐
Comm. R. Jack Cagle	☐	☐	☐

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 HCFCD owns or constructed a drainage and flood control channel known as HCFCD Unit U101-01-00; and

WHEREAS, the HCFCD 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 HCFCD's stead and upon the terms and conditions hereinafter stated; and

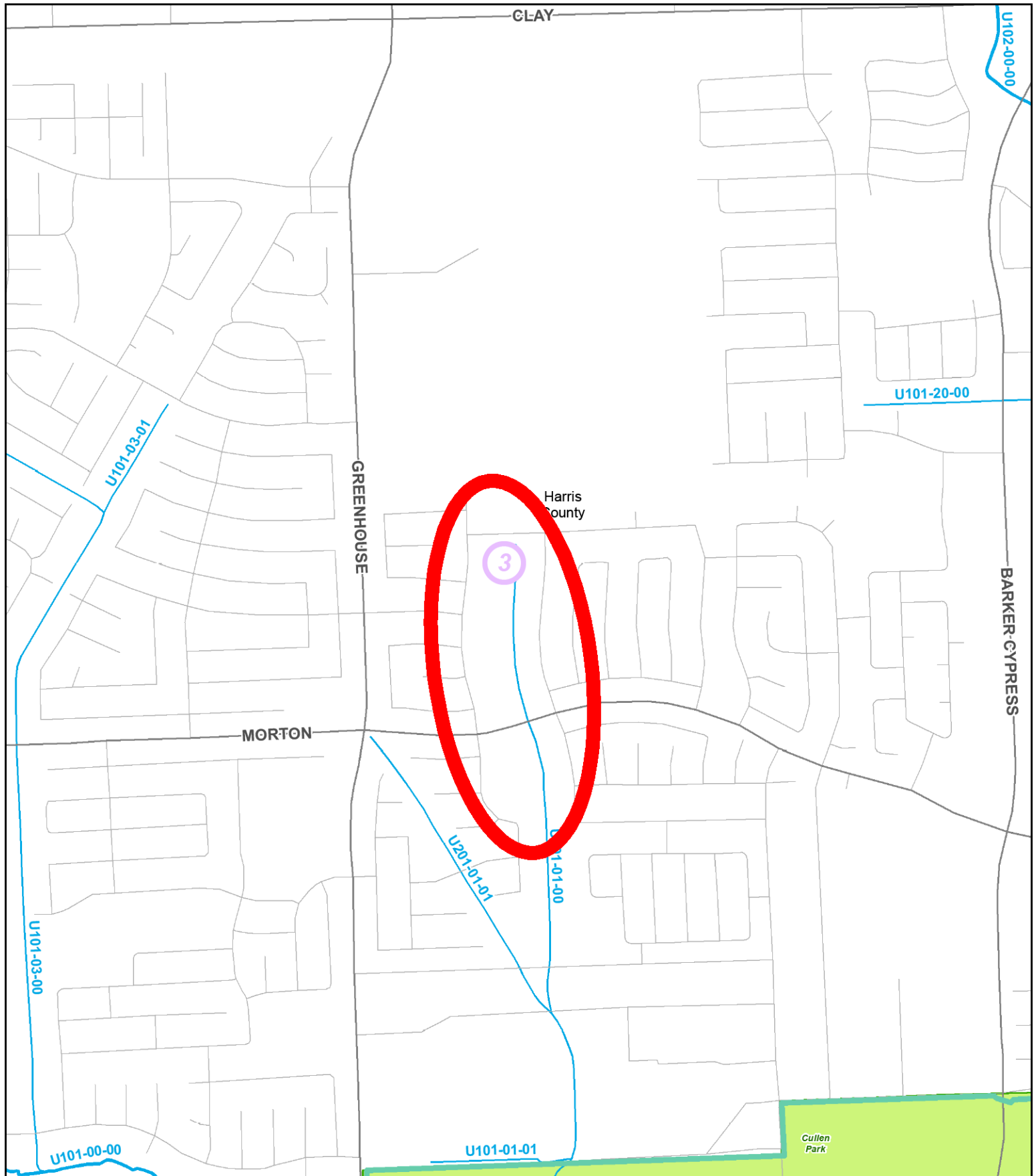
WHEREAS, the HCFCD is willing to pay the MUD fair value for performing such services.

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 the Harris County Municipal Utility District No. 238 for a maximum contribution to be paid by the HCFCD of Thirty Six Thousand Five Hundred Thirty-One and No/100 Dollars (\$36,531.00), said Agreement being incorporated herein by reference for all purposes as though fully set forth verbatim herein.

prm HCMUD 238 U101-01-V004 1403.docx



Project ID: U101-01-00-V004
Watershed: Addicks Reservoir
Precinct: 3

Pct No

- 1
- 2
- 3
- 4

