

INTERLOCAL COOPERATION AGREEMENT

THE STATE OF TEXAS §
§
COUNTY OF BRAZORIA §

This Interlocal Cooperation Agreement (the “Agreement”) is made between BRAZORIA COUNTY, TEXAS (the “County”), acting through its Commissioners Court, and the VILLAGE OF SURFSIDE BEACH, (the “City”), acting through its City Council, pursuant to Texas Government Code chapter 791.

RECITALS

WHEREAS, the President of the United States of America has issued a disaster declaration for areas of Brazoria County, Texas that have sustained significant property damage due to rainfall and flooding events;

WHEREAS, the United States Department of Housing and Urban Development (“HUD”) has allocated funds to the State of Texas through the Texas General Land Office (the “GLO”) to provide long-term recovery assistance in the form of Community Development Block Grant Disaster Recovery (“CDBG-DR”) funds;

WHEREAS, the GLO, through its local infrastructure program, funds projects that rebuild damaged infrastructure, increase resiliency, and promote long-term housing recovery;

WHEREAS, the GLO has allocated CDBG-DR grant funds for long-term recovery projects in Brazoria County, Texas;

WHEREAS, the GLO, in Project No. 20-065-118-C388 in Brazoria County, Texas that may expand to include, but are not limited to, grant activities for the construction of street, sewer, and water infrastructure improvements within the jurisdictional limits of the City of Surfside Beach, pending the approval of the County’s state contract amendment request;

WHEREAS, the County is the subrecipient of the CDBG-DR grant funds allocated for the above-described project activities;

WHEREAS, upon state contract amendment by the GLO, the City will be the beneficiary of the above-described project activities that occur within the jurisdictional limits of the City;

WHEREAS, as the County is the subrecipient of the CDBG-DR grant funds allocated for the above-described project activities and the City is the beneficiary of the above-described project

activities that occur within the City’s jurisdictional limits, the need exists for the County and the City to enter into an agreement to allocate responsibilities for the provision of services related to the above-described project activities; and

WHEREAS, the County and the City are authorized to enter into this Agreement pursuant to and under the provisions of The Interlocal Cooperation Act, Texas Government Code chapter 791.

NOW, THEREFORE, KNOWN ALL MEN BY THESE PRESENTS:

That in consideration of the mutual covenants, agreements, and benefits to both parties, it is agreed as follows:

I. **DEFINITIONS**

For the purpose of this Agreement, the following definitions shall apply:

1. “Grant” means the GLO’s CDBG-DR funds allocated for project activities in Brazoria County, Texas for long-term projects to rebuild damaged infrastructure, increase resiliency, and/or promote long-term housing recovery in the County.
2. “Grant Project” means GLO Project No. 20-065-118-C388, which encompasses project activities in Brazoria County that involve disaster recovery infrastructure improvements.
3. “Surfside Beach Grant Improvements” means the portion of the Grant Project dedicated to the construction of street, sewer, and water improvements within the jurisdictional limits of the City of Surfside, which entails the reconstruction of streets, reconstruction of water line, and lift station improvements in the City, as further described by Exhibit “1,” which is attached hereto and incorporated by reference into this Agreement.
4. “City of Surfside Improvements Budget”: The portion of the allocated Grant Project funding dedicated to the City of Surfside Grant Improvements projects.

II. **OBLIGATIONS OF THE COUNTY**

The County hereby agrees that it shall:

1. Endeavor to execute each of its responsibilities under the Grant in a timely and efficient manner.

2. Be the repository of all receipts and documentation provided by the City that are pertinent to the Grant, the Surfside Beach Grant Improvements, and the City's obligations under this Agreement.

3. Assist in facilitating communication between the City and the GLO related to the Surfside Beach Grant Improvements, as necessary.

4. Provide pre-bid project design changes or change orders related to the Surfside Beach Grant Improvements to the City for its review prior to authorization by the County.

5. Maintain at its sole discretion the option to approve construction contracts or change orders that would result in any obligation to pay for costs that exceed available Grant funds.

6. Automatically transfer full ownership of the Surfside Beach Grant Improvements to the City upon acceptance by the County of the Certificate of Construction Completion.

III. OBLIGATIONS OF THE CITY

The City hereby agrees that it shall:

1. Comply with all federal, state, and local laws, statutes, regulations, and ordinances related to the Grant Project and any obligations under this Agreement, including, but not limited to, any conflict of interest requirements relating to the purchase of goods or services through the Grant.

2. Comply with all County requests for information, including all receipts and documentation, required to fulfill the County's obligations under the Grant.

3. Permit unrestricted access by the County, and its selected engineering, administrative, and construction contractors, or any other individual requested by the County, to those portions of the construction site under City control, to allow performance of all duties, obligations, and rights outlined or authorized by the Grant for the Grant Project and/or as required in agreements these entities, agencies, or contractors shall have with the County related to the Grant Project.

4. Pay for any cost overruns attributable to the construction contract award, change orders, project redesign, or additions to the Grant scope of work that the City has approved in writing.

5. Pay for any and all costs resulting from any breach, violation, or early termination of this Agreement by the City, including, but not limited to, repayment of any expenditures of Grant funds if the Grant Project is not completed and placed in service due, in whole or in part, to the City's breach, violation, or early termination of this Agreement.

6. Provide any matching funds that the City has separately committed by resolution of its City Council.

7. In the event the design, engineering, or construction of the Surfside Beach Grant Improvements requires the adjustment, removal, or relocation of existing utilities, the City shall be responsible for determining the scope of utility work, notifying the appropriate utility company, and performing all related tasks in compliance with all applicable state and federal laws, regulations, rules, policies, procedures, and ordinances. Before a construction contract is let, a utility certification shall be made available to the County and GLO stating that all utilities needing to be adjusted for completion of construction activity have been adjusted. All costs associated with the adjustment, removal, or relocation of utilities, as described above, that exceed the Surfside Beach Grant Improvements Budget shall be solely assumed by the City.

8. Accept and be solely responsible for all duties and costs associated in any way with the continued ownership, maintenance, and operation of the Surfside Beach Grant Improvements upon acceptance by the County of the Certificate of Construction Completion. Upon the acceptance of the Certificate of Construction Completion, any and all County responsibility for any duties or costs associated in any way with the ownership, maintenance, and operation of the Surfside Beach Grant Improvements or any property, real or personal, within the incorporated limits of the City shall cease immediately.

9. Automatically receive full ownership of the Surfside Beach Grant Improvements upon acceptance by the County of the Certificate of Construction Completion.

IV. **TERM**

This Agreement shall commence on the date of execution of this Agreement and shall terminate on the date the GLO provides the parties notification of its administrative closure of the Grant Project.

V.
NOTICE

All notices under this Agreement shall be mailed by certified mail, return receipt requested, or hand delivered to the parties at the following address:

BRAZORIA COUNTY, TEXAS

ATTENTION:

L.M. "Matt" Sebesta, Jr., Brazoria County Judge
Brazoria County Courthouse
111 East Locust Street, Suite 102A
Angleton, TX 77515

CITY OF SURFSIDE BEACH

ATTENTION:

[CONTACT]

VI.
DEFAULT

In the event of the City's default of this Agreement, the County shall have the right to terminate this Agreement and deny the City any service provided by the County under this Agreement. In addition, in the event of the City's default of this Agreement, the City shall be liable to the County for all amounts expended or lost as a result of the City's default. All rights and remedies of the County herein are cumulative to and not in lieu of any other right and remedy herein or afforded by law or equity.

VII.
ASSIGNABILITY

This Agreement may not be assigned in whole or part by the City to any other person or entity.

VIII.
MODIFICATION

No modification of or amendment to this Agreement shall be effective unless made in writing and approved and executed by the authorized representative of the parties hereto.

IX.
RELEASE, WAIVER AND HOLD HARMLESS

The City hereby **waives, releases, and forever holds harmless** the County, its officials, employees, officers, agents, contractors, subcontractors, and representatives for any and all claims arising from or related in any way to this Agreement, the Grant Project, and/or the Surfside Beach Grant Improvements, including to the extent the County shall be held accountable to any person, firm, corporation, body politic, or any other entity for damages sustained from the ownership, use, operation, or maintenance of the Surfside Beach Grant Improvements, and including, but not limited to, any claims for injury or death of any person or any property damage arising out of the County's performance of its obligations under this Agreement, the Grant Project, and/or the Surfside Beach Grant Improvements.

The County makes no express or implied warranty as to the Surfside Beach Grant Improvements referenced in this Agreement or the performance of any official, employee, officer, representative, contractor, subcontractor, agency, or entity related to the Grant Project, the Surfside Beach Grant Improvements, or any act or obligation related thereto. The County also makes no warranty, assurance, or guarantee related to the obligations of the GLO, contractor, subcontractor, or any other third party concerning the Grant Project, the Surfside Beach Grant Improvements, or any other act of obligation related thereto. The City hereby accepts the Surfside Beach Grant Improvements and any other tangible property "as-is" and **waives, releases, and forever holds harmless** the County, and its official, employee, officer, representative, contractor, or subcontractor for any and all claims arising from or related to this Agreement, the Grant Project, and the Surfside Beach Grant Improvements, including to the extent that the County shall be held accountable to any person, firm corporation, body politic, or any other entity for damages sustained from said Grant Project and the Surfside Beach Grant Improvements.

X.
SOVEREIGN/GOVERNMENTAL IMMUNITY

This Agreement is expressly made subject to the County's and the City's sovereign/governmental immunity, including, without limitation, Title 5 of the Texas Civil Practice and Remedies Code, and all applicable federal and state laws. The parties agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or liability, or a waiver of any limitation of liability that the County has by operation of law or otherwise.

XI. OWNERSHIP OF PROPERTY

After completion or termination of this Agreement, all data prepared under this Agreement shall be made available to the County without restriction or limitation on further use. All documents produced or approved or otherwise created by the City shall be transmitted to the County in a form required by the County.

XII. RESPONSIBILITIES OF THE PARTIES

Each party to this Agreement acknowledges that it is not an agent, servant, or employee of the other party. Each party is responsible for its own acts and deeds and for those of its agents, servants, or employees.

XIII. COMPLIANCE WITH LAWS

The parties shall comply with all federal, state, and local laws, statutes, regulations, rules, and ordinances, and with the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement. When requested, the City shall provide the County with satisfactory proof of this compliance. The City shall provide or obtain any and all applicable permits, plans, or other documentation required by a federal or state entity.

XIV. LEGAL CONSTRUCTION

In the event one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or

unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

XV.
GOVERNING LAW

This Agreement shall be interpreted, construed, and governed according to the laws of the State of Texas. In the event any disputes arise involving this Agreement, the proper venue shall be Brazoria County, Texas.

XVI.
ENTIRE AGREEMENT

This Agreement and all promises contained in it supersede any and all other agreements, either oral or in writing, between the parties with respect to the subject matter of this Agreement. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, that are not set forth in this Agreement, and that no agreement, statement, or promise not contained in this Agreement shall be valid or binding.

BRAZORIA COUNTY, TEXAS

**VILLAGE OF SURFSIDE BEACH,
TEXAS**

L.M. "Matt" Sebesta Jr.
County Judge

Gregg Bisso
Mayor

DATE

DATE