

**INTERLOCAL AGREEMENT BETWEEN BRAZORIA COUNTY, TEXAS, AND
THE CITY OF BRAZORIA, TEXAS**

This Interlocal Agreement (this "Agreement") is made effective as of the Effective Date (as defined below), by and between BRAZORIA COUNTY, TEXAS, acting through its Commissioners Court (the "County"), and the CITY OF BRAZORIA, TEXAS, acting through its Mayor and/or City Manager (the "City"). The City and the County may be referred to individually as a "Party" and collectively as the "Parties."

WHEREAS, The Interlocal Cooperation Act, Texas Government Code § 791.001 *et seq.*, authorizes the City to enter into an interlocal agreement with the County subject to the conditions and limitations of this Agreement; and

WHEREAS, Texas Transportation Code §251.012 provides that with the approval of the City, the County may spend County money to finance the construction, improvement, maintenance, or repair of a street or alley in the City, including the provision of County equipment, materials, and labor as set forth therein; and

WHEREAS, City warrants that its City Council approved this Agreement on 4/30, 2024 authorizing its Mayor and/or City Manager to execute it on City's behalf.

WHEREAS, County warrants that its Commissioners Court approved this Agreement by Court Order No. _____ dated _____, authorizing its County Judge to execute it on the County's behalf, and specifically approving the Project listed in this Interlocal Agreement.

NOW, THEREFORE, the County and the City agree as follows:

1. **Payments from Current Revenues.** Each Party paying for the performance of governmental functions or services agrees to make those payments from current revenues available to that paying Party.
2. **Term.** This Agreement shall commence on the Effective Date and shall terminate under the conditions set forth herein.
3. **Equipment.** 2003 Gradall XL4100 Excavator with 1.5 cubic yard hydraulic bucket, 160 HP, Serial No. 0414551 ("Equipment").
4. **County's Covenants.** County shall lend the Equipment to City.
5. **City's Covenants.** City shall be responsible for maintaining the Equipment while in the City's possession.
6. **Independent Contractor.** The Parties intend that City utilize the Equipment in the maintenance, construction, improvement or repair of streets and/or alleys in the municipality.

In performing such services, City shall have control of the work and the manner in which it is performed.

7. **Fair Compensation.** The Parties acknowledge and agree that the City's maintenance of the equipment is fair compensation to the County while using the Equipment.

8. **Termination.** At any time and for any reason, either Party may terminate this Agreement by providing thirty (30) days' written notice of termination to the other Party.

9. **Funding.** The Parties understand and acknowledge that the funding of this Agreement is contained in each Party's annual budget and is subject to the approval of each Party in each fiscal year. The Parties further agree that should the governing body of any Party fail to approve a budget that includes sufficient funds for the continuation of this Agreement, or should the governing body of any Party fail to certify funds for any reason, then and upon the occurrence of such event, this Agreement shall automatically terminate as to that Party and that Party shall then have no further obligation to the other Party. When the funds budgeted or certified during any fiscal year by a Party to discharge its obligations under this Agreement are expended, the other Party's *sole and exclusive remedy* shall be to terminate this Agreement.

10. **No Joint Enterprise.** The Agreement is not intended to, and shall not be construed to, create any joint enterprise between or among the Parties.

11. **Venue and Applicable Law.** This Agreement is subject to all present and future valid laws, orders, rules, ordinances, and regulations of the United States of America, the State of Texas, the Parties, and any other regulatory body having jurisdiction. This Agreement shall be construed and governed according to the laws of the State of Texas. The sole venue for any action, controversy, dispute, or claim arising under this Agreement shall be *exclusively* in a court of appropriate jurisdiction in Brazoria County, Texas.

12. **Public Information.** This Agreement is public information. To the extent, if any, that any provision of this Agreement is in conflict with Texas Government Code Chapter 552 *et seq.*, as amended (the "Texas Public Information Act"), such provision shall be void and have no force or effect.

13. **No Third-Party Beneficiaries.** This Agreement is entered solely by and between the Parties, and may be enforced only by and among the Parties. Except as set forth herein, this Agreement shall not be deemed to create any rights in, or obligations to, any third parties.

14. **No Personal Liability.** Nothing in this Agreement shall be construed as creating any personal liability on the part of any employee, officer, or agent of any Party to this Agreement.

15. **No Indemnification by City or County.** The Parties expressly acknowledge that the City's and the County's authority to indemnify and hold harmless any third party is governed by Article XI, Section 7 of the Texas Constitution, and any provision that purports to require indemnification by the City or the County is invalid. Nothing in this Agreement requires that either the City or County incur debt, assess or collect funds, or create a sinking fund.

16. **Sovereign Immunity Acknowledged and Retained.** THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT NO PROVISION OF THIS AGREEMENT IS IN ANY WAY INTENDED TO CONSTITUTE A WAIVER BY ANY PARTY OF ANY IMMUNITY FROM SUIT OR LIABILITY THAT A PARTY MAY HAVE BY OPERATION OF LAW. THE CITY AND THE COUNTY RETAIN ALL GOVERNMENTAL IMMUNITIES.

17. **No Assignment.** This Agreement shall not be assigned by either Party without the express written consent of the other Party.

18. **Entire Agreement.** This Agreement, including any exhibits, contains the entire agreement between the City and the County and fully supersedes all prior agreements and understandings between the City and the County pertaining to such transaction.

19. **Modification.** The Agreement cannot under any circumstance be modified orally, and no agreement shall be effective to waive, change, modify, or discharge this Agreement in whole or in part unless such agreement is in writing and is signed by both the City and the County.

20. **Effective Date.** The Effective Date of this Agreement shall be the date on which the second of the two Parties executes this Agreement.

AGREED and SIGNED to be effective as of the Effective Date.

COUNTY:

BRAZORIA COUNTY, TEXAS

CITY:

THE CITY OF BRAZORIA, TEXAS

By: _____

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

By: _____

Mayor/City Manager

DATED: _____

DATED: 4/30/24

ATTEST:

By: Chissa Mills

City Secretary