



## Item 7 Travis County Commissioners Court Agenda Request

**Meeting Date:** December 11, 2012

**Prepared By:** Chiddi N'Jie **Phone #:** 854-7585

**Division Director/Manager:** Steve Sun, PE

**Department Head:** Steven M. Manilla, P.E., County Executive-TNR

**Sponsoring Court Member:** Commissioner Huber, Precinct Three

**AGENDA LANGUAGE:** Consider and take appropriate action on a request to approve an Interlocal Cooperation Agreement with the City of Austin for the construction of improvements on Frate Barker Road between Manchaca Road and Brodie Lane, in Precinct 3.

### **BACKGROUND/SUMMARY OF REQUEST:**

This project is a 1.3 mile improvement of Frate-Barker Road on approximately the existing alignment from Manchaca Road to Brodie Lane. The design of the proposed improvements will involve converting the existing two-lane rural roadway to a four-lane minor arterial with a continuous left turn lane. The typical section will consist of four travel lanes with bike lanes, curb and gutter, sidewalks, and associated improvements. The Frate Barker Road project is an STP MM (Metropolitan Mobility) project that was approved by CAMPO in June 2006 for funding in FY 2008 in the amount of \$9,000,000. The local match or County's match for this will be \$1,800,000. An Advance Funding Agreement with TxDot was executed by the Court on February 27, 2007. In 2008, Amendment two increased the Federal and County cost shares by \$2,000,000 and \$590,000, respectively, for a project total funding of \$11,590,000. This additional funding was to allow the County to construct the entire limits of the project to up to a four lane roadway (with center turn lanes, bike lanes and sidewalk on both sides) instead of the initial funding which was limited to construction of up to two lanes with a center turn lane. A portion of the project, which have significantly increased since the inception of this project, is within the City of Austin's full purpose jurisdiction (see attached map), therefore, an interlocal agreement will be needed to obtain the City's consent to perform work and to purchase Right-of-Way within their jurisdiction. Under the terms of the attached interlocal: County will take the lead in project management, design development and construction administration; County will be responsible for all project design and construction costs including Right-of-Way acquisition; City will release to County all fiscals collected from developers for Frate Barker Road boundary street improvements; and City will cooperate with County in design development, bidding, construction inspection, final acceptance and future maintenance of the portion of project located within the City's full purpose jurisdiction.

## **STAFF RECOMMENDATIONS:**

Staff recommends the approval of the attached Interlocal Agreement.

## **ISSUES AND OPPORTUNITIES:**

Brodie Lane is a two-lane roadway between Slaughter Lane and Frate Barker Road. It carries a large amount of commuter traffic between southern Travis County and northern Hays County to and from places of employment in Austin. The roadway is not designated as an arterial roadway and there are no plans to widen it to relieve congestion. Completing the proposed improvements to Frate-Barker Road, a designated arterial, is one of several initiatives the Court approved in 2006 to help reduce cut-through traffic on Brodie Lane. Completion of the improvements will help facilitate the movement of traffic between Brodie Lane and Manchaca Road and desirably encourage more motorists to use Manchaca Road instead of Brodie Lane. TxDOT have completed the first phase of a planned widening of Manchaca Road, a state highway, in the vicinity of Frate-Barker road, from two lanes to three lanes (with the planned ultimate design being a six lane roadway).

The federal environmental process for this project was recently completed after four years. This delay have placed us very close to TxDOT's programed latest date to solicit bids for a construction contract; July 2013. This means that the Right-of-Way process must be streamlined considerably by TNR, Commissioners Court, and the County Attorney's Office. Without this cooperation, we face the risk of losing funding from CAMPO.

After the NEPA clearance was received from FHWA, some members of the project objected to some aspects of the project, including the disposition of a 30" Oak tree. It took several months to get to a resolution. The County will include an alternative to our bid for tree mitigation. That alternative is to include in the bid solicitation, an item to relocate the tree and it's associated costs and if the tree organizations can come up with an amount acceptable to the Court, we may pursue that option.

In addition to getting approval from the City to construct this road within their full purpose limits, an agreement is also needed to accommodate the construction of the the City's water and wastewater lines that must be relocated due to conflicts resulting from the proposed road improvements. Because of this, TNR desired to include the two agreements into one interlocal agreement. This was over two years ago when the City executed the attached interlocal, but the waterline relocation funding and design and interlocal process is only now being initiated. In light of the TxDOT bidding schedule requirement, it has become necessary to proceed with the execution of the attached interlocal agreement, and amend it at a later date or create a separate agreement when the waterline agreement is ready. This way, we can

proceed with other aspects of the project that requires an interlocal agreement with the City; acquisition of right-of-way within City limits, permits, etc.

**FISCAL IMPACT AND SOURCE OF FUNDING:**

There is no negative fiscal impact to the County from this interlocal. About \$494,000 (about \$449,477 of which is with the City) of money posted as boundary road fiscal by developers will also be released for funding the road construction.

**ATTACHMENTS/EXHIBITS:**

1. Project Location Map
2. Interlocal Agreement

**REQUIRED AUTHORIZATIONS:**

Cynthia McDonald	Financial Manager	TNR	854-4239
Steve Manilla	County Executive	TNR	854-9429
Chris Gilmore	Asst County Attorney	County Attorney	854-9455

**CC:**

Syd Grimes	Purchasing Agent	Donna Williams-Jones	TNR
Hannah York	Auditor's Office	Tawana Gardner	TNR
		Steve Sun	TNR
		Chiddi N'Jie	TNR

:  
: **0101 - Administrative -**

## **EXHIBIT A**

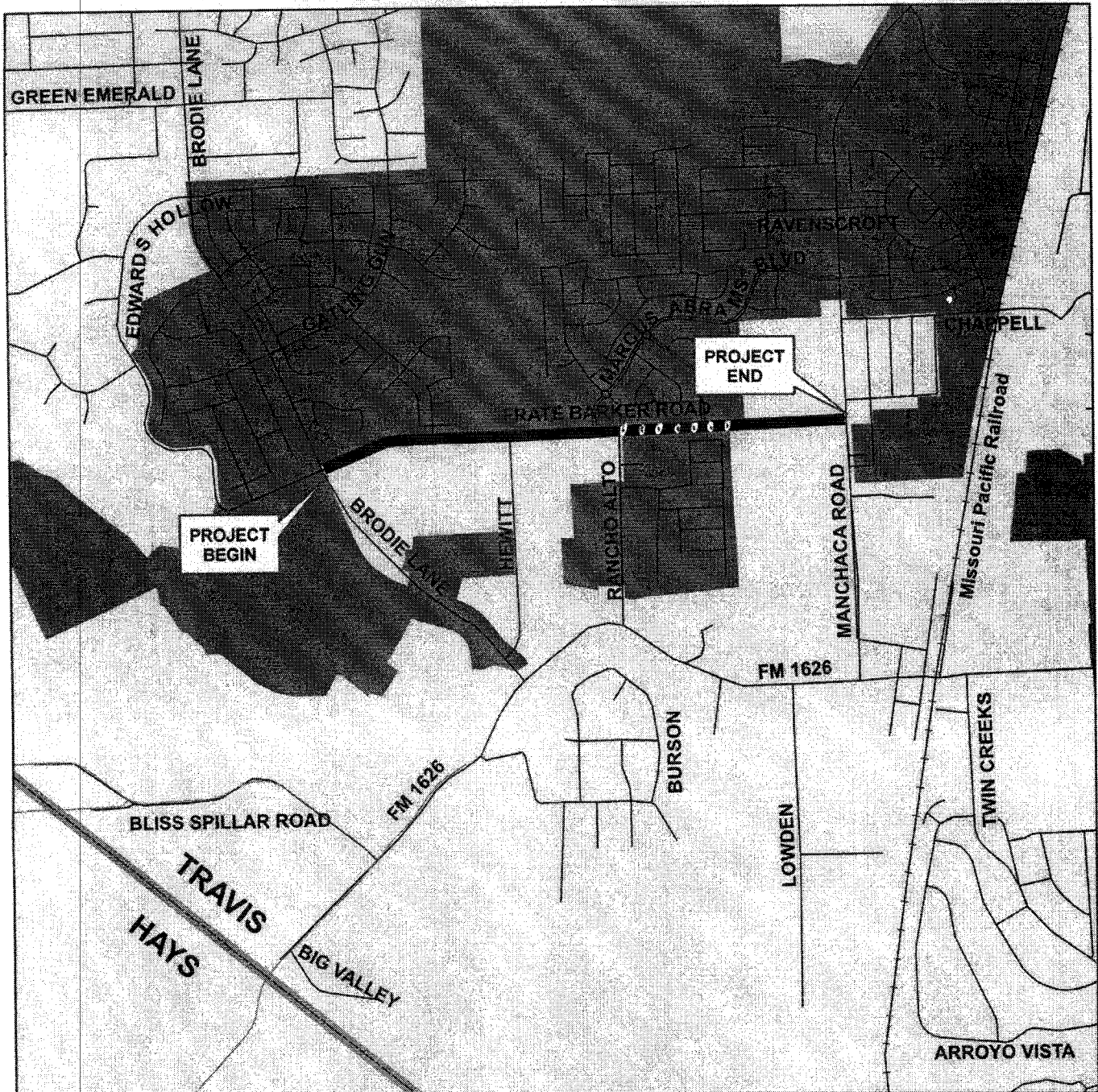
### **COUNTY'S PROJECT**

#### **The Frate Barker Improvements Project Scope:**

The Frate Barker Road Improvement Project is located in the Southwest sector of Travis County in Precinct 3. The project limits are from Brodie Lane to Manchaca Road Frate Barker Road is currently a two-lane rural arterial road. The proposed improvements will include roadway widening from the existing two lane rural roadway to a two to four-lane urban design section (MAD-4) with sidewalks, bicycle lanes, subsurface storm sewer system, and associated utility relocations. Provisions will also be made for water quality and detention.

**EXHIBIT B**

**PROJECT LIMITS**

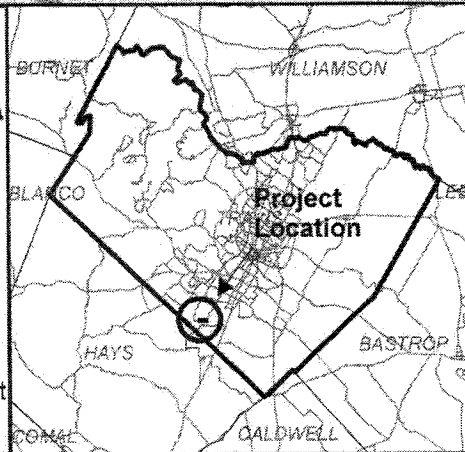


—+— Railroad  
 Project Limits in COA  
 City Limits  
 County Line

N  
 W —+— E  
 S

0 1,000 2,000 3,000 4,000 Feet

**JANUARY 24, 2008**



**PROJECT LOCATION MAP**

**Frate Barker Road:**

**From Brodie Lane to Manchaca Road**

Travis County, Texas

DISCLAIMER: This map was generated by HNTB Corporation using GIS (Geographic Information Systems) software. No claims are made to the accuracy or completeness of the information shown herein nor to its suitability for a particular use. The scale and location of all mapped data are approximate.



City of Austin

# Law Department

City Hall, 301 West 2nd Street, P.O. Box 1088  
Austin, Texas 78767-8828  
(512) 974-2268

Writer's Direct Line  
(512) 974-2346

Writer's Fax Line  
(512) 974-6490

November 20, 2009

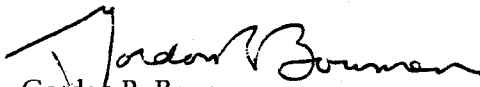
Chris Gilmore  
Assistant Travis County Attorney  
Travis County Attorney's Office  
P.O. Box 1748  
Austin, Texas 78746

RE: Frate Barker Road Interlocal

Dear Chris:

Enclosed please find a set of original Interlocal Agreements for the Frate Barker Road Project which have been approved by the City Council and executed by Robert Goode, Assistant City Manager. Please provide me with a fully executed copy when the County has approves the Interlocal. Thank you.

Sincerely Yours,

  
Gordon R. Bowman  
Assistant City Attorney

**FRATE BARKER ROAD IMPROVEMENTS  
INTERLOCAL COOPERATION AGREEMENT  
CITY OF AUSTIN AND TRAVIS COUNTY**

This Agreement is made and entered into by and between the City of Austin, Texas (the "City") and Travis County, Texas (the "County"), hereinafter collectively referred to as the "Parties", upon the premises and for the consideration stated herein.

WHEREAS, the County intends to construct certain roadway and drainage improvements to a portion of Frate Barker Road, Project between Brodie Lane and Manchaca Road (the "Project"); and

WHEREAS, a 400 linear foot section of the Project is located within the City's corporate limits; and

WHEREAS, the Parties intend to conform to this Agreement in all respects with the Interlocal Cooperation Act, Texas Government Code Section 791.001, et seq.;

NOW, THEREFORE, the Parties agree as follows:

1. Project Management.

- (a) The County will manage the development and construction of the Project, as set forth herein and as described in **Exhibit A**. The Executive Manager of the Travis County Transportation and Natural Resources Department (the "Executive Manager") will act on behalf of the County with respect to the Project, coordinate with the City, receive and transmit information and instructions, and will have complete authority to interpret and define the County's policies and decisions with respect to the Project. The Executive Manager will designate a Project Manager and may designate other representatives to transmit instructions and act on behalf of the County with respect to the Project.
- (b) The City's Public Works Director will act on behalf of the City with respect to Project, including the portion of the Project located within the City (**Exhibit B**). The Public Works Director will designate an additional City Project Manager and may designate other representatives to transmit instructions and act on behalf of the City with respect to the Project, including the portion of the Project located within the City.
- (c) If a disagreement between City and County arises regarding engineering design, design and construction standards, plans and specifications, inspection and testing, deficiencies and remedial action, change orders, or any other requirement or provision of this Agreement, and the disagreement is not resolved by the City Project Manager and the County



Project Manager, it shall be referred as soon as possible to the City's Public Works Director and the County's Public Works Director for resolution. If the Directors do not resolve the issue, it shall be referred as soon as possible to the Assistant City Manager responsible for public works and the Executive Manager of the Travis County Transportation and Natural Resources Department for resolution.

- (d) The portion of the Project located within the City may be constructed pursuant to the authority granted under Section 791.001, et seq. of the Texas Government Code.

2. Project Development.

- (a) The County will be responsible for the development and completion of the Project, including the development of the engineering design, plans and specifications for the roadway improvements and sidewalks, the surveying, right-of-way acquisition, bidding and contract award, construction, inspection and testing, minority and women-owned business policy compliance, any required permitting and environmental assessments and clearances associated with the Project, and acceptance of the portion of the completed work located within the unincorporated area of the County.
- (b) The plans and specifications for the Project shall be in accordance with the design and construction standards applicable under Title 30, Austin City Code (Austin/Travis County Subdivision Regulations), unless otherwise agreed by the Parties. The plans and specifications for the Project will include the scope of design set forth in attached **Exhibit A**. In addition, the County will ensure that the plans and specifications will comply with the applicable Texas Accessibility Standards.
- (c) The County will ensure that the design engineer provides professional liability, automobile liability, and general liability insurance in accordance with the standard requirements of the County for such projects, during the term of the design and construction and name the City as an additional insured with respect to the general liability and auto liability coverage.
- (d) The County and, to the extent set forth herein, the City will be responsible for the review and approval of the engineering design, plans and specifications and for construction inspection and testing for the Project. In addition, the County and, to the extent set forth herein, the City will be responsible for the review and approval of any modifications to the engineering design, plans, and specifications for the Project, during the development and construction of the Project.

- (e) A City permit and associated fees shall be required only for any part of the Project within the City's full purpose corporate limits (Exhibit B) provided that any fees in lieu of compliance with City Standards will be required within any portion of the City's jurisdiction. The application review process and fees for any such permit shall be the same as the process and fee requirements that the City applies to its own road and drainage projects. The City shall coordinate the City's review of any permit application and issuance of the permit concurrently with the City's review and approval of engineering design and plans and specifications for the Project.
- (f) The Parties will participate in joint review meetings with representatives from all affected City and County Departments in order to avoid and resolve conflicts in review comments. The City will provide a designated review team to expedite the review process.
- (g) The County shall require the contractor to immediately take any appropriate remedial action to correct any deficiencies identified by the City.

3. Project Bidding & Award of Construction Contract.

The County will be responsible for overseeing the solicitation of bids for the construction of the Project based on the approved plans and specifications. Bids shall be solicited by means of a competitive process and in accordance with the County's minority and women-owned businesses policy. The County will notify the City of the lowest responsible bidder and the amount of the bid for the Project and the City shall respond within seven (7) working days. Upon written agreement of the City, the County will approve a firm unit-price or lump sum contract for the construction of the Project with the successful bidder.

4. Management Duties of the County. The County hereby covenants and agrees to provide to the City:

- (a) four (4) sets of the plans and specifications for the construction of the Project at appropriate intervals for the City's review and approval;
- (b) written responses to the City's initial plan review comments within fourteen (14) working days of receipt from the City;
- (c) written notice of the schedule for design and the advertisement for bids, award of contract, and construction of the Project;
- (d) written notice of the bid tabs for the Project;

- (e) upon completion of bidding, the County will furnish the City a written copy of all contracts affecting the Project, including accompanying information regarding compliance with the County's minority and women-owned business policy;
- (f) a monthly itemized statement of all disbursements made and debts incurred during the preceding month relating to the portion of the Project located within the City; including copies of invoices, statements, vouchers, or any other evidence of payment of debt and accompanying information regarding compliance with the County's minority and women-owned business policy;
- (g) executed change orders, jointly approved by the City and the County, related to the portion of the Project located within the City or otherwise affecting the scope of the Project described in Exhibit A or any City issued permits;
- (h) sufficient notice, documentation and opportunity for the City to review and jointly approve the construction contractor's application for final payment with accompanying information regarding compliance with the County's minority and women-owned business policy;
- (i) a copy of any change order request related to the Project within two (2) working days of its receipt by the County, by delivery to the City's Project Manager for review and approval; and
- (j) upon satisfactory completion of construction and any applicable warranty or construction performance period, the County will accept the portion of the Project, which is located within the County, and furnish the City a copy of the record drawings of the Project for the City's records.

5. Management Duties of the City. The City hereby covenants and agrees to:

- (a) review and approve the submitted plans and specifications by providing any initial comments within 14 working days of submittal, review and approve the County's responses to those initial comments within seven (7) working days, and work in good faith to resolve any outstanding issues;
- (b) expeditiously review any applicable permit applications and work in good faith to resolve any outstanding issues;
- (c) review any change order proposal for the portion of the Project located within the City or otherwise affecting the scope of the Project described in Exhibit A or any City issued permits, and return the change order request to the County within five (5) working days of its receipt by the City's Project Manager, with a written recommendation for its disposition;

respond to requests for information within three (3) working days and requests for approval of shop drawings within ten (10) working days.

- (d) perform independent inspection and, at the option of the City, any additional testing on the portion of the Project located within the City in coordination with the County's inspectors and as agreed to by the County and City Project Managers, and in a timely manner; and in connection therewith, the City may designate inspectors to make any such inspections, including any joint final inspection of the portion of the Project located within the City with the County; the City's inspectors shall communicate any issues to the County's inspectors only, and County inspectors will in turn communicate those issues to the construction contractor;
- (e) coordinate with the City and County Project Managers, as reasonable and necessary;
- (f) immediately report any deficiencies observed in the construction of the Project in writing to the County's Project Manager;
- (g) review and jointly approve the construction contractor's application for final payment;
- (h) attend meetings at the request of the County's Project Manager; and
- (i) upon satisfactory completion of construction and any applicable warranty or construction performance period, the City will accept the portion of the Project which is located within the City.

5. Bond and Guarantee. All construction contracts affecting the Project shall include a payment and performance bond acceptable to and in favor of and benefiting the County, for the full amount of the contract and a warranty by the contractor executed in favor of and benefiting the County, for a period of one year from the date of acceptance of the Project. The City shall be included as a co-obligee on the payment and performance bond.

6. Liability. To the extent allowed by Texas law, the County and the City agree that each entity is responsible for its own proportionate share of any liability for its negligent acts or omissions. In addition, the construction contractor shall be required to provide workers compensation insurance, auto liability, and general liability insurance acceptable to the County. The City shall be included as an additional insured on the above-referenced insurance policy and a waiver of subrogation will be provided on the auto liability, general liability, and workers compensation coverage.

7. Financial Obligations.

- (a) The County agrees to pay all costs of the Project as designed and bid by the County.

- (b) The City shall ensure that all Frate Barker boundary street fiscal collected from developers shall be released to the County upon written request from the County.
- (c) The City shall deposit the fiscal into an escrow account with the County within 30 calendar days of notification to the City by the County of the successful bidder and the bid amount, unless otherwise agreed to by the City and the County in writing.
- (d) The County shall obtain the written approval of the City for all change orders affecting the design and construction of the portion of Project located within the City (see **Exhibit B** ) prior to the County issuing the approved change order to the contractor, such approval not to be unreasonably withheld or delayed. The sole basis for City denial of a change order for the portion of the Project within the City shall be that it would cause the Project to violate the standards in Section 2 that were in effect at the time the original plans and specifications for the Project were approved under Section 2 or the scope of the Project described in **Exhibit A** or any issued City permit. The City's Project Manager shall meet with the County's Project Manager to review the contractor's progress reports and invoices for the portion of the Project located within the City before approval by the County.
- (e) The County shall provide the City, at least quarterly, with an accounting of the deposits to and disbursements from the City's fiscal funds. The County will make its records available, at reasonable times, to the City's auditors.
- (d) The County shall timely pay submitted invoices for the Project. The invoices for the Project will be paid on the basis of work completed in accordance with the approved plans and specifications.

8. City Inspection and Testing.

The City shall be responsible for the final inspection of the portion of the Project located within the City (see **Exhibit B**) and any additional testing of the portion of the Project located within the City (see **Exhibit B** ) which is in addition to any performed by the County. The City's inspectors shall coordinate with the City and County Project Mangers, the County's inspectors, and the construction contractor, as reasonable and necessary, in making inspection(s).

9. Miscellaneous.

- (a) Force Majeure. In the event that the performance by the County or the City of any of its obligations or undertakings hereunder shall be interrupted or delayed by any

occurrence not occasioned by its own conduct, whether such occurrence be an act of God, or the common enemy, or the result of war, riot, civil commotion, sovereign conduct, or the act of conduct of any person or persons not a party or privy hereto, then it shall be excused from such performance for such period of time as it reasonably necessary after such occurrence to remedy the effects hereto.

- (b) **Notice.** Any notice given hereunder by either party to the other shall be in writing and may be effected by personal delivery in writing or by registered or certified mail, return receipt requested when mailed to the proper party, at the following addresses:

**CITY:** Howard Lazarus  
City of Austin Public Works Director  
505 Barton Spring Rd  
Austin, Texas 78701

**WITH COPY TO:** Gordon Bowman  
Assistant City Attorney  
City of Austin Law Department  
114 W. 7<sup>th</sup> Street  
Austin, Texas 78701

**COUNTY:** Joe Gieselman, Executive Manager, TNR  
P. O. Box 1748  
Austin, Texas 78767

**WITH A COPY TO:** David Escamilla  
Travis County Attorney  
P. O. Box 1748  
Austin, Texas 78767  
Attn: File No. \_\_\_\_\_

- (c) **Number and Gender Defined.** As used in this Agreement, whenever the context so indicates, the masculine, feminine, or neuter gender and the singular or plural number shall each be deemed to include the others.
- (d) **Entire Agreement.** This Agreement contains the complete and entire Agreement between the parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations, and understanding, if any, between the parties respecting the joint construction of the Projects. This Agreement may not be modified, discharged, or changed in any respect whatsoever except by a further agreement in writing duly executed by authorized representatives of the parties hereto. No official, representative, agent, or employee of Travis County, Texas has any authority to modify this Agreement, except pursuant to such express authority as may be granted by the

Commissioners Court of Travis County, Texas. The recitals set forth above and the attached exhibits are incorporated herein.

- (e) Effective Date. This Agreement takes effect upon the last date of due execution of the Agreement by the County and the City.
- (f) Other Instruments. The Parties hereto covenant and agree that they will execute other and further instruments and documents as may become necessary or convenient to effectuate and carry out the purposes of this Agreement.
- (g) Invalid Provision. Any clause, sentence, provision, paragraph, or article of this agreement held by a court of competent jurisdiction to be invalid, illegal, or ineffective shall not impair, invalidate, or nullify the remainder of this Agreement, but the effect thereof shall be confined to the clause, sentence, provision, paragraph, or article so held to be invalid, illegal, or ineffective.
- (h) Current Funds. The party or parties paying for the performance of governmental functions or services shall make payments therefore from current revenues available to the paying party.

CITY OF AUSTIN, TEXAS

By:

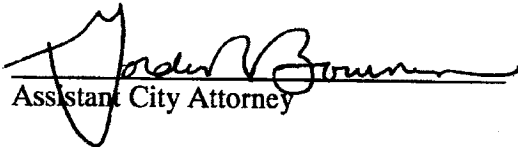


Name: ROBERT GOODE

Title: ASSISTANT CITY MANAGER  
Authorized Representative

Date: NOVEMBER 19, 2009

Approved as to Form:



Assistant City Attorney

TRAVIS COUNTY, TEXAS

By:

Samuel T. Biscoe, County Judge

Date: \_\_\_\_\_