

**PLACEMENT OF NEW WATERLINES ALONG FM 1626  
FROM RANCHO ALTO TO MANCHACA ROAD (FM 2304)  
INTERLOCAL COOPERATION AGREEMENT  
CITY OF AUSTIN AND TRAVIS COUNTY**

This Interlocal Cooperation 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.

**Recitals**

1. The County and the Texas Department of Transportation ("TxDOT") have entered into a Pass-Through Agreement for Payment of Pass-Through Tolls (the "Pass-Through Agreement"), Contract No. PT-2011-007-01, for the widening and reconstruction of FM 1626 from west of Brodie Lane to FM 2304 (Manchaca Road) to a five-lane roadway section with a continuous left turn lane and associated improvements (the "Project").
2. Under the Pass-Through Agreement, the County is responsible for providing engineering services for the Project, and TxDOT is responsible for construction of the Project.
3. The City desires to extend its waterlines (the "Waterline Improvements") along FM 1626, within the limits of the Project, from Rancho Alto to Brodie Lane.
4. The City does not intend to locate its waterlines underneath the pavement portion of the Project.
5. The Project and the Waterline Improvements are referred to collectively in this Agreement as the "Combined Projects."
6. For purposes of cost efficiency, scheduling, and transportation planning, the Parties desire to cooperate in the development of the Combined Projects.
7. The City will use City staff or a qualified engineering consultant to design the Waterline Improvements.
8. The County will work with TxDOT to include the Waterline Improvements in TxDOT's solicitation for construction bids for the Project.
9. The Parties intend to conform 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 Director of Public Works of the Travis County Transportation and Natural Resources Department (the "County's Director") will act on behalf of the County with respect to the Project and the Waterline Improvements (which are more particularly described in **Exhibit A**), coordinate with the City and TxDOT, 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 Waterline Improvements and the Project. The County's Director will designate a County Project Manager and may designate other representatives to act on behalf of the County with respect to the Waterline Improvements and the Project.
- (b) The Austin Water Utility Director (the "City's Director") will act on behalf of the City with respect to the Waterline Improvements and Project, coordinate with the County and TxDOT, receive and transmit information and instructions, and will have complete authority to interpret and define the City's policies and decisions with respect to the Waterline Improvements and Project. The City's Director may designate a City Project Manager and may designate other representatives to act on behalf of the City with respect to the Waterline Improvements and the Project.
- (c) If a disagreement between the Parties 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 Parties' Project Managers, it shall be referred as soon as possible to the Parties' Directors 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 Austin Water Utility and the County Executive of the Travis County Transportation and Natural Resources Department for resolution.

2. Project Development.

- (a) The City will be responsible for the development of the design, plans, specifications, construction inspection, and testing for the Waterline Improvements. The plans and specifications for the Waterline Improvements shall be in accordance with the design and construction standards of TxDOT and the City.

- (b) The City shall provide three copies of the engineering design, plans, specifications, and final construction cost estimate for the Waterline Improvements within thirty (30) days after the City executes this Agreement, which date may be reasonably extended by the Parties unless TxDOT requires that they be submitted sooner.
- (c) The City will be responsible for any required modifications to the engineering design, plans, and specifications for the Waterline Improvements during the development and construction of the Project.
- (d) The City will use its own staff to design the Waterline Improvements.
- (e) The City and, to the extent set forth herein, the County will be responsible for the review and approval of the engineering design, plans and specifications and for construction inspection and testing for the Waterline Improvements. In addition, the City and, to the extent set forth herein, the County will be responsible for the review and approval of any modifications to the engineering design, plans, and specifications for the Waterline Improvements, during the development and construction of the Waterline Improvements.
- (f) The City will permit the Waterline Improvements as required by City, County and TxDOT rules and regulations and be responsible for any associated fees required for the Waterline Improvements. To the extent feasible, the City shall coordinate the City's review of any permit application and issuance of the Waterline Improvements permit concurrently with the City's review and approval of engineering design and plans and specifications for the Project.
- (g) The County will urge TxDOT to transfer legal title to the constructed Waterline Improvements water utility facilities to the City when the Waterline Improvements are completed and accepted for operation and maintenance by the City.
- (h) The County will urge TxDOT to require the contractor to immediately take any appropriate remedial action to correct any deficiencies in the Waterline Improvements identified by the City.
- (i) The Parties will participate in joint review meetings with representatives from all affected City and County Departments and TxDOT in order to avoid and resolve conflicts in review comments. The City will provide a designated review team to expedite the review process.

3. Project Integration; Design, Bidding, & Award of Construction Contract.

- (a) Upon approval and execution of this Agreement by both the County and the City, the County shall modify its contract with its engineering consulting firm for the Project to include the integration of the Waterline Improvements engineering design and construction documents ("PS&E") into the Project at the City's cost. The estimated fee for the professional services required to integrate the Waterline Improvements PS&E documents into the Project is \$11,008.00. The engineering fee proposal and scope of services is set forth in **Exhibit B**, attached hereto. The County shall submit any proposed revisions to the Waterline Improvements PS&E documents to the City for its review and approval.
- (b) Upon receipt of the City's PS&E for the Waterline Improvements, the County will submit the PS&E to TxDOT for review and approval. If TxDOT determines that the complete plans, specifications, and estimates for the Waterline Improvements do not meet TxDOT format, the City shall revised the design documents to TxDOT's format within the time-frame required by TxDOT. If additional specifications or data is required by TxDOT, the City shall provide revised plans and specifications to meet TxDOT's format within the time-frame required by TxDOT. The costs for additional work on the plans, specifications, and estimates for the Waterline Improvements shall be borne by the City.
- (c) After TxDOT approves any revisions or informs the City that no further revisions to the PS&E documents are necessary, the County will work with TxDOT to include bid items for the Waterline Improvements in TxDOT's bid documents for the Project, so that each contractor submitting a bid on the Project will be required to include within the bid those costs, itemized by line item number, attributable to the Waterline Improvements. The County will work with TxDOT for TxDOT to solicit bids for the construction of the Project and Waterline Improvements based on the combined plans and specifications and in accordance with applicable state and local bidding laws, practices, and procedures. The County will notify the City of the lowest responsible bid and the amount of the bid component for the Waterline Improvements and, upon written approval from the City, TxDOT will enter into a firm unit-price contract with the successful bidder.

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

- (a) written notice of the schedule for integration of the Waterline Improvements PS&E documents into the Project and TxDOT's schedule for the advertisement for bids, award of contract, and construction of the Project;
- (c) County will ensure contractor or the subcontractor awarded the construction contract has at least 5 years of experience in construction of waterlines and is familiar with the City of Austin specifications and standard details for construction of water lines.
- (b) written notice of the bid tabs for the Waterline Improvements within two (2) working days after the County receives the information from TxDOT;
- (c) a copy of all contracts affecting the Waterline Improvements;
- (d) a monthly itemized statement of all disbursements made and debts incurred during the preceding month relating to the Waterline Improvements, including copies of invoices, statements, vouchers, or any other evidence of payment of debt;
- (e) a written copy of all field changes, supplemental agreements, or revisions to the design plans for the Waterline Improvements;
- (f) executed change orders, jointly approved by the City, the County, and TxDOT relating to the Waterline Improvements;
- (g) a copy to the City's Project Manager of any change order request related to the Waterline Improvements within two (2) working days of the County receiving them from the TxDOT;
- (h) sufficient notice, documentation, and opportunity for the City to assist in the final review of the construction services performed by the construction contractor with respect to the Waterline Improvements; and
- (i) upon satisfactory completion of construction and any applicable warranty or construction performance period, the County will recommend that the City accept the Waterline Improvements.
- (j) The County will transfer legal title to the constructed Utility Line and Appurtenance Adjustments to the City when the Utility Line and Appurtenance Adjustments are completed and accepted for operation and maintenance by the City.

- (k) Within sixty (60) days after satisfactory completion of construction of the Roadway Project furnish the City a copy of the record as-built drawings of the Utility Line and Appurtenance Adjustments for the City's records.

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

- (a) review and address the County's initial review comments within five (5) working days, and work in good faith to resolve any outstanding issues;
- (b) reviews of any change order proposal for the Waterline Improvements by returning the change order request to the County within five (5) working days of its receipt by the City's Project Manager, or within any response period required by TxDOT or the County, whichever is sooner, 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;
- (c) at the option and expense of the City, the City will, perform independent inspection and testing on the Waterline Improvements in coordination with TxDOT's inspectors or Project Manager and as agreed to by the City and County Project Managers. Any testing by the City must be scheduled to avoid delaying the construction of the Project to the maximum extent practical. In connection therewith, the City will designate inspectors to make any such inspections, including any joint final inspection of the completed Waterline Improvements with the County; the City's inspectors shall communicate any issues to the County Project Manager only, and the County Project Manager will in turn communicate those issues to TxDOT;
- (d) reporting of any deficiencies observed in the construction of the Waterline Improvements immediately to the County's Project Manager, inspector, and to TxDOT with an additional written report within two (2) working days;
- (e) attendance at meetings at the request of the County's Project Manager or TxDOT; and
- (f) upon satisfactory substantial completion of the Waterline Improvements, the City will conditionally accept the Waterline Improvements and will finally accept the Waterline Improvements

upon completion of any applicable warranty or construction performance period.

6. Liability. To the extent allowed by Texas law, the City and the County agree that each entity is responsible for its own proportionate share of any liability for its negligent acts or omissions.

7. Financial Obligations.

- (a) The City agrees to pay all costs for the Waterline Improvements, including the cost of surveying, design, integration of the Waterline Improvements PS&E documents into the Project, construction, inspection, testing, and the cost of any change orders made necessary by field changes to address unanticipated conditions under the terms and conditions in this Agreement. It is acknowledged that the services for the integration of the City's PS&E will include the review of the plans for any conflicts with the design of the Project. The City shall pay project integration and construction costs through an escrow account with Travis County at an amount equal to the cost of the construction bid amount, unless otherwise agreed to by the City and the County in writing. This project integration cost amount is currently estimated at \$11,008.00. The County's cost estimate for integration costs of the Waterline Improvements is \$371,255.00 with a \$38,227.00 contingency for an estimated total not to exceed \$420,490.00. The design and integration cost and, estimated construction cost of the Utility Lines Adjustments is set forth in **Exhibit B**, attached hereto.
- (b) The City shall deposit in a County-approved escrow account \$11,008.00, the estimated amount for proposed project integration fees, for the Waterline Improvements within thirty (30) days after the effective date of this Agreement.
- (c) The estimated construction costs for the Waterline Improvements is set forth in **Exhibit B**, attached hereto, and is \$371,255.00. The City shall deposit in a County-approved escrow account \$371,255.00 at least sixty (60) days before the anticipated bid advertisement date. If the bid component for the Waterline Improvements exceeds the estimated construction costs, the City will deposit the difference with the County Treasurer within sixty (60) days after the County provides notice to the City.
- (d) The County shall obtain the written approval of the City for all change order requests for the Waterline Improvements prior to the

County asking TxDOT to issue the approved change order to the contractor, such approval not to be unreasonably withheld or delayed. The City's Project Manager shall meet with the County's Project Manager to review the contractor's progress reports and invoices for the Waterline Improvements before approval by the County. The County shall return to the City any and all unused portion of the escrow account within sixty (60) days of acceptance of the Waterline Improvements.

- (e) For any change orders that are the responsibility of the City, as described above, and that cause the actual costs of design and construction of specific elements of the Waterline Improvements or the Project to exceed the City's funding, the City shall make its funds available to the County within sixty (60) days after receipt of invoice by the County, such invoice to be accompanied by the change order request from the construction contractor.
- (f) The City agrees to pay delay damages, statutory interest, demobilization costs, Prompt Payment Act claims, re-mobilization costs, and any other associated costs incurred by the County or TxDOT by reason of the non-payment of any acceptable change order which has not been paid within sixty (60) days of the date of submittal by the County, or within 90 days, if the City has to secure additional funding approval from the City Council if the initial contingency is already expended
- (g) The County Treasurer shall act as Escrow Agent for the management of the City's funds and shall deposit the funds in an interest bearing escrow account. The County shall invest the funds in accordance with the Public Funds Investment Act, and any other applicable laws or bond covenants. The interest and any unused portion of the public funds provided by the City under this agreement shall be returned to the City within sixty (60) calendar days after the completion of the Project. The County shall provide the City with an accounting of the deposits to and disbursements from the County's escrow account. The County will make its records available, at reasonable times, to the City's auditors, or its independent financial advisors or other professionals who provide arbitrage rebate calculations to the City.
- (h) The County Treasurer shall timely pay approved invoices for the Waterline Improvements. The invoices for the Project will be paid based on work completed in accordance with the approved plans and specifications.
- (i) Final Accounting.



- (1) Within thirty (30) days after the Project is complete or this Agreement is terminated, the County shall render and send to the City a final written accounting of any and all costs to be paid or borne by, or credited or refunded to, any Party under this Agreement, taking into account any amount the City has previously paid as provided herein and subject to adjustment after resolution of any pending claims or contingent liabilities arising from the Project. The City has the right to audit the County's records and may request any such audit, or any adjustments or corrections, within thirty (30) days of receipt of the accounting.
- (2) After the County has sent any corrected or adjusted final accounting to the City, the City will pay any amount it owes no later than sixty (60) days after receipt of such final accounting. The County must refund any amounts due the City within sixty (60) days after delivery of any adjusted final accounting.

8. City Inspection and Testing.

The City shall be responsible for the inspection of the Waterline Improvements, the testing of the construction of the Waterline Improvements, and the final acceptance of the Waterline Improvements. The City shall designate inspectors to make interim and final inspections of the Waterline Improvements. The City's inspectors shall coordinate with the City Project Manager, the County Project Manager, TxDOT project manager and inspectors, and the County inspectors, as reasonable and necessary, in making inspection(s). Notwithstanding any provision to the contrary, the City will promptly perform inspection and testing of the Waterline Improvements and agrees to pay for any delay damages resulting from the City's failure to promptly perform inspection and testing of the Waterline Improvements. Any deficiencies in the construction of the Waterline Improvements identified by the City shall be immediately reported to the county inspector and then in writing to the County's Project Manager, to TxDOT, and the contractor and be deposited in the U.S. Mail within five (5) days of the identification of any such deficiencies. The County Project Manager shall work with TxDOT to require the contractor to immediately take any appropriate remedial action to correct any deficiencies identified by the City.

9. Miscellaneous.

- (a) Force Majeure. In the event that the performance by the City or the County 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 or 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 is 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: Greg Meszaros (or successor)  
City of Austin  
Austin Water Utility  
625 E. 10<sup>th</sup> Street  
Austin, Texas 78701

WITH COPY TO: Gregory Miller (or successor)  
Senior City Attorney  
City of Austin Law Department  
301 W. 2<sup>nd</sup> Street  
Austin, Texas 78701

COUNTY: Steven M. Manilla, P.E. (or successor)  
County Executive, TNR  
P. O. Box 1748  
Austin, Texas 78767

AND: Cyd Grimes, C.P.M., CPPO (or successor)  
Travis County Purchasing Agent  
P.O. Box 1748  
Austin, Texas 78767

WITH A COPY TO: David Escamilla (or successor)  
Travis County Attorney  
P. O. Box 1748  
Austin, Texas 78767  
File No. 291.529

- (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 construction of the Waterline Improvements and the Project. 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. 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 execution of the Agreement by the City and the County. This Agreement will automatically renew from year to year until the completion of the warranty period for the Project and any litigation or other matters surviving the completion of the Project, unless terminated earlier by the Parties.
- (f) Other Instruments. The Parties 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 therefor from current revenues available to the paying party.

*[Signatures on following page]*

CITY OF AUSTIN, TEXAS

By: Officer for Robert Cook

Name: Greg Mezanos

Title: Acting ACM  
Authorized Representative

Date: 4/5/2016

Approved as to Form:

  
Senior City Attorney

TRAVIS COUNTY, TEXAS

By: \_\_\_\_\_  
Sarah Eckhardt, County Judge

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

## **EXHIBIT A**

### **DESCRIPTION OF CITY'S WATERLINE IMPROVEMENTS**

Proposed 1800 linear feet water line PIPE, 16IN DIA. CLASS 250 DUCTILE IRON (ALL DEPTHS), INCLUDING EXCAVATION AND BACKFILL back of curb and crossing at 90 degrees to roadway.

**EXHIBIT B**

**TRAVIS COUNTY WATER LINE CONSTRUCTION:  
FM 1626 FROM MANCHACA RD TO BRODIE  
CIP No.: 6935.049**

**Engineering Cost:**

ITEM DESCRIPTION	QUANTITY	UNIT TYPE	AMOUNT
WATERLINE INCLUSION AND COORDINATION	84	HR	\$7,858.00
ADMINISTRATIVE/CLERICAL	26	HR	\$3,150.00
<b>SUB TOTAL</b>			<b>\$11,008.00</b>

**Construction Cost**

BID ITEM	SPEC. NO.	BID ITEM DESCRIPTION	QUANTITY	UNIT TYPE	UNIT PRICE	AMOUNT
1	210S-A	FLEXIBLE BASE	<u>31</u>	<u>CY</u>	\$80.00	\$2,480.00
2	315S-A	SURFACE MILLING HOT MIX ASPHALTIC CONCRETE PAVEMENT,	<u>560</u>	<u>SY</u>	\$8.00	\$4,480.00
3	340S-B2D:	2 INCHES, TYPE D	<u>560</u>	<u>SY</u>	\$21.00	\$11,760.00
4	505S-B24:	ENCASEMENT PIPE 24IN DIA., STEEL, (WITH SPACERS OPEN CUT)	<u>155</u>	<u>LF</u>	\$175.00	\$27,125.00
5	509S-1:	TRENCH EXCAVATION SAFETY PROTECTIVE SYSTEMS (ALL DEPTHS) PIPE, 6IN DIA. CLASS 350 DUCTILE IRON (ALL DEPTHS), INCLUDING	<u>1,765</u>	<u>LF</u>	\$2.00	\$3,530.00
6	510-AW6:	EXCAVATION AND BACKFILL PIPE, 16IN DIA. CLASS 250 DUCTILE IRON (ALL DEPTHS), INCLUDING	<u>23</u>	<u>LF</u>	\$110.00	\$2,530.00
7	510-AW-16:	EXCAVATION AND BACKFILL	<u>1,765</u>	<u>LF</u>	\$140.00	\$247,100.00
8	510-JW- 16X16DIA:	WET CONNECTIONS, 16IN DIA. X 16IN DIA.	<u>1</u>	<u>EA</u>	\$8,300.00	\$8,300.00
9	510-JW- 16x12DIA:	WET CONNECTIONS, 16IN DIA. X 12IN DIA.	<u>1</u>	<u>EA</u>	\$7,500.00	\$7,500.00
10	510-KW:	DUCTILE IRON FITTINGS VALVES, RESILIENT SEATED GATE VALVE, REDUCED WALL (AWWA C515), 6" DIA.	<u>1.4</u>	<u>TON</u>	\$8,000.00	\$11,200.00
11	511S-A6:	VALVES, RESILIENT SEATED GATE VALVE, REDUCED WALL (AWWA C515), 16" DIA.	<u>3</u>	<u>EA</u>	\$1,500.00	\$4,500.00
12	511S-A16	16" DIA.	<u>3</u>	<u>EA</u>	\$6,750.00	\$20,250.00

## EXHIBIT B

TRAVIS COUNTY WATER LINE CONSTRUCTION:  
FM 1626 FROM MANCHACA RD TO BRODIE  
CIP No.: 6935.049

### Construction Cost Continue..

BID ITEM	SPEC. NO.	BID ITEM DESCRIPTION	QUANTITY	UNIT TYPE	UNIT PRICE	AMOUNT
13	511S-D	DRAIN VALVE ASSEMBLIES (SEE STANDARD NO 511S-9A))	<u>1</u>	<u>EA</u>	\$4,000.00	\$4,000.00
14	511S-B	FIRE HYDRANTS (SEE STANDARDS NO. 511S-17)	<u>3</u>	<u>EA</u>	\$4,100.00	\$12,300.00
15	803S-CD	BARRICADES, SIGNS AND TRAFFIC HANDLING	<u>21</u>	<u>CD</u>	\$200.00	\$4,200.00
SUB TOTAL						\$371,255.00
Contingency						\$38,227.00
GRAND TOTAL						<b>\$420,490.00</b>