

AMENDMENT NO. 2 TO INTERLOCAL AGREEMENT

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

THIS AMENDMENT TO INTERLOCAL AGREEMENT is made and entered into pursuant to the Interlocal Cooperation Act (TEX. GOV'T CODE ANN., CH. 791) by and between the **Harris County Flood Control District**, a body corporate and politic under the laws of the State of Texas, hereinafter referred to as "HCFCD," and the **City of Deer Park**, a municipal corporation under the laws of the State of Texas, hereinafter referred to as "Deer Park," for the acquisition and construction of a stormwater detention facility within the city limits of Deer Park.

WITNESSETH, that:

WHEREAS, HCFCD and Deer Park previously entered into an Interlocal Agreement (the "Agreement"), dated July 8, 2008, to acquire property for construction of a stormwater detention facility, as recommended in the "Final Preliminary Engineering Report for G104-00-00, G104-08-00, and G105-00-00" ("Report"), hereinafter the "Project," to provide improved drainage and conveyance of flood waters in that area of Harris County, within the corporate limits of Deer Park; and

WHEREAS, under the Agreement, HCFCD and Deer Park were to contribute a maximum sum of \$1,500,000.00 each toward the total cost of the Project estimated at \$3,000,000.00; and

WHEREAS, HCFCD and Deer Park amended the Agreement, dated June 22, 2010, to increase the maximum sum contributed by each to \$4,500,000.00, toward the new total cost of the Project estimated at \$9,000,000.00; and

WHEREAS, the final judgement for acquiring the property and interest paid during the appeal process exceeds the total Project Cost of \$9,000,000.00 reflected in the Agreement as amended; and

WHEREAS, the total Project Cost is now \$12,554,679.02 and HCFCD and Deer Park each desire to pay one-half of such amount; and

WHEREAS, the Agreement allows HCFCD and Deer Park to agree to pay the additional amount of the Project Cost, by amending the Agreement; and

WHEREAS, it remains to the mutual benefit of HCFCD and Deer Park to acquire property for construction of a stormwater detention facility to provide improved drainage and conveyance of flood waters in that area of Harris County, within the corporate limits of Deer Park; and

WHEREAS, the District and Deer Park are each willing to pay the additional sum of \$1,777,339.51 of the total Project Cost, for a total Maximum Contribution by each party of \$6,277,339.51 toward the Project Cost.

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and benefits of the parties herein named, the parties agree as follows:

SECTION II of the Original Agreement, reading:

The estimated cost of the Project is Nine Million Dollars (\$9,000,000.00) (the "Project Cost"), such costs including but not limited to those required for acquisition of the Property and other associated costs. HCFCD and Deer Park will each contribute a Maximum Contribution of \$4,500,000.00 towards the total Project Cost.

is hereby amended to read:

The estimated cost of the Project is Twelve million five hundred fifty-four thousand six hundred seventy-nine and 02/100 dollars (\$12,554,679.02) (the "Project Cost"), such costs including but not limited to those required for acquisition of the Property and other associated costs. HCFCD and Deer Park will each contribute a Maximum Contribution of \$6,277,339.51 towards the total Project Cost.

SECTION III of the Original Agreement, reading:

Within ninety (90) days after the date of this Agreement, Deer Park shall pay by check its contribution to HCFCD.

Within thirty (30) days after the date of this Amendment, Deer Park shall pay by check additional funds in the amount of \$3,000,000.00, for a new Maximum Contribution by Deer Park of \$4,500,000.00.

is hereby amended to read:

Within ninety (90) days after the date of this Agreement, Deer Park shall pay by check its contribution to HCFCD.

Within thirty (30) days after the date of the first Amendment, Deer Park shall pay by check additional funds in the amount of \$3,000,000.00, for a new Maximum Contribution by Deer Park of \$4,500,000.00.

Within thirty (30) days after the date of Amendment No. 2, Deer Park shall pay by check additional funds in the amount of \$1,777,339.51, for a new Maximum Contribution by Deer Park of \$6,277,339.51.

Within ninety (90) days after the date of HCFCD's receipt of Deer Park's final payment, HCFCD shall take the necessary actions to finalize the ownership of the property in the names of both parties.

All other terms and provisions of the original Agreement shall remain in full force and effect as originally written.

EXECUTED in triplicate originals _____.

APPROVED AS TO FORM:

VINCE RYAN
HARRIS COUNTY ATTORNEY

HARRIS COUNTY FLOOD CONTROL
DISTRICT

By  _____
Mitzi Turner
Assistant County Attorney

By _____
Ed Emmett, County Judge

ATTEST:

CITY OF DEER PARK

By _____
Shannon Bennett
City Secretary

By _____
Jerry Mouton, Jr.
Mayor

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:

Ed Emmett	County Judge
Rodney Ellis	Commissioner, Precinct No. 1
Jack Morman	Commissioner, Precinct No. 2
Steve Radack	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 AUTHORIZING EXECUTION OF AN AMENDMENT TO
 INTERLOCAL AGREEMENT BETWEEN
 THE HARRIS COUNTY FLOOD CONTROL DISTRICT AND THE CITY OF DEER PARK**

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 Ed Emmett	☐	☐	☐
NAYS:	Comm. Rodney Ellis	☐	☐	☐
ABSTENTIONS:	Comm. Jack Morman	☐	☐	☐
	Comm. Steve Radack	☐	☐	☐
	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, HCFCD and Deer Park previously entered into an Interlocal Agreement (the "Agreement"), dated July 8, 2008, to acquire property for construction of a stormwater detention facility, as recommended in the "Final Preliminary Engineering Report for G104-00-00, G104-08-00, and G105-00-00" ("Report"), hereinafter the "Project," to provide improved drainage and conveyance of flood waters in that area of Harris County, within the corporate limits of Deer Park; and

WHEREAS, under the Agreement, HCFCD and Deer Park were to contribute a maximum sum of \$1,500,000.00 each toward the total cost of the Project estimated at \$3,000,000.00; and

WHEREAS, HCFCD and Deer Park amended the Agreement, dated June 22, 2010, to increase the maximum sum contributed by each to \$4,500,000.00, toward the new total cost of the Project estimated at \$9,000,000.00; and

WHEREAS, the final judgement for acquiring the property and interest paid during the appeal process exceeds the total Project Cost of \$9,000,000.00 reflected in the Agreement as amended; and

WHEREAS, the total Project Cost is now \$12,554,679.02 and HCFCD and Deer Park each desire to pay one-half of such amount; and

WHEREAS, the Agreement allows HCFCD and Deer Park to agree to pay the additional amount of the Project Cost, by amending the Agreement; and

WHEREAS, it remains to the mutual benefit of HCFCD and Deer Park to acquire property for construction of a stormwater detention facility to provide improved drainage and conveyance of flood waters in that area of Harris County, within the corporate limits of Deer Park; and

WHEREAS, the District and Deer Park are each willing to pay the additional sum of \$1,777,339.51 of the total Project Cost, for a total Maximum Contribution by each party of \$6,277,339.51 toward the Project Cost.

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 Ed Emmett is hereby authorized to execute for and on behalf of the Harris County Flood Control District, an Interlocal Amendment by and between the Harris County Flood Control District and the City of Deer Park, for a Maximum Contribution to be paid by HCFCD of \$6,277,339.51, said Amendment to Agreement being incorporated herein by reference for all purposes as though fully set forth verbatim herein.