

# EXHIBIT

## "A"

### INTERLOCAL AGREEMENT REGARDING SHARING OF COSTS FOR THE CHANDLER BRANCH TRIBUTARY 3 CHANNEL IMPROVEMENTS PROJECT

**THIS INTERLOCAL AGREEMENT REGARDING THE SHARING OF COSTS FOR THE CHANDLER BRANCH TRIBUTARY 3 CHANNEL IMPROVEMENTS PROJECT ("Agreement")** is entered into between the City of Round Rock, ("**Round Rock**") and Williamson County ("**WilCo**"). In this Agreement, Round Rock and WilCo are sometimes individually referred to as "**Party**" and collectively referred to as "**Parties**".

#### Recitals

**WHEREAS**, Chandler Branch is a tributary to Chandler Creek, which said branch is located partly in the city limits of Round Rock and partly outside the city limits in Williamson County; and

**WHEREAS**, there is a serious need for drainage improvements in order to convey stormwater from the Sunrise Road/Eagles Nest Street intersection southeastward toward Meadow Lake; and

**WHEREAS**, the Parties now wish to jointly pursue the design and construction of the channel improvements and to share in the cost of same; and

**WHEREAS**, the purpose of this Agreement is to set forth the terms and conditions of the allocation of costs for the design and construction of the Project (defined herein), and pursuant to which the Parties will cost participate in all costs and expenses related thereto;

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual promises and agreements of the Parties contained in this Agreement, the Parties agree as follows:

#### **I. DEFINITIONS**

When used in this Agreement, capitalized terms not otherwise defined shall have the meanings set forth below:

**1.01** "Agreement" means this Interlocal Agreement Regarding the Sharing of Costs for the Chandler Branch Tributary 3 Channel Improvements Project.

**1.02** "Cost Sharing" means the portion of Project Costs to be paid by each Party. The Project Cost Sharing Amounts are set forth **Section 2.01** herein.

**1.03** "Effective Date" means the last date of execution of this Agreement by the Parties; provided all of the Parties must execute this Agreement for it to be effective.

**1.04** "Party" or "Parties" means Round Rock and/or WilCo, individually or collectively, as applicable.

**1.05** “Project” means the efforts to design and construct drainage improvements to a portion of Chandler Branch as depicted on **Exhibit A**, attached hereto.

**1.06** “Project Costs” means all costs and expenses incurred by the Parties in furtherance of the Project.

**1.07** “Round Rock” means the City of Round Rock, Texas.

**1.08** “WilCo” means Williamson County, Texas

## **II. PROJECT COSTS.**

### **2.01 Payment of Project Costs.**

(a) WilCo agrees to pay \$500,000 to Round Rock as its share of Project Costs. Round Rock will invoice Wilco for their portion of the cost once the construction contract is awarded for the Project.

(b) Round Rock agrees to pay all Project Costs in excess of WilCo’s \$500,000 contribution.

## **III. GENERAL PROVISIONS**

**3.01 Authority.** This Agreement is made in part under the authority conferred in Chapter 791, *Texas Government Code* and Section 552.001, *Texas Local Government Code*.

**3.02 Severability.** The provisions of this Agreement are severable and, if any provision of this Agreement is held to be invalid for any reason by a court or agency of competent jurisdiction, the remainder of this Agreement will not be affected and this Agreement will be construed as if the invalid portion had never been contained herein.

**3.03 Payments from Current Revenues.** Any payments required to be made by a Party under this Agreement will be paid from current revenues or other funds lawfully available to the Party for such purpose. The obligation of Parties to make payments to Round Rock will not constitute a general obligation or indebtedness of the Parties that obligate a Party to levy or pledge any revenue from taxes.

**3.04 Cooperation.** The Parties agree to cooperate at all times in good faith to effectuate the purposes and intent of this Agreement.

**3.05 Entire Agreement.** Except as otherwise expressly provided herein, this Agreement contains the entire agreement of the Parties regarding the sharing of costs for the Project Consulting Services and supersedes all prior or contemporaneous understandings or representations, whether oral or written, regarding the subject matter. The Parties confirm that further agreements regarding the Project are contemplated and will not be affected or limited by this Agreement.

**3.06 Amendments.** Any amendment of this Agreement must be in writing and will be effective if signed by the authorized representatives of the Parties.

**3.07 Applicable Law; Venue.** This Agreement will be construed in accordance with Texas law. Venue for any action arising hereunder will be in Williamson County, Texas.

**3.08 Notices.** Any notices given under this Agreement will be effective if (i) forwarded to a Party by hand-delivery; (ii) transmitted to a Party by confirmed telecopy; or (iii) deposited with the U.S. Postal Service, postage prepaid, certified, to the address of the Party indicated below:

**ROUND ROCK:**

221 East Main Street  
Round Rock, Texas 78664  
Attn: City Manager  
Telephone: (512) 218-5401

with copy to:

Stephan L. Sheets  
309 E. Main Street  
Round Rock, Texas 78664-5264  
Telephone: (512) 255-8877  
Email: [steve@scrllaw.com](mailto:steve@scrllaw.com)

**WILLIAMSON COUNTY:**

710 S. Main Street  
Georgetown, Texas 78626  
Attn: William Gravell, Jr.  
Telephone: (512) 943-1550

with copy to:

Robert B. Daigh, P.E.  
3151 S.E. Inner Loop, Suite B  
Georgetown, Texas 78626  
Telephone: (512) 943-3330  
Email: [bdaigh@wilco.org](mailto:bdaigh@wilco.org)

**3.09 Force Majeure.** The Parties shall not be deemed in violation of this Agreement if prevented from performing any of their obligations hereunder by reasons for which they are not responsible or circumstances beyond their control. However, notice of such impediment or delay in performance must be timely given, and all reasonable efforts undertaken to mitigate its effects. Force majeure shall not relieve the Parties of its obligation to make payment to Round Rock as provided in this Agreement.

**3.10 Independent Contractor.** Each of the Parties shall have the status of an independent contractor hereunder and shall be solely responsible for the proper direction of its employees hereunder and each Party's employees shall not be considered employees or borrowed servants of any of the other parties for any reason.

**3.11 No Third Party Beneficiaries.** This Agreement shall inure only to the benefit of the Parties and third parties not privy to this Agreement shall not, in any form or manner, be considered a third party beneficiary of this Agreement.

**3.12 Termination.** This Agreement may be terminated by mutual agreement of the Parties. Any outstanding balance within the Project Fund will be returned proportionally in accordance with the applicable percentages. The Parties shall then work cooperatively with due diligence to determine how to address existing and future wastewater treatment capacity issues.

**3.13 Default.** In the event that one Party believes that the other Party is in default of any of the provisions in this agreement, the non-defaulting party will make written demand to cure to the defaulting party and give the defaulting party up to thirty days to cure the default or, if the curative action cannot reasonably be completed within thirty days, the defaulting party will commence the curative action within thirty days and thereafter diligently pursue the curative action to completion. This period must pass before the non-defaulting party may initiate any remedies available to the non-defaulting party due to such default. The non-defaulting party shall mitigate direct or consequential damages arising from any default to the extent reasonably possible under the circumstances. The parties agree that they will use their best efforts to resolve any disputes and may engage in non-binding arbitration or other alternative dispute resolution methods as recommended by the laws of the State of Texas before initiating any lawsuit to enforce their rights under this agreement. Nothing in this agreement shall be construed to limit either party's right to recover damages or to seek other appropriate curative remedies if a breach of contract action is filed by a non-defaulting party to this Agreement.

**3.14 Counterparts. Effect of Partial Execution.** This Agreement may be executed simultaneously in multiple counterparts, each of which will be deemed an original, but all of which will constitute the same instrument.

**3.15 No Waiver of Immunities or Defenses.** Nothing in this Agreement shall be deemed to waive, modify or amend any immunity or legal defense available at law or in equity to the Parties, their past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of any third party.

**3.16 Authority.** Each Party represents and warrants that it has the full right, power and authority to execute this Agreement.

[Signatures on the following page.]

**WILLIAMSON COUNTY:**

**ATTEST:**

\_\_\_\_\_  
Nancy Rister, County Clerk

By: \_\_\_\_\_  
William Gravell, Jr., County Judge

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

**CITY OF ROUND ROCK:**

**ATTEST:**

\_\_\_\_\_  
Meagan Spinks, City Clerk

By: \_\_\_\_\_  
Craig Morgan, Mayor

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

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Stephan L. Sheets, City Attorney

**EXHIBIT A**  
(Description of Project)