

EXHIBIT
“A”

**INTERLOCAL AGREEMENT
FOR DESIGN SERVICES AND CONSTRUCTION FOR THE
CHANDLER ROAD WATER LINE EXTENSION PROJECT**

THIS INTERLOCAL AGREEMENT for Design Services and Construction for the Chandler Road Water Line Extension Project (“Agreement”) is entered into between the City of Round Rock, a Texas home-rule municipality (“Round Rock”) and the City of Georgetown, a Texas home-rule municipality (“Georgetown”). In this Agreement, Round Rock and Georgetown are sometimes individually referred to as “Party” and collectively referred to as “the Parties.”

WHEREAS, Georgetown, Round Rock, and the Brazos River Authority entered into a Memorandum of Understanding for Water Resource Evaluation Projection in Williamson County on August 18, 2020 (“MOU”);

WHEREAS, as part of the recommendations resulting from the MOU, an extension of a water line along Chandler Road in order to reach a future delivery point of water in Circleville will be necessary to provide water to both Georgetown and Round Rock;

WHEREAS, the Parties desire to extend a water line along Chandler Road from FM 1660 to State Highway 130 located in Williamson County, Texas (the “Project”), as shown in Exhibit “A,” attached hereto and incorporated herein by reference for all purposes; and

WHEREAS, Williamson County (“County”) is the recipient of State and Local Fiscal Recovery Funds (“SLRF”) authorized by the American Rescue Plan Act (“ARPA”); and

WHEREAS, SLRFs are to be used by recipients to mitigate the ongoing effects of COVID-19 and support the nation’s pandemic recovery; and

WHEREAS, County has determined the Project meets the requirements for use of SLRFs as set forth in the Treasury’s Final Rule (31 CFR Part 35); and

WHEREAS, County and Round Rock have entered into a Subrecipient Agreement making available to the City an amount up to \$14,000,000.00 of SLRFs for the reimbursement of eligible costs associated with the Project;

WHEREAS, this Agreement is for the mutual benefit of Round Rock and Georgetown and after completion of the Project, the Parties shall jointly own Chandler Road waterline; and

WHEREAS, the purpose of this Agreement is to outline each Party’s duties and obligations related to the design and construction of the Project;

NOW, THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Round Rock and Georgetown agree as follows:

I. DESIGN SERVICES

1.1 General. Round Rock shall negotiate and enter into a contract with a qualified engineering firm for all Design Services related to the Project (“Design Contract”). Both parties shall review and approve the design documents for this Project, and Round Rock shall provide to Georgetown a copy of the final executed Design Contract.

1.2 Fees and Costs. All fees and costs to be made pursuant to the Design Contract shall not be paid from SLRF Funds. The total anticipated budget for design services for this project is \$1,000,000 (“Design Services Estimate”). Each Party is responsible for fifty percent (50%) of all design fees and costs associated with the Project. Round Rock shall pay all fees and costs directly to the engineer subject to reimbursement by Georgetown to Round Rock for its fifty percent (50%) share of the fees and costs; provided however, any change orders increasing the design services cost by more than five percent (5%) over the Design Services Estimate must be approved in writing by the Georgetown’s Project Representative and, if required by State Law, the governing bodies or other statutorily authorized representatives of the City and the County. The Georgetown’s Project Representative’s approval of any such change order(s) shall not be unreasonably conditioned or withheld.

1.3 Invoices. Upon Round Rock’s approval of each invoice for the Design Services, Round Rock shall transmit a copy of the invoice to Georgetown. Subject to the foregoing, Georgetown agrees to pay Round Rock within thirty (30) days after receipt of the invoice.

II. CONSTRUCTION PHASE SERVICES

2.1 General. Round Rock shall be responsible for Construction Phase Services for the Project, including bidding construction services and procuring construction administration services pursuant to State and Federal law. Round Rock shall provide Georgetown a copy of all final executed contract documents relating to construction and construction administration services for this Project.

2.2 Project Management. Round Rock shall manage the entirety of the Project. Round Rock staff or a third-party hired inspection company contracted with Round Rock shall provide for the inspection of Project construction throughout the entire limits of the Project.

2.3 SLRF Administration. Round Rock shall provide SLRF Project Administration services for the entirety of the Project. Payments made for Construction Phase Services up to the amount of fourteen million dollars (\$14,000,000.00) shall be made from the SLRFs received from the County. Round Rock staff shall be responsible for SLRF oversight to ensure compliance with ARPA.

2.4 Payment and Reimbursement of Construction Phase Services. Round Rock shall pay the initial fourteen million dollars (\$14,000,000.00) for Construction Phase Services directly to the contractor for the Project. In the event the costs for Construction Phase Services exceed \$14,000,000.00, Round Rock shall make all payments directly to the contractor subject to reimbursement by Georgetown to Round Rock for its fifty percent (50%) share of Construction Phase Services fees and costs provided however, any change orders increasing the construction

phase services cost above fourteen million dollars (\$14,000,000.00) must be approved in writing by Georgetown's Project Representative and, if required by State Law, the governing bodies or other statutorily authorized representatives of the City and the County. The Georgetown's Project Representative's approval of any such change order(s) shall not be unreasonably conditioned or withheld.

Notwithstanding the foregoing, upon Round Rock's approval of each invoice, Round Rock shall transmit a copy of the invoice to Georgetown. Georgetown agrees to pay Round Rock within thirty (30) days after receipt of the invoice.

III. ADDITIONAL FEES AND COSTS

3.1 Reimbursement of Legal Fees. The total anticipated budget for Legal Fees is \$50,000. Georgetown shall reimburse Round Rock for fifty percent (50%) of all legal fees and costs paid by Round Rock for legal services related to the Project up to and not exceeding twenty-five thousand dollars (\$25,000). Upon Round Rock's approval of each invoice, Round Rock shall transmit a copy of the invoice to Georgetown. Georgetown shall pay Round Rock within thirty (30) days after receipt of the invoice.

3.2 Land Acquisition. Temporary construction and permanent waterline easements will be required for the Project. The cost of these land acquisitions is unknown at this time. All permanent waterline easements shall be granted to both Parties in an easement form approved by the City Attorney for each Party. Prior to acquisition of any permanent waterline easements, Round Rock shall provide the proposed location and estimated cost of the acquisition of the easement to Georgetown for approval by Georgetown's Project Representative. Upon closing of these land acquisition transactions, Georgetown shall reimburse Round Rock for fifty percent (50%) of the costs related to the land acquisition portion of the Project.

3.3 Reimbursement of Inspection Costs. The total anticipated budget for Inspection Services is two hundred thousand dollars (\$200,000). Georgetown shall reimburse Round Rock for fifty percent (50%) of all inspection fees and costs related to the Project up to and not exceeding one hundred thousand dollars (\$100,000). Upon completion of an inspection, Round Rock shall transmit an invoice to Georgetown. Georgetown agrees to pay Round Rock within thirty (30) days after receipt of the invoice.

3.4 Reimbursement of Construction Material Testing Costs. The total anticipated budget for Construction Materials Testing is forty thousand dollars (\$40,000). Georgetown shall reimburse Round Rock fifty percent (50%) for any contracted Construction Materials Testing Services related to the Project up to and not exceeding twenty thousand dollars (\$20,000). Round Rock will transmit an invoice to Georgetown. Georgetown agrees to pay Round Rock within thirty (30) days after receipt of the invoice.

3.5 Project Management and SLRF Administration Costs. Georgetown shall reimburse Round Rock for fifty percent (50%) of all project management and SLRF administration costs related to the Project in the amount of One Thousand and No/100 Dollars (\$1,000.00) per month. Georgetown shall be responsible for \$500 per month for these services. Round Rock shall

transmit monthly invoices related to project management and SLRF administration services to Georgetown. Georgetown agrees to pay Round Rock within thirty (30) days after receipt of the invoice.

3.6 Project Ownership. Upon completion of the Project, Round Rock shall hold a fifty percent (50%) ownership and capacity interest in the Chandler Road Waterline as extended through this Project and Georgetown shall hold a fifty percent (50 %) ownership and capacity interest Chandler Road Waterline as extended through this in the Project. Prior to completion of the Project, the Parties shall enter into a separate agreement setting forth the operations and maintenance of the completed Project, to be based upon the ownership and capacity interest established above.

IV. DISPUTES

4.1 Material Breach; Notice and Opportunity to Cure.

In the event that one Party believes that another Party has materially breached one of the provisions of this Agreement, the non-defaulting Party will make written demand to cure and give the defaulting Party up to 30 days to cure such material breach or, if the curative action cannot reasonably be completed within 30 days, the defaulting Party will commence the curative action within 30 days and thereafter diligently pursue the curative action to completion. Notwithstanding the foregoing, any matters specified in the default notice which may be cured solely by the payment of money must be cured within 10 days after receipt of the notice. This applicable time period must pass before the non-defaulting Party may initiate any remedies available to the non-defaulting party due to such breach.

Any non-defaulting Party will mitigate direct or consequential damage arising from any breach or default to the extent reasonably possible under the circumstances.

The Parties agree that they will negotiate in good faith to resolve any disputes and may engage in non-binding mediation, arbitration or other alternative dispute resolution methods as recommended by the laws of the State of Texas.

4.2 Equitable Relief. In recognition that failure in the performance of the Parties' respective obligations could not be adequately compensated in money damages alone, the Parties agrees that after providing notice and an opportunity to cure in accordance with Section 4.01 above, the Parties shall have the right to request any court, agency or other governmental authority of appropriate jurisdiction to grant any and all remedies which are appropriate to assure conformance to the provisions of this Agreement.

4.3 Agreement's Remedies Not Exclusive. The provisions of this Agreement providing remedies in the event of a Party's breach are not intended to be exclusive remedies. The Parties retain, except to the extent released or waived by the express terms of this Agreement, all rights at law and in equity to enforce the terms of this Agreement.

V. GENERAL PROVISIONS

5.1 NO LIABILITY OR WARRANTY OF SERVICES. GEORGETOWN AGREES AND ACKNOWLEDGES THAT ROUND ROCK DOES NOT ASSUME ANY LIABILITY FOR, OR WARRANT, THE SERVICES THAT A THIRD PARTY PROVIDES PURSUANT TO THIS AGREEMENT, THE ENGINEERING SERVICES CONTRACT OR CONSTRUCTION AGREEMENT. GEORGETOWN AGREES AND ACKNOWLEDGES THAT ROUND ROCK SHALL NOT BE LIABLE FOR ANY CLAIM OR CAUSE OF ACTION THAT GEORGETOWN MAY HAVE NOW OR IN THE FUTURE AGAINST ENGINEER OR THIRD PARTY OR ANY DAMAGES OF ANY NATURE WHATSOEVER ALLEGEDLY SUSTAINED BY GEORGETOWN, OR ANYONE HAVING A CLAIM BY, THROUGH OR UNDER GEORGETOWN, RELATED IN ANY WAY, DIRECTLY OR INDIRECTLY, WITH THE SERVICES PROVIDED BY A THIRD PARTY PURSUANT THIS AGREEMENT.

5.2 Term. This Agreement shall commence upon execution of this Agreement and shall end upon the completion of the Project and acceptance of the public improvements by Round Rock and Georgetown.

5.3 Authority. This Agreement is entered, in part, pursuant to the authority of the Interlocal Cooperation Act, Texas Government Code Chapter 791 (the "Act"). The provisions of the Act are incorporated in this Agreement and this Agreement shall be interpreted in accordance with the Act.

5.4 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.

5.5 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 included.

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

5.7 Entire Agreement. This Agreement constitutes the entire agreement of the Parties and supersedes all prior or contemporaneous understandings or representations, whether oral or written, regarding the subject matter of this Agreement. No promise, statement or representation that is not expressly stated in this Agreement has been made by any Party to induce execution of this Agreement.

5.8 Amendments. Any amendment of this Agreement shall be in writing and will be effective if signed by the authorized representative of each Party.

5.9 Waiver. Lack of enforcement of any right under this Agreement by either Party shall not constitute a waiver of that right or any other in the future.

5.10 Independent Relationship. Each Party, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one Party shall not be deemed or construed to be the employees or agents of the other Party for any purpose.

5.11 No Waiver of Immunities. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to either Party. Neither Party waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity.

5.12 No Third Party Beneficiaries. This Agreement is entered into for the sole and exclusive benefit of the Parties. Nothing in this Agreement, express or implied, is intended to confer or shall be construed as conferring any rights, benefits, remedies, or claims upon any other person or entity.

5.13 No Assignment. This Agreement may not be assigned in whole or in part by either Party.

5.14 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.

5.15 Project Representatives. The City Manager or designee of each Party shall act as the project representative for the Project.

5.16 Notices. Notices given under this Agreement will be effective if forwarded to a Party by hand-delivery, transmitted to a Party by confirmed fax or deposited with the U.S. Postal Service, certified mail, postage prepaid, to the address of the Party indicated below:

ROUND ROCK: City Manager
City of Round Rock
221 East Main Street
Round Rock, Texas 78664

GEORGETOWN: City Manager
City of Georgetown
808 Martin Luther King, Jr. Street
Georgetown, Texas 78626

Either Party may from time to time designate any other address for notice by written notice to the other Party.

5.17 Counterparts; Effect of Partial Execution. This Agreement may be executed in counterparts each of which, when executed and delivered, shall be deemed to be an original and all of which together shall constitute one and the same document.

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

5.19 Effective Date. This Agreement is executed to be effective on the date the last Party signs this Agreement.

[SIGNATURES ON THE FOLLOWING PAGES.]

CITY OF ROUND ROCK, TEXAS

By: _____
Craig Morgan, Mayor

Date: _____

ATTEST:

By: _____
Meagan Spinks, City Clerk

APPROVED AS TO FORM:

By: _____
Stephan L. Sheets, City Attorney

CITY OF GEORGETOWN, TEXAS

By: _____
Josh Schroeder, Mayor

Date: _____

ATTEST:

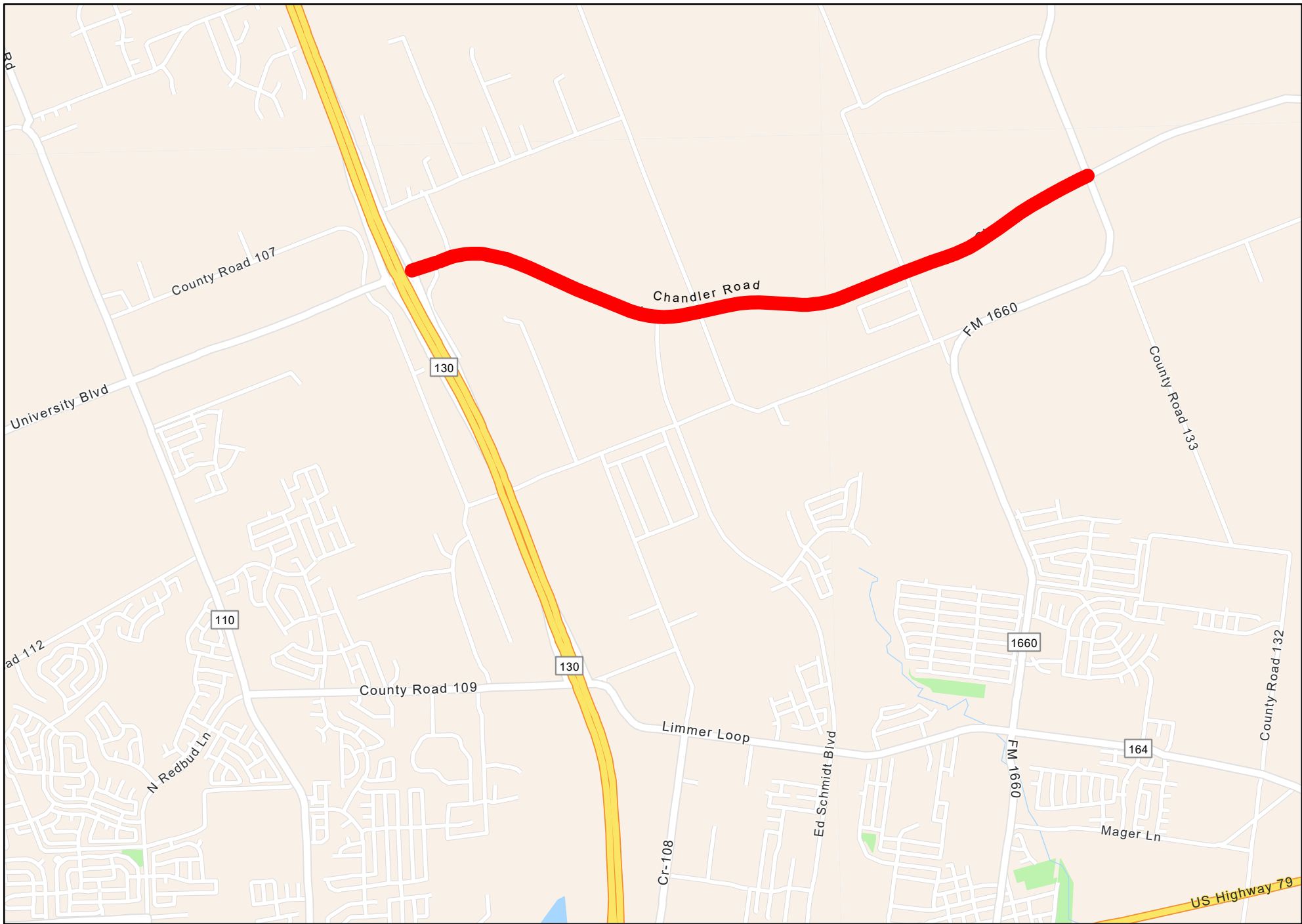
By: _____
Robyn Densmore, City Secretary

APPROVED AS TO FORM:

By: _____
Skye Masson, City Attorney

EXHIBIT A
PROJECT DESCRIPTION

[See following page.]



**Chandler Road
36-inch
Water Transmission Main**