

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE CITY OF CORPUS CHRISTI AND
THE PORT OF CORPUS CHRISTI AUTHORITY
OF NUECES COUNTY, TEXAS
FOR THE 2023 SEAPORT CONNECTIVITY PROGRAM GRANT**

This Interlocal Cooperation Agreement (“Agreement”) is made by and between the City of Corpus Christi, Texas (“City”), a municipal corporation and home-rule city of the State of Texas, acting by and through its governing body, the City Council, and the Port of Corpus Christi Authority of Nueces County, Texas (“PCCA”), acting by and through its governing body, the Port Commission. The City and PCCA are sometimes referred to in this Agreement as “Parties” and individually as a “Party”.

WHEREAS, on July 18, 2023, PCCA submitted a grant application to the Texas Department of Transportation (“TxDOT”) under the Seaport Connectivity Program for the Sam Rankin Street Reconstruction Project, CSJ-9400-00-020 (the “Project”); and

WHEREAS, by Minute Order Number 116558 dated September 28, 2023, the Texas Transportation Commission approved State participation in the Project in an amount not to exceed \$6,733,044 (the “Grant”); and

WHEREAS, the Project will improve traffic flow and safety for trucks moving freight to and from PCCA cargo docks and directly connect Interstate Highway 37 to Cargo Docks 8, 14, and 15; and

WHEREAS, a portion of the Project will be performed by PCCA on property owned by the City; and

WHEREAS, the proposed Advanced Funding Agreement (“AFA”) between PCCA and TxDOT states that if the Project requires the use of real property to which PCCA does not hold title, a separate agreement must be executed prior to the AFA; and

WHEREAS, the Parties recognize and agree that replacement of stormwater infrastructure on Sam Rankin Street is essential to completion of the Project, however, stormwater infrastructure costs are not covered by the Grant; and

WHEREAS, PCCA agrees to perform the stormwater infrastructure improvements on behalf of the City subject to City’s agreement to reimburse PCCA for those costs; and

WHEREAS, the purpose of this Agreement is to: (i) authorize PCCA to perform the Project on the City-owned portion of Sam Rankin Street; and (ii) memorialize the Parties’ agreement regarding PCCA’s construction of the stormwater infrastructure improvements on Sam Rankin Street.

NOW, THEREFORE, BE IT AGREED BY THE CITY OF CORPUS CHRISTI, TEXAS, AND THE PORT OF CORPUS CHRISTI AUTHORITY OF NUECES COUNTY, TEXAS:

SECTION 1. WORK ON CITY PROPERTY.

- 1.1 The City grants PCCA permission to enter onto City property to make permanent public improvements to Sam Rankin Street as described in **Exhibit A**. In addition, the City authorizes PCCA to enter onto City property to perform the stormwater infrastructure improvements not covered by the Grant as described in **Exhibit B**.

SECTION 2. PROJECT SCOPE.

- 2.1 Project Scope. A description of the Project scope is attached hereto as **Exhibit A**. A description of the stormwater infrastructure improvements is attached hereto as **Exhibit B**.
- 2.2 Contract Management. PCCA will be responsible for contract execution and administration, including the design, procurement, and construction of the Project and the stormwater infrastructure improvements. Prior to soliciting bids and/or proposals for construction, PCCA will furnish the City with a detailed set of plans and construction drawings for the Project (including the stormwater infrastructure improvements) (collectively, the "Plans") for the City's approval, which approval shall not be unreasonably withheld nor unreasonably delayed. The Plans shall be prepared in a standard engineering format and must be signed and sealed by a Professional Engineer registered in the State of Texas. If the City fails to respond to a request for approval of the Plans within thirty (30) days after submittal, the City will be deemed to have given its written approval of the Plans. Any change orders altering the Plans or the scope of work related to the stormwater infrastructure improvements shall also be furnished to the City for prior approval by the City, which approval shall not be unreasonably withheld nor unreasonably delayed. If the City fails to respond to a request for approval of a change order within five (5) days after submittal, the City will be deemed to have given its written approval of the change order. The Parties agree that no building permit or other authorization by the City shall be required for the Project (including the stormwater infrastructure improvements) other than the approvals as stated in this Section 2.2.
- 2.3 Grant Terms and Conditions. PCCA will be responsible for ensuring that the Grant terms and conditions and deliverable requirements are met.
- 2.4 Grant Funding. PCCA shall be the direct recipient of the grant funds and will authorize the use of the funds in compliance with the Grant.
- 2.5 Payment of Costs. PCCA shall be responsible for all Project costs. The City agrees to reimburse PCCA 100% of the stormwater infrastructure improvements costs not covered by the Grant up to the maximum amount of \$2,500,000. As soon as reasonably practicable after PCCA completes the Project, PCCA shall present an invoice to the City for reimbursement

of 100% of the amount paid for the stormwater infrastructure improvements costs. Copies of the invoices paid by PCCA to PCCA's contractor(s) shall be included with PCCA's invoice to the City and an authorized representative of PCCA shall certify the amount paid by PCCA. PCCA's invoice shall be due and payable by the City within thirty (30) days after the City's receipt of such invoice. PCCA's invoice shall be mailed to the address provided in Section 4.4.

- 2.6 Maintenance following Construction. Upon completion of the construction of the Project, the City shall assume maintenance of all improvements on City property, including the stormwater infrastructure improvements.

SECTION 3. TERM OF AGREEMENT AND TERMINATION.

- 3.1 Effective Date. The effective date of this Agreement is the date on which all parties have executed this Agreement.
- 3.2 Term. This Agreement shall be for a term of two years beginning on the Effective Date. The term shall automatically extend year-for-year until the Project is completed.
- 3.3 Termination. Either party may terminate this Agreement by giving written notice to the other party if the other party ("Defaulting Party") materially breaches any term, condition or provision of this Agreement and fails to cure the breach to the satisfaction of the notifying party within thirty (30) days after the Defaulting Party receives a written notice of the breach from the notifying party.

SECTION 4. GENERAL PROVISIONS.

- 4.1 Severability. In the event any term, covenant or condition herein contained shall be held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition herein contained, provided that such invalidity does not materially prejudice either PCCA or City in their respective rights and obligations contained in the valid terms, covenants or conditions hereof.
- 4.2 Entire Agreement. This Agreement merges the prior negotiations and understandings of the parties hereto and embodies the entire agreement of the parties, and there are no other agreements, assurances, conditions, covenants (express or implied) or other terms with respect to the covenants, whether written or verbal, antecedent or contemporaneous, with the execution hereof.
- 4.3 Written Amendment. Unless otherwise provided herein, this Agreement may be amended only by written instrument duly executed on behalf of each party.
- 4.4 Notices. All notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, on the third (3rd) day following deposit in a United States Postal Service post office or receptacle with proper postage affixed (certified

mail, return receipt requested) addressed to the respective other party at the address prescribed below, or at such other address as the receiving party may have theretofore prescribed by notice to the sending party.

The initial addresses of the parties, which one party may change by giving written notice of its changed address to the other party, are as follows:

City

Peter Zaroni
City Manager
City of Corpus Christi
1201 Leopard, 5th Floor
Corpus Christi, Texas 78401

PCCA

Kent A. Britton
Chief Executive Officer
Port of Corpus Christi Authority
P. O. Box 1541
Corpus Christi, Texas 78403

- 4.5 Non-Waiver. Failure of any party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.
- 4.6 Successors. This Agreement shall bind and benefit the parties and their legal successors.
- 4.7 No Waiver of Immunity. No party hereto waives or relinquishes any immunity or defense on behalf of itself, its officers, employees, and agents as a result of its execution of this Agreement and performance of the covenants contained herein.
- 4.8 Interlocal Cooperation Act. This Agreement is subject to the terms and provisions of the Texas Interlocal Cooperation Act, codified as Chapter 791 of the Texas Government Code. Further, each party represents that this agreement has been duly passed and approved by its governing body, as required by the Act.
- 4.9 Relationship of Parties. In performing this Agreement, the City and PCCA shall act in an individual capacity, and not as agents, representatives, employees, employers, partners, joint-venturers, or associates of one another. The employees or agents of either party may not be, nor be construed to be, the employees or agents of the other party for any purpose.
- 4.10 Disputes. Each party agrees that any dispute between the parties relating to this Agreement will first be submitted in writing to a panel of two senior executives of the City and PCCA, who shall promptly meet and confer in an effort to resolve such dispute through good faith consultation and negotiation. Each party's executives shall be identified by notice to the other party, and may be changed at any time thereafter also by notice to the other party. Any decisions of the executives will be final and binding on the parties, unless approval by the governing bodies of the parties is required by law. In the event the executives are unable to

resolve any dispute within thirty (30) days after submission to them, either party may then refer such dispute to mediation.

If the parties refer to mediation any controversy or claim arising out of or relating to this Agreement or the existence, validity, breach or termination thereof, whether during or after its term, they shall select a mutually acceptable mediator within forty-five (45) days thereafter. Neither party shall unreasonably withhold consent to the selection of a mediator. The parties shall share equally the costs of mediation. If the parties agree, they may substitute other forms of alternative dispute resolution. Any mediation shall not extend beyond thirty (30) days after the appointment of the mediator, and should the parties fail to resolve any dispute by mediation within such 30-day period, the parties shall have all rights available at law or in equity.

- 4.11 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and it shall be performable in Nueces County, Texas.

IN WITNESS WHEREOF, the City and PCCA have made and executed this Agreement in multiple copies, each of which is an original.

CITY OF CORPUS CHRISTI

PORT OF CORPUS CHRISTI
AUTHORITY

Director of Engineering Services Date

Chief Executive Officer Date

ATTEST:

City Secretary Date

APPROVED AS TO FORM:

Assistant City Attorney Date

EXHIBIT A

The Project addresses a three-quarters of a-mile section of Sam Rankin Street (SRS) that directly connects Interstate Highway 37 to the Port of Corpus Christi's Cargo Docks 8, 14, and 15. In addition, the northern part of the Project area connects the Al Speight Military Yard to the cargo docks. Some of the largest military movements occur on this part of SRS several times yearly. SRS requires a full reconstruction because failures have risen through the base and into the subgrade. The pavement distress on the roadway is severe enough to be a safety concern as vehicles often merge onto oncoming traffic lanes to avoid some of the major road failures. Distresses include alligator cracking, block cracking, bumps & sags, depressions, edge cracking, longitudinal cracking, patching, potholes, railroad crossing, rutting, slippage cracking, and raveling. Current sidewalk conditions do not meet ADA standards in any form, with widths under 4', rebar protruding up from the walkway, cross slopes over 2%, and unsafe transitions at intersections.

The Project scope generally consists of the reconstruction of SRS from Port Avenue to IH 37. Road reconstruction will include a stabilized subgrade, flexible base, and new 3" asphalt paving with a layer of geogrid to strengthen the roadway for military equipment and other heavy loads coming into the Port of Corpus Christi. The Project will also include the reconstruction of the curb/gutter and sidewalks. This Project provides a needed rebuild of the rail crossing at SRS and Broadway with new concrete rail panels for safety and ease of transition over the tracks.

EXHIBIT B

The existing storm drainage infrastructure on Sam Rankin Street between Port Avenue to IH 37 will be analyzed for capacity issues and the storm drainage infrastructure will be upgraded as needed.