

**AGREEMENT BY AND BETWEEN THE CITIES OF HASLET AND
FORT WORTH AND THE TRINITY RIVER AUTHORITY
FOR THE CONSTRUCTION OF CERTAIN WASTEWATER COLLECTION MAINS
AND THE TRANSPORTATION OF WASTEWATER**

WHEREAS, the City of Haslet has its own wastewater collection system to collect and transport wastewater through its collection system and then into the Trinity River Authority's interceptor system for treatment at Trinity River Authority's Denton Creek Regional Wastewater System ("DCRWS") Treatment Plant;

WHEREAS, the City of Fort Worth has its own wastewater collection system to collect and transport wastewater through its collection system and then into the Trinity River Authority's interceptor system for treatment at Trinity River Authority's DCRWS Treatment Plant;

WHEREAS, the City of Haslet and the City of Fort Worth each have a contract with the Trinity River Authority for the transportation to and treatment of wastewater at the Trinity River Authority's DCRWS Treatment Plant;

WHEREAS, a developer known as Westwood Group Development No. 1, L.P. has approached the cities of Haslet and Fort Worth regarding the development of certain property partly within the corporate boundary of the City of Fort Worth and partly within the extraterritorial jurisdiction ("ETJ") of the City of Haslet, which developer desires to participate in the construction of a sanitary sewer line that will extend from Fort Worth's city limit through Haslet and then connect into the Trinity River Authority's DCRWS interceptor system;

WHEREAS, the City of Haslet and the City of Fort Worth have service areas within their respective jurisdictions, either corporate or ETJ, where it would be beneficial for both to cooperate in the construction of certain wastewater collection system improvements to transport wastewater to the Trinity River Authority's DCRWS Treatment Plant hereinafter sometimes referred to as the "Improvements" as more particularly defined in Section 2.1 below;

WHEREAS, the Trinity River Authority, the City of Haslet and the City of Fort Worth entered into an agreement entitled an "AGREEMENT BY AND BETWEEN THE CITIES OF HASLET AND FORT WORTH AND THE TRINITY RIVER AUTHORITY FOR THE

CONSTRUCTION OF CERTAIN WASTEWATER COLLECTION MAINS AND THE TRANSPORTATION OF WASTEWATER” executed August 18, 2005 known as Fort Worth City Secretary Contract No. 32219 (referred to herein as the “Original Agreement”), establishing each party’s duties and responsibilities as they are related to the construction of the Improvements;

WHEREAS, as part of the consideration for this Agreement the City of Haslet and the City of Fort Worth wish to amend the Joint Resolution and Boundary Agreement No. 15651 to exchange jurisdiction over certain land within each city’s corporate limits and/or ETJ as shown in Attachment “A” and to allow for either City to implement the improvements called for in this Agreement; and

WHEREAS, upon execution of the Amendment to the Joint Resolution and Boundary Agreement No. 15651 and this Agreement, the Cities and the Trinity River Authority agree to terminate the Original Agreement and hereby enter into this Agreement.

NOW, THEREFORE, the City of Haslet, hereinafter referred to as “Haslet,” acting herein by and through Bob Golden, its duly authorized Mayor, the City of Fort Worth, hereinafter referred to as “Fort Worth,” acting herein by and through Fernando Costa, its duly authorized Assistant City Manager, and Trinity River Authority, hereinafter referred to as “TRA,” acting herein by and through J. Kevin Ward, its duly authorized General Manager do hereby agree as follows:

1.

Amendment to the Joint Resolution and Boundary Agreement No. 15651 The City Council of Fort Worth and the City Council of Haslet shall each consider an Amendment to the Joint Resolution and Boundary Agreement No. 15651 for the property shown in Attachment “A”. This Agreement shall not take effect unless and until both City Councils approve such Amendment to the Joint Resolution and Boundary Agreement No. 15651 and such agreement is fully executed. All parties agree that the exchange of property shown in Attachment “A” is part of the consideration for this Agreement.

2.

Termination of the Original Agreement

Haslet, Fort Worth and TRA do hereby agree that the Original Agreement is hereby terminated in its entirety and replaced by this Agreement upon execution of the Amendment to the Joint Resolution and Boundary Agreement No. 15651, and this Agreement.

3.

Design, Construction and Inspection of Improvements

3.1 “Improvements,” as used herein, shall mean all or any segment of the following improvements: (1) the 18” wastewater collection main from Point A to Point B; (2) the 21” wastewater collection main from Point B to point C; (3) the 21” wastewater collection main from Point C to Point D; (4) the wastewater metering station located approximately at Point A, such metering station being hereinafter referred to as the “Fort Worth Sewer Meter Station No. 1;” (5) the 15” North Main segment from Point F to Point C; and, (6) the associated metering station being hereinafter referred to as “Fort Worth Sewer Meter Station No. 2,” all as more particularly shown on the attached Exhibit “A,” which is made a part here of for all intents and purposes. Depending on the development needs of Fort Worth or Haslet, either City has the sole discretion unless otherwise stated herein, to begin the implementation of the design and construction of all or any segment of the Improvements as provided for in Sections 3.2 through 3.7. Upon implementation, both Fort Worth and Haslet have the obligation to carry out the terms and conditions of this agreement. Thereafter, the “Implementing City” shall mean the City that will design and construct all or any segment of the Improvements to meet its development timeline. As used herein the “Partnering City” means the City that will participate in the cost of designing and constructing all or any segment of the Improvements according to the prorated percentages established in Section 3.8. As used herein “segment” means any segment of the Improvements as shown on the attached Exhibit “A” and listed in Section 3.8.

3.2 The Implementing City shall be responsible for obtaining the engineering design for the Improvements or any segment of the Improvements. Such Improvements shall be designed to meet the construction standards adopted by TRA. The Implementing City shall provide the design documents to the Partnering City and to TRA who shall have the right to review and approve such documents, prior to the award of any construction contract; such approvals shall

not be unreasonably withheld. The Implementing City shall also be solely responsible for the bidding and award in accordance with law and oversight of the contract(s) for construction of the Improvements.

3.3 The Implementing City shall obtain TRA's written concurrence with all construction plans, specifications, construction schedule, land rights documents and contract documents related to the Improvements once such documents are complete. The Implementing City shall also obtain TRA's written concurrence with all addenda and change orders. TRA shall provide timely written concurrence or comments to the Implementing City. Such concurrence by TRA with any drawings, designs, specifications, reports or incidental engineering work shall not in any way relieve the Implementing City of the responsibility for the adequacy of the proposed facilities.

3.4. After the Implementing City obtains the Partnering City's approval under Section 3.2 and TRA's concurrence under Section 3.3, and before the award of a contract for construction of the Improvements by the Implementing City, the Partnering City shall deposit with the Implementing City the Partnering City's share of the cost of design and construction of the Improvements based on the percentages shown in Section 3.8 and the estimated costs shown in Exhibits "B-1" and "B-2." The amount of such deposit is subject to adjustment based on the actual design costs and the amount of the proposed construction contract. The Implementing City shall hold the deposit in trust to be disbursed for the design and construction of the Improvements and for no other purpose. If the Partnering City's share of the design and construction Improvements exceeds the amount of the deposit, the Partnering City shall pay, advance and reimburse to the Implementing City, upon demand, any and all additional sums necessary to pay the Partnering City's share of the actual cost of designing and constructing the Improvements (based on the percentages shown in Sections 3.8). If the Partnering City's share of the actual cost of designing and constructing the Improvements is less than the amount of the deposit, the Implementing City shall refund to the Partnering City any excess funds which the Implementing City is holding upon conclusion of construction of the Improvements. In the event a construction contract is not awarded by the Implementing City within sixty (60) days after receipt of the deposit from the Partnering City, the Implementing City shall promptly refund the deposit to the Partnering City less the Partnering City's share of the actual design costs. The

procedures in this Section 3.4 shall apply to construction of all or any segment of the Improvements.

3.5 The Implementing City is required to obtain all material, labor and equipment, property acquisitions and jurisdictional permits necessary for the administration and construction of the Improvements. TRA shall perform inspection during construction and provide input to the Implementing City as appropriate. Should TRA inspection reveal construction not in accordance with approved plans and specifications, addendums or change orders, TRA will immediately notify the Implementing City verbally and in writing, and the Implementing City will take proper action to remedy the discrepancy, all subject to TRA's approval. TRA's inspection of the Improvements shall in no way relieve the Implementing City from its responsibility to inspect the Improvements. The Implementing City shall advise the Partnering City and TRA's Construction Services Staff at least seventy-two (72) hours in advance of its intention to commence construction and TRA shall inform the Implementing City of the name of the individual responsible for inspection on behalf of TRA. Upon completion of construction, the Implementing City shall provide TRA and the Partnering City one (1) each reproducible set of record drawings.

3.6 Upon execution of the Original Agreement, TRA created a separate account known as the "Trinity River Authority of Texas Fort Worth - Haslet Wastewater Interceptor System Construction Fund" (the "Construction Fund"). The Construction Fund shall be maintained and applied by TRA for the sole purpose of paying TRA's costs for land rights review, construction administration and inspection related to the Improvements as provided for in this Agreement. To initially fund the Construction Fund to a level estimated at the time of the Original Agreement to be sufficient to provide for TRA's construction administration, inspection and land rights review, TRA prepared a cost estimate for an initial deposit of \$58,000 of which Haslet paid to TRA \$4,231.00, Fort Worth paid to TRA \$36,983.00, and Westwood Group Development No. 1, L.P. paid to TRA \$16,786.00. (Westwood Group Development No. 1, L.P., being a developer responsible for its share of costs for the improvements at the time of the Original Agreement, either directly or indirectly to each city, or to TRA.) It is understood by TRA, Fort Worth and Haslet that implementation of the Improvements may not occur immediately; therefore such

funds shall be refunded to each Party by TRA within thirty days of execution of this Agreement, less any amounts charged by TRA to the funds on deposit pursuant to the Original Agreement. Upon implementation of the Improvements, Fort Worth and Haslet shall again be responsible for again depositing sufficient funds to provide for TRA's construction administration, inspection and land rights review. In the case of that initial deposit and any necessary subsequent deposits, TRA shall invoice Fort Worth and Haslet at their prorated participation percentages listed in Section 3.8 below, whereupon, each shall deposit such additional funding within thirty (30) days of receipt of notice. Upon completion of the Improvements, TRA will conduct a final cost accounting to establish any remaining funds in the Construction Fund. To the extent there is money remaining in the Construction Fund after all costs have been paid, the balance of the remaining funds will be returned to the cities in the percentages stated in Section 3.8, after adjustment for any additional funds that may have been deposited by Fort Worth and Haslet. To the extent the balance of the remaining funds is insufficient to pay TRA's costs, TRA will submit invoices for payment to Fort Worth and Haslet for their prorated participation percentages.

3.7 The Implementing City is responsible for obtaining all easements that are necessary for construction of the Improvements. All such easements shall meet the following requirements:

- a. Each property should have a title commitment prepared to verify current ownership and any and all lien holders.
- b. The easement form used should be prepared or conformed to TRA standards. Changes to the easement form require TRA approval, which may be withheld in TRA's sole and reasonable discretion.
- c. The easements should be use specific, i.e. "Sanitary Sewer, Water Line" etc.
- d. All permanent easements require a title policy, which will require that any liens be subordinated or a partial release obtained from the lien holder.
- e. All property for meter stations shall be acquired in fee simple and shall have a permanent access easement from a public roadway.
- f. Access rights shall be extended to the City of Haslet on all easements from Point A to Point D and from Point F to Point C for interim maintenance and operational purposes. Haslet shall grant, without charge to Fort Worth, such easements along public highways or other property owned by Haslet, as may be necessary for the Improvements

contemplated by this Agreement, to the extent that Haslet’s ownership, rights and interest allow it to do so and provided that such easements do not unreasonably interfere with other uses of highways or property.

g. TRA agrees and recognizes that easements based on the initial design of the Improvements have already been reviewed, approved, acquired and recorded appropriately and are not subject to additional TRA approval. Other easements, if necessary for the Improvements, shall be acquired in accordance with the provisions of this Section.

3.8 Haslet and Fort Worth agree to share the cost for the design and construction of the Improvements as follows:

Line Segment	Fort Worth	Haslet
A - Points A to B	95.0%	5.0%
B - Points B to C	90.3%	9.7%
C - Points C to D	89.7%	10.3%
D - Points D to E	100%	0%
North Main – Points F to C	100%	0%
Fort Worth Sewer Meter Sta. No. 1 (No.1 cost is prorated in Segment A)	100%	0%
Fort Worth Sewer Meter Sta. No. 2 (No. 2 cost is prorated in Seg. North Main)	100%	0%

3.9 Estimated preliminary costs for the Improvements at the time of this Agreement are as shown on attached Exhibits “B-1 and “B-2” which, however, are subject to actual cost adjustment at the time of implementation of the Improvements.

3.10 Haslet shall be responsible for the operation and maintenance of the Improvements from Point A to Point D and Point F to Point C as shown on Exhibit “A” until such time as TRA accepts such Improvements as a TRA system extension. Haslet shall not permit service taps into the Improvement unless such taps are approved in writing by TRA and subject to the terms of the Trinity River Authority of Texas Denton Creek Regional

Wastewater System Treatment Contract between the Cities of Fort Worth, Haslet and Roanoke dated October 28, 1987 (the "1987 Contract").

3.11 TRA shall operate and maintain the Fort Worth Sewer Meter Stations as an expense of the Denton Creek Regional Wastewater System.

3.12 Fort Worth agrees that upon cancellation of Fort Worth's Community Facility Agreement with Westwood Group Development No.1, L.P., known as Fort Worth City Secretary contract No. 32226, as amended, Fort Worth shall refund to Haslet \$50,345.00 and \$9,672.00 required to be deposited with Fort Worth by such agreement less any amounts charged by TRA to the funds on deposit pursuant to the Original Agreement, within thirty (30) days of its cancellation or execution of this Agreement, whichever occurs later.

4.

Metering and Sampling of Waste Water

4.1 TRA's DCRWS will accept the responsibility for the measurement of flow generated in Fort Worth and being introduced into the Improvements at the Fort Worth Sewer Meter Stations (Point A and Point F on Exhibit "A"). The DCRWS will also assume the responsibility for deleting this flow from Haslet's downstream accumulative flow measurement under the 1987 Contract, and adding it in the billing methodology to Fort Worth as a Fort Worth contribution to the DCRWS. In consideration of Haslet's agreement to assume responsibility for the operation and maintenance of the Improvements from Point A to Point D and Point F to Point C, Fort Worth agrees to pay a transportation charge of \$0.13 per 1,000 gallons of flow measured through the TRA Meter until such time as TRA accepts the Improvements as a TRA system extension. TRA assumes the responsibility for assessing the transportation charge to Fort Worth and crediting this amount to Haslet in the Adjusted Annual Payment owed by Haslet under the 1987 Contract. The credit to Haslet will be limited to the amount actually collected from Fort Worth, and in the event a dispute arises as to the transportation charges, Haslet and Fort Worth agree to resolve such differences in good faith. TRA shall have no right or duty to intervene in the dispute. Haslet reserves the right to adjust annually the transportation charge; provided, however, that any such adjustment shall be based upon a cost of service study; and provided further, the transportation charge cannot increase by more than 15% from one year to the next and cannot

increase by more than 50% during the period that Fort Worth is discharging into the Haslet wastewater collection system.

4.2 Metering of wastewater will be performed in accordance with “Section 5, Metering of Wastewater” of the 1987 Contract. In addition, sampling shall be done in accordance with the same contract.

4.3 TRA shall be responsible for preparing invoices for Haslet and Fort Worth, such invoices to be calculated and prepared in accordance with each city’s contract with TRA.

4.4 All meters shall be calibrated as provided for in each city’s contract with TRA.

5.

Necessary System Expenses

Fort Worth, Haslet and TRA agree that the services being obtained pursuant to this Agreement are essential and necessary to the operation of the Parties’ wastewater facilities and that all payments made by Fort Worth or Haslet hereunder shall constitute reasonable and necessary operating expenses of its wastewater systems within the meaning of Chapter 791, Texas Government Code.

6.

Points of Connection

6.1 Fort Worth will be required to submit Point of Entry requests to TRA in accordance with Section 3 of the 1987 Contract. Initially TRA will consider approval of the Point of Entry to be located where the Haslet 15” wastewater main currently connects to the DCRWS Treatment Plant wastewater main (Henrietta Creek Interceptor). When the future wastewater main improvements are constructed and accepted by TRA, TRA will then consider revising the Point of Entry to be located at or near the Fort Worth Sewer Meter Station No. 2 and 3.

6.2 Haslet will be required to submit Point of Entry requests to TRA in accordance with Section 3 of the 1987 Contract for connections to wastewater main segments from Point A to Point D and from Point F to Point C.

7.

Miscellaneous

7.1 Haslet shall be responsible for notifying Fort Worth when the combined volume of Haslet's and Fort Worth's wastewater flow in Haslet's existing main (Point D to Point E on Exhibit "A") exceeds 75% of the capacity of Haslet's 15" existing wastewater main. At that time, Fort Worth, at its sole cost and expense, agrees to construct a relief main to divert its flow from Haslet's existing main which will be completed and in place prior to 90% capacity being reached in the Haslet Main. The relief main, upon completion and acceptance by TRA, will become part of the TRA System.

7.2 Fort Worth agrees to convey to TRA ownership of the Fort Worth Sewer Meter Stations No. 1 and No. 2 and right of access to the stations. If the Fort Worth/TRA agreement for treatment of Fort Worth wastewater at TRA's DCRWS Treatment Plant expires or is terminated, TRA shall convey to Fort Worth the meter station and access right.

7.3 If TRA agrees in the future to accept the operation and maintenance of the Improvements as a TRA system expense, then Fort Worth and Haslet agree to convey all easements for the Improvements to TRA.

7.4 Any notice permitted or required to be given herein shall be in writing, mailed regular mail to the addresses shown below, or by facsimile to the parties shown below.

If to Haslet:

Mayor
City of Haslet
105 Main Street
Haslet, Texas 76052
Telephone: 817 439-5933
Facsimile: 817 439-1606

If to Fort Worth:

Director
Forth Worth Water Department
1000 Throckmorton
Fort Worth, Texas 76102
Telephone: 817 392-8246
Facsimile: 817 392-8195

If to TRA:

General Manager
Trinity River Authority of Texas
P. O. Box 60
Arlington, Texas 76004-0060
Telephone: 817 467-4343
Facsimile: 817 465-0970

7.5 This Agreement may not be changed, revised or otherwise amended unless it is in writing and approved by the governing body for each Party.

7.6 The Parties acknowledge that each Party and, if it so chooses, its counsel, have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party must not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

7.7 This Agreement shall inure only to the benefit of the Parties hereto and third persons that are not privy hereto shall not, in any form or manner, be considered a third party beneficiary of this Agreement, Each Party hereto shall be solely responsible for the fulfillment of its own contracts or commitments.

7.8 This Agreement will not be construed in any form or manner to establish a partnership, joint venture or agency, express or implied, nor any employer-employee, borrowed servant or joint enterprise relationship by and among the Parties. Each City shall be an independent contractor to the other and shall be responsible at all times for directing its employees in the course of their duties.

7.9 The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section or other part of this Agreement or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to other persons or circumstances shall not be affected thereby and this Agreement shall be construed as if such invalid or unconstitutional portion had never been contained therein.

7.10 If, by reason of Force Majeure as hereinafter defined, any Party shall be rendered wholly or partially unable to carry out its obligations under this Agreement, then such Party shall give written notice of the particulars of such Force Majeure to the other Party within a reasonable time after the occurrence thereof. The obligations of the Party giving such notice, to the extent affected by such Force Majeure, shall be suspended during the continuance of the inability claimed and for no longer period, and any such Party shall be in good faith exercise its best efforts to remove and overcome such inability.

The term "Force Majeure" as utilized herein shall mean and refer to acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States, the State of Texas, or any other civil or military authority; insurrections; riots; epidemics; landslides; earthquakes; lightning; fires; hurricanes; storms; floods; washouts; or other natural disasters; arrest; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines or canals; or other causes not within the reasonable control of the Party claiming such inability. Force Majeure shall not excuse the obligation of Fort Worth to pay for transportation charges incurred under Paragraph 4.1 of this Agreement.

7.11 This Agreement shall be construed under and in accordance with Texas law.

7.12 Venue for any action arising hereunder shall be exclusively in Tarrant County, Texas.

7.13 Fort Worth agrees to enforce the provisions of its ordinances as they relate to industrial waste. Fort Worth further agrees that the quality of the wastewater discharged into Haslet's collection system shall be equal to or better than the quality standards established by Fort Worth ordinances related to industrial waste.

7.14 This Agreement shall terminate upon the completion of construction of all segments of the Improvements, and the acceptance by TRA of all segments of those Improvements as a TRA system extension.

Executed this the ____ day of _____.

ATTEST:

CITY OF FORT WORTH

Marty Hendrix
City Secretary

By: _____
Fernando Costa
Assistant City Manager

Approved as to Form and Legality:

Contract Authorization

Christa R. Reynolds
Sr. Assistant City Attorney

Date

ATTEST:

CITY OF HASLET

Elaine Simpson
City Secretary

By: _____
Bob Golden
Mayor

Approved as to Form and Legality:

Contract Authorization

City Attorney

Date

TRINITY RIVER AUTHORITY

By: _____
J. Kevin Ward
General Manager

ATTEST:

Howard S. Slobodin, Secretary

Board of Directors