

**INTERLOCAL AGREEMENT  
BETWEEN COLLIN COUNTY AND THE CITY OF MCKINNEY  
CONCERNING THE ACQUISITION OF RIGHT-OF-WAY  
FOR THE CONSTRUCTION OF US 75 IMPROVEMENTS  
COLLIN COUNTY BOND PROJECT NUMBER 95-44-03**

**WHEREAS**, the County of Collin, Texas (“County”) and the City of McKinney, Texas (“City”) desire to enter into an agreement concerning the acquisition of right-of-way necessary for construction of US 75 from SH 121/Spur 399 to SH 121 (Melissa) (the “Project”) in McKinney, Collin County, Texas; and

**WHEREAS**, the Interlocal Cooperation Act (Texas Government Code Chapter 791) authorizes any local government to contract with one or more local governments to perform governmental functions and services under the terms of the Act; and

**WHEREAS**, the City and County have agreed that the right-of-way needed for the improvements should be shared, by implementing this agreement.

**NOW, THEREFORE**, this agreement is made and entered into by the County and the City upon and for the mutual consideration stated herein.

**WITNESSETH:**

ARTICLE I.

The Texas Department of Transportation policies require local government agencies to pay ten percent of the cost to acquire right-of-way for the construction of US 75. The local share of the right-of-way acquisition for US 75 from SH 121/Spur 399 to SH 121 (Melissa) totals \$4,780,000. The City has remitted to TxDOT the local share of the cost of acquisition of right-of-way necessary for the construction of the US 75 Project.

ARTICLE II.

A presentation was made by City of McKinney to the Collin County Planning Board requesting the County participate in the local share of the cost of the right-of-way acquisition. The Planning Board voted to recommend the use of available County bond funds for the acquisition of right-of-way for the US 75 Project.

ARTICLE III.

The County has funded \$275,000 (half of the local share of the right-of-way needed for the southern section of US 75 from SH 121/Spur 399 to Wilson Creek); however, additional funds have not been available to participate in the cost of right-of-way acquisition for the sections north of Wilson Creek.

ARTICLE IV.

The construction of Stacy Road (formerly known as FM 720) east of Custer Road was included in the 2003 Collin County Bond Program. The project has recently been completed, with the cost of the project being less than the amount budgeted, leaving \$674,000 available in bond funds allocated to the City for other eligible roadway projects.

ARTICLE V.

Based on the previous recommendation from the Collin County Planning Board, the County agrees to fund \$674,000 to participate in a portion of the local share of the cost to acquire right-of-way for the US 75 Project. The County shall remit \$674,000 to the City within thirty (30) days after the City requests payment or upon the availability of bond funds for this Project, whichever occurs later.

ARTICLE VI.

The City and County agree that the party paying for the performance of governmental functions or services shall make those payments only from current revenues legally available to the paying party.

ARTICLE VII.

INDEMNIFICATION. TO THE EXTENT ALLOWED BY LAW, EACH PARTY AGREES TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE OTHER (AND ITS OFFICERS, AGENTS, AND EMPLOYEES) FROM AND AGAINST ALL CLAIMS OR CAUSES OF ACTION FOR INJURIES (INCLUDING DEATH), PROPERTY DAMAGES (INCLUDING LOSS OF USE), AND ANY OTHER LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO, OR RESULTING FROM ITS PERFORMANCE UNDER THIS AGREEMENT, OR CAUSED BY ITS NEGLIGENT ACTS OR OMISSIONS (OR THOSE OF ITS RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, OR ANY OTHER THIRD PARTIES FOR WHOM IT IS LEGALLY RESPONSIBLE) IN CONNECTION WITH PERFORMING THIS AGREEMENT.

ARTICLE VIII.

VENUE. The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this agreement. The parties agree that this agreement is performable in Collin County, Texas and that exclusive venue shall lie in Collin County, Texas.

ARTICLE IX.

SEVERABILITY. The provisions of this agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation having the force and effect of the law, the remaining portions of the agreement shall be enforced as if the invalid provision had never been included.

ARTICLE X.

ENTIRE AGREEMENT. This agreement embodies the entire agreement between the parties and may only be modified in a writing executed by both parties.

ARTICLE XI.

SUCCESSORS AND ASSIGNS. This agreement shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns. Neither party will assign or transfer an interest in this agreement without the written consent of the other party.

ARTICLE XII.

IMMUNITY. It is expressly understood and agreed that, in the execution of this agreement, neither party waives, nor shall be deemed hereby to have waived any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this agreement, the parties do not create any obligations, express or implied, other than those set forth herein, and this agreement shall not create any rights in parties not signatories hereto.

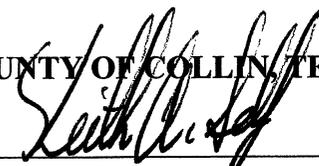
ARTICLE XIII.

TERM. This agreement shall be effective upon execution by both parties and shall continue in effect annually until the payment has been made. This agreement shall automatically renew annually during this period.

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

COUNTY OF COLLIN, TEXAS

By:  \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: County Judge  
Date: 7/14/09

Executed on this 13<sup>th</sup> day of July

2008<sup>9</sup>, by the County of Collin,  
pursuant to Commissioners' Court  
Order No. 2009-485-0713

**ATTEST:**

By: Sandy Hart  
Name: Sandy Hart  
Title: City Secretary  
Date: June 2, 2009

**CITY OF MCKINNEY, TEXAS**

By: Frank Ragan  
Name: Frank Ragan  
Title: by Rick Chaffin, Assistant City  
Manager and authorized signatory  
Date: 6/2/09



Executed on behalf of the City of  
McKinney, pursuant to City Council  
Resolution No. 2008-08-121(R)

**APPROVED AS TO FORM:**

By: Mark Houser  
Name: Mark Houser  
Title: City Attorney  
Date: 7/1/09