INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF ANNA
CONCERNING THE UTILTIES ENGINEERING
FOR FM 455 FROM US 75 TO .75 MILES EAST OF SH5
2003 BOND PROJECT #03-117B

WHEREAS, the County of Collin, Texas ("County") and the City of Anna, Texas ("City") desire to enter into an agreement concerning relocation of city owned utilities necessary for the expansion of the TxDOT project FM 455 from US 75 to .75 miles east of SH 5; CSJ: 0816-04-044 in the City of Anna, Collin County, Texas; and

WHEREAS, the Interlocal Cooperation Act, Texas Government Code Chapter 791 (the "Act") 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 the County have determined that the improvements may be constructed most economically by implementing this agreement; and

WHEREAS, the City and the County find that this agreement will benefit the residents of the County by facilitating the expansion of FM 455 from US 75 to .75 miles east of SH 5 which will improve the mobility of all County residents; and

WHEREAS, this agreement will support and advance the mission of the Collin County Mobility Plan;

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

WITNESSETH:

ARTICLE I.

The City shall contract with a qualified professional engineer to prepare plans and specifications for the relocation of City owned utilities necessary for the expansion of FM 455 from US 75 to .75 miles east of SH5 from a 2 lane rural roadway to 4 lane (ultimate 6 lane) divided urban roadway, said engineering services hereinafter referenced as the "Engineering Services".

ARTICLE II.

The City shall provide the County with a copy of the executed engineering contract for the Engineering Services.

ARTICLE III.

The City estimates the total actual cost of the Engineering Services to be $134,858.50. The County agrees to fund a portion of the total cost of the Engineering Services in an amount

not to exceed $117,358.50. The County shall remit funds for engineering within thirty (30) days after the City executes a Professional Services Agreement.

ARTICLE IV

Collin County's participation in funding the Engineering Services shall not exceed $117,358.50 as indicated in Article III above. The City shall be responsible for any actual costs for the Engineering Services that exceed $134,858.50.

ARTICLE V

If the Texas Department of Transportation (TxDOT) authorizes reimbursement of a portion of the project costs under existing TxDOT reimbursement policies for utilities relocation, the City shall forward any such reimbursement to the County up to an amount not to exceed $117,358.50.

ARTICLE VI

The City and the County agree that the party paying for the performance of the governmental functions or services shall make those payments from current revenues. However, if payments are made over a term of years, the party making such payments may levy ad valorem taxes in an amount necessary to make the payments as they become due under Section 791.028 of the Act or may expend revenues otherwise legally available to the paying party to make such payments.

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 or 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 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 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 completion of the Project.

ARTICLE XIV

The declarations, determinations and findings declared, made, and found in the preamble to this agreement are hereby adopted, restated and made part of the operative provisions hereof.

APPROVED AS TO FORM:

By:_____
Name:_____
Title:_____
Date:_____

COUNTY OF COLLIN, TEXAS

By: Keith Self
Name: Keith Self
Title: County Judge
Date: 10/19/10
2010-825-10-11

ATTEST:

By: Nathy Wilkison
Name: Nathy Wilkison
Title: City Secretary
Date: 10/13/10

CITY OF ANNA

By: Philip Sanders
Name: Philip Sanders
Title: City Manager
Date: 10/13/2010