INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF ANNA
CONCERNING THE RELOCATION OF UTILTIES
FOR FM 455 FROM US 75 TO .75 MILES EAST OF SH5
2007 BOND PROJECT #07-00-12

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;

WHEREAS, the city has asked to reallocate a portion of their 2007 Bond allocation from project 07-009; Mantua Rd from SH 5 to US in the amount of $800,000 to fund this project;

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 utility contractor to relocate 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 called the "Project."

ARTICLE II.

The City shall provide the County with a copy of the executed Construction Contract for the construction services.

ARTICLE III.

The City estimates the total actual cost of the utility relocation to be $1,600,000. The County agrees to fund a portion of the total cost of the relocation in an amount not to exceed $800,000. The County shall remit funds for the utility relocation within thirty (30) days after the City executes a Construction Contract.

ARTICLE IV

Collin County's participation in funding the Utility relocation shall not exceed $800,000 as indicated in Article III above. At the completion of the Project the City shall provide a final accounting of expenditures for the Project. If the actual cost of the Project is less than the estimated cost of $1,600,000, the City shall reimburse the County so that the County will have only paid fifty percent (50%) of the actual cost of the Project.

ARTICLE V

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 VI

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 VII

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 VIII

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 IX

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

ARTICLE X

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 XI

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 XII

TERM. This agreement shall be effective upon execution by both parties and shall continue in effect annually until completion of the Project.

ARTICLE XIII

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: 10/6/11
Executed on this 3rd day of October, 2011, by the County of Collin, pursuant to Commissioners' Court Order No. 2011-779-10-03

ATTEST:

By: Natha Wilkison
Name: Natha Wilkison
Title: City Secretary
Date: 9/13/11

CITY OF ANNA, TEXAS

By: Phillip Sanders
Name: Phillip Sanders
Title: City Manager
Date: 9/13/2011
Executed on behalf of the City of ~~Allen~~ Anna pursuant to the City Council Resolution No. 2011-09-01

APPROVED AS TO FORM:

By: Clark McCoy
Name: Clark McCoy
Title: City Attorney
Date: 9/13/2011