

**INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF ALLEN
FOR RIGHT-OF-WAY PARTICIPATION
AT THE INTERCHANGE OF
US 75 (CENTRAL EXPRESSWAY) AND SH 121 (SAM RAYBURN TOLLWAY)
NEW Bond Project #07-00-22**

WHEREAS, the County of Collin, Texas ("County") and the City of Allen, Texas ("City") desire to enter into an agreement concerning the City Right of Way participation with TxDOT for the interchange between US 75 and SH 121 (TxDOT ROW CSJ # 0364-04-045); 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 has entered into an agreement with the Texas Department of Transportation (TxDOT) for 10% of the Right of Way costs for the interchange between US 75 and SH 121 as defined in 43 TAC, §15.55; and

WHEREAS, the total cost of the Right of Way, stipulated in the agreement between City and TxDOT, was estimated to be \$1,500,000; and

WHEREAS, the final reconciled cost of the Right of Way, as determined by TxDOT, is \$8,885,697

WHEREAS, the City and County have determined that the improvements are of regional significance, and merit partnership between the two agencies.

WHEREAS, the City has requested the County reallocate funds from Bond Project # #07-003, (Exchange Parkway Overpass at SH 121) to fund 50% of the City's Right of Way participation with TxDOT.

WHEREAS, the City and County agree that the County funding for Bond Project #07-003, (Exchange Parkway Overpass at SH 121) will be reduced by \$444,284.85 per 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, the receipt and sufficiency of which is hereby acknowledged.

WITNESSETH:

ARTICLE I.

The City shall enter into an "Agreement to Contribute Funds – Local Government" with TxDOT (hereinafter "TxDOT Agreement") for their 10% share of the Right of Way costs for the interchange between US 75 and SH 121. City's participation in the Right of Way costs is \$888,569.70,

ARTICLE II.

The County shall submit funds in the amount of \$444,284.85 to the City within thirty (30) days from the City's written request for the release of funds.

ARTICLE III.

The City shall prepare for the County documentation showing funds have been submitted to TxDOT for their Right of Way participation within thirty (30) days after funds have been submitted to the state.

ARTICLE IV.

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 V.

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 VI.

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 VII.

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 VIII.

ENTIRE AGREEMENT. This Agreement embodies the entire agreement between the parties and may only be modified in a writing executed by both parties. This Agreement supersedes all prior negotiations, representations and/or agreements, either written or oral.

ARTICLE IX.

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 X.

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 XI.

TERM. This Agreement shall be effective upon execution by both parties and shall continue in effect annually until final acceptance of the Project. This Agreement shall automatically renew annually during this period.

APPROVED AS TO FORM:

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

COUNTY OF COLLIN, TEXAS

By: [Signature]
Name: _____
Title: County Judge
Date: 8/10/13

Executed on this 9th day of September
2013, by the County of Collin,
pursuant to Commissioners' Court
Order No. 2013-660-09-09.

ATTEST:

By: [Signature]
Name: Shelley B. George
Title: City Secretary
Date: 8-20-13

CITY OF ALLEN, TEXAS

By: [Signature]
Name: Peter H. Vargas
Title: City Manager
Date: 8-20-13

Executed on behalf of the City of
Allen pursuant to City Council
Resolution No. 2163-8-13(R)

APPROVED AS TO FORM:

By: [Signature]
Name: Peter G. Smith
Title: City Attorney
Date: 8-20-13

RESOLUTION NO. 3163-8-13(R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL AGREEMENT BY AND BETWEEN THE CITY OF ALLEN, TEXAS, AND COLLIN COUNTY, TEXAS, AUTHORIZING PARTICIPATION IN THE RIGHT OF WAY COSTS FOR THE INTERCHANGE BETWEEN US 75 (CENTRAL EXPRESSWAY) AND SH 121 (SAM RAYBURN TOLLWAY), AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR DESIGNEE, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Allen, Texas, has been presented a proposed Interlocal Agreement by and between the City of Allen, Texas, and Collin County, Texas, a copy of which is attached hereto and incorporated herein by reference (herein called "Agreement"); and,

WHEREAS, upon full review and consideration of the Agreement, and all matters related thereto, the City Council is of the opinion and finds that the terms and conditions thereof should be approved, and that the City Manager or designee should be authorized to execute the Agreement on behalf of the City of Allen, Texas.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Allen and found to be acceptable and in the best interests of the City of Allen and its citizens, be, and the same is hereby, in all things approved.

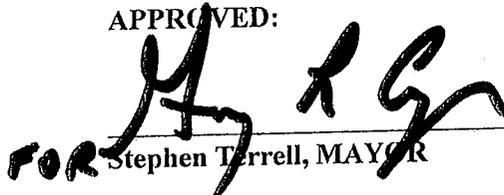
SECTION 2. The City Manager or designee, under the direction of the City Council of the City of Allen, is hereby designated as the official representative to act for the City in all matters relating to the right of way cost for the interchange between US 75 (Central Expressway) and SH 121 (Sam Rayburn Tollway).

SECTION 3. The City Manager or designee is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Allen, substantially according to the terms and conditions set forth in this Agreement.

SECTION 4. This Resolution shall take effect immediately from and after its passage, and it is accordingly so resolved.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 13th DAY OF AUGUST, 2013.

APPROVED:


FOR _____
Stephen Terrell, MAYOR

ATTEST:


for _____
Shelley B. George, TRMC, CITY SECRETARY

13 AUG 27 AM 10:03
RECEIVED
PURCHASING AGENT