

**INTERLOCAL AGREEMENT  
BETWEEN COLLIN COUNTY AND THE CITY OF WYLIE  
FOR CONSTRUCTION OF McMILLEN ROAD FROM  
EAST OF MCCREARY RD TO FM 1378 BOND PROJECT # 07-091  
2015 and DISCRETIONARY FUNDING**

**WHEREAS**, the County of Collin, Texas ("County") and the City of Wylie, Texas ("City") desire to enter into an agreement concerning the construction of McMillen Road and other improvements from east of McCreary Road to FM 1378 in 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 2007 Bond program allocated a total of \$4,149,375 to the City of Wylie's project #07-091, McMillen Road from McCreary Road to FM 1378; and

**WHEREAS**, on October 14, 2008 a (2008 FUNDING) Interlocal Agreement in the amount of \$500,000 was approved for engineering services (CO# 2008-861-10-14), and on December 6, 2012, a (2009 FUNDING) Interlocal Agreement in the amount of \$500,000 was approved for engineering services (CO# 2010-976-12-06); and

**WHEREAS**, the Collin County Commissioners Court approved the 2007 Discretionary prioritization list to include this project on October 20, 2014, Court Order #2014-810-10-20 for an additional funding amount of \$1,676,775; and

**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 arrange to construct improvements to McMillen Road, hereinafter called (the "Project"). The Project shall consist of constructing a 4-lane divided concrete roadway, a distance of approximately 6,000 feet. The improvements shall also include construction of underground storm sewers as part of the road improvements. All improvements shall be designed to meet or exceed the current Collin County design standards and shall be constructed in accordance with the plans and specifications approved by the City.

**ARTICLE II.**

The City shall acquire all necessary right-of-way for the Project. The City shall prepare plans and specifications for the improvements, accept bids and award a contract to construct the improvements and administer the construction contract. In all such activities, the City shall comply with all state statutory requirements. The City shall provide the County with a copy of the executed construction contract(s) for the Project.

### **ARTICLE III.**

The City estimates the total cost of the Project to be \$11,655,000, which shall include land acquisition, engineering, construction, inspection, testing, and construction administration costs including contingencies. The total amount of Funds remitted by the County during 2015 shall not exceed \$2,426,775. The Payment Schedule is as follows:

- (a) Within thirty (30) days after the City request payment for the County, the County shall remit a portion of the Funds to the City to cover any and all right of way acquisition costs for the Project, including but not limited to, the cost to acquire the right of way through eminent domain.
- (b) Within thirty (30) days after all of the following have occurred, the County shall remit to the City fifty percent (50%) of the Funds not already disbursed for right of way costs under (a).
  - (1) the City issues a notice to the lowest responsible bidder to start construction of the Project;
  - (2) the City requests payment from the County; and
  - (3) County bond money is available.
- (c) Within thirty (30) days after the City issues a notice that the Project is fifty percent (50%) complete and requests payment from the County, the County shall remit the remaining Funds not already disbursed under this Agreement.
- (d) 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 \$11,655,000, the City shall reimburse the County so that the County will have only paid fifty percent (50%) of the actual cost of the Project.
- (e) The Commissioners Court may revise this payment schedule based on the progress of the Project.

### **ARTICLE IV.**

The City shall prepare for the County an itemized statement specifying Project costs that have been incurred to date and submit detailed Project cost and progress reports every thirty (30) days until Project completion.

#### ARTICLE V.

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 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 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 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 the 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 a writing executed by both parties. This

Agreement supersedes all prior negotiations, representations and/or agreements, either written or oral.

**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 final acceptance of the Project. This Agreement shall automatically renew annually during this period.

**APPROVED AS TO FORM:**

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

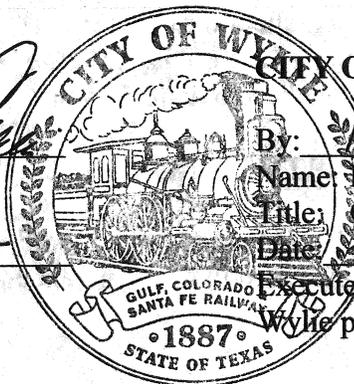
**COUNTY OF COLLIN, TEXAS**

By: Keith Self  
Name: Keith Self  
Title: County Judge  
Date: 12/21/15

Executed on this 21st day of December 2015, by the County of Collin, pursuant to Commissioners' Court Order No. 2015-991-12-21.

**ATTEST:**

By: Carole Ehrlich  
Name: Carole Ehrlich  
Title: City Secretary  
Date: 11-17-2015



**CITY OF WYLIE, TEXAS**

By: Mindy Manson  
Name: Mindy Manson  
Title: City Manager  
Date: 11-17-2015

Executed on behalf of the City of Wylie pursuant to City Council

Resolution No. \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

Name:

Title: City Attorney

Date: \_\_\_\_\_

**RESOLUTION NO. 2015-24(R)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS, HEREBY AUTHORIZING THE CITY MANAGER OF THE CITY OF WYLIE, TEXAS, TO EXECUTE THE INTERLOCAL AGREEMENT BETWEEN COLLIN COUNTY AND THE CITY OF WYLIE CONCERNING THE CONSTRUCTION OF MCMILLEN ROAD FROM MCCREARY ROAD TO COUNTRY CLUB DRIVE (FM 1378).**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS:**

SECTION 1: The City Manager of the City of WYLIE, Texas, is hereby authorized to execute, on behalf of the City Council of the City of WYLIE, Texas, the interlocal agreement between Collin County and the City of Wylie concerning the construction of McMillen Road from McCreary Road to Country Club Drive (FM 1378),

SECTION 2: This Resolution shall take effect immediately upon its passage.

**RESOLVED THIS THE 10<sup>th</sup> day of November, 2015.**

  
ERIC HOGUE, Mayor

**ATTEST TO:**

  
CAROLE EHRLICH, City Secretary

