

**INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF ANNA CONCERNING THE RELOCATION
OF UTILITIES ALONG US 75 FROM THE COLLIN COUNTY OUTER LOOP TO FM 455
NEW 2007 BOND PROJECT #07-00-57**

WHEREAS, the County of Collin, Texas (“County”) and the City of Anna, Texas (“City”) desire to enter into an agreement concerning the relocation of utilities along US 75 from the Collin County Outer Loop to FM 455 (the “Project”) in Anna, Collin County, Texas; and

WHEREAS, the relocation of utilities is required to facilitate the Texas Department of Transportation’s (“TxDOT”) widening project of US 75 in the City of Anna, 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 determined that the improvements may be constructed most economically 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 City shall arrange to relocate certain utility lines necessary for improvements to US Highway 75, hereinafter called the “Project”. The Project shall consist of relocating and constructing approximately 11,957 linear feet of water lines running parallel to and/or crossing US Highway 75. All improvements shall be designed to meet or exceed the current City of Anna design standards and shall be constructed in accordance with the plans and specifications approved by the City.

ARTICLE II.

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.

ARTICLE III.

The City shall acquire all utility easements necessary for construction of the Project.

ARTICLE IV.

The City estimates that the total cost of the Project will be \$1,812,000. The County agrees to fund the entire amount, \$1,812,000, from County Discretionary funds until such time the 2016 Bond funds are sold and made available. The City estimates that it will receive approximately \$1,120,000 in reimbursements from the Texas Department of Transportation (“TxDOT”) for the Project. The City agrees to remit to the County an amount equal to all reimbursements it receives from TxDOT for Project costs (the “TxDOT Reimbursable Amount”) within thirty (30) days of receiving any Project reimbursement. The County shall remit to the City an amount equal to the cost for engineering design, within thirty (30) days after the City issues a notice to proceed to the design engineer and the City requests payment. The County shall remit to the City an amount equal to the total construction contract price for the Project within thirty (30) days after the City issues a notice to proceed to the lowest responsible bidder, and the City requests payment. The County shall remit to the City an amount equal to the easement acquisition costs within thirty (30) days after the City acquires the necessary Project easements and the City request payment. The

total contribution from the County (the "County Contribution") shall not exceed \$2,000,000. The "total cost of the Project" shall include easement acquisition, engineering, construction, inspection, testing, and construction administration costs including contingencies.

ARTICLE V.

The City agrees that the 2007 Bond Project #07-009, Mantua Road shall be reduced by an amount equal to the County Contribution less the actual TxDOT Reimbursable Amount If the difference between the County Contribution and the actual TxDOT Reimbursable Amount is greater than the amount that is available in the #07-009, Mantua Road account, the City will reimburse the County the additional required amount.

ARTICLE VI.

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 VII.

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 VIII.

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 IX.

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 X.

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 XI.

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

ARTICLE XII.

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 XIII.

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 XIV.

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: 5/2/16
Executed on this 2nd day of May,
2016, by the County of Collin,
pursuant to Commissioners' Court
Order No. 2016-253-04-18.

ATTEST:

By: Carrie Smith
Name: Carrie Smith
Title: City Secretary
Date: 4-27-2016

CITY OF ANNA, TEXAS

By: Philip Sanders
Name: Philip Sanders
Title: City Manager
Date: April 12, 2016 4-26-2016
Executed on behalf of the City of Anna
pursuant to City Council
Resolution No. 2016-04-168

APPROVED AS TO FORM:

By: Clark McCoy
Name: Clark McCoy
Title: City Attorney
Date: 4-26-2016

