

**INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF PARKER CONCERNING THE RELOCATION OF
WATER UTILITIES ALONG FM 2514 (PARKER ROAD) FROM FM 2551 TO FM 1378;
NEW 2007 BOND PROJECT #07-00-64**

WHEREAS, the County of Collin, Texas (“County”) and the City of Parker, Texas (“City”) desire to enter into an agreement concerning the relocation of utilities along FM 2514 (Parker Rd.) from FM 2551 to FM 1378 (the “Project”) in Parker, Collin County, Texas; and

WHEREAS, the relocation of utilities is required to facilitate the Texas Department of Transportation’s (“TxDOT”) widening project of FM 2514 in the City of Parker, Texas; and

WHEREAS, TxDOT has indicated that the water utilities in the City of Parker are in conflict with the widening project and the expenses related to the relocation are reimbursable; and

WHEREAS, the City’s relocation of the water utilities is contingent upon the execution of an interlocal agreement with TxDOT for all of Parker’s expenses related to the relocation; in addition to the execution of this interlocal agreement with Collin County for interim financing for the City expenses, to be reimbursed to the County by Parker on reimbursement of Parker by TxDOT;

WHEREAS, the City of Parker has remaining 2007 Bond Funds for Project #07-055, McCreary Rd from Parker Rd. to McWhirter Rd. in the amount of \$367,247.00.

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 FM 2514 from FM 2551 to FM 1378, hereinafter called the “Project”. The Project shall consist of relocating and constructing approximately 9120 linear feet of water lines running parallel to and/or crossing FM 2514. All improvements shall be designed to meet or exceed the current City of Parker 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.

DEFINED TERMS:

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- A. Total Cost of the Project: The City estimates that the total cost of the Project will be \$1,710,000.00.
- B. Discretionary Funds: County Discretionary Funds allocated to fund this agreement and Project in an amount not to exceed \$1,342,753.
- C. 2007 Bond Funds: County 2007 Bond Funds allocated to the City of Parker for Project #07-055, McCreary Rd from Parker Rd. to McWhirter Rd. in the amount of \$367,247.00.

The County agrees to loan the City an amount not to exceed \$1,710,000.00 to fund the Project. The funds will come from County's Discretionary Funds and the 2007 Bond Funds.

The City estimates that it will be reimbursed by TxDOT for 100% of the Total Cost of the Project. The City agrees to pay to the County an amount equal of all reimbursements it receives from TxDOT for the Project within thirty (30) days of receiving any Project reimbursement, not to exceed the total of the amount of funds loaned to the City by the County.

The City and County agree that in the event TxDOT does not fully reimburse the City for the Total Cost of the Project, then any non-reimbursable costs will be shared equally up to the total amount of \$734,494.00 or \$367,247.00 by each party. Any non-reimbursable costs exceeding \$734,494.00 will be repaid to the County by the City within ninety days of TxDOT's default in paying reimbursements to the City in compliance with the City's reimbursement agreement with TxDOT.

Subject to the forgoing, (i) the initial advance of the loan proceeds to the City shall be made in an amount not to exceed the City's anticipated costs for engineering, design and easement acquisitions, and shall be made within thirty (30) days after the City issues a notice to proceed to the design engineer and the City requests payment from the County; and (ii) the final advance of the loan proceeds to the City shall be made in an amount not to exceed the lesser of the remaining balance to be loaned to the City or the construction cost for the Project and shall be made within thirty (30) days after the City issues a notice to proceed to the lowest responsible bidder for construction of the Project, and the City requests payment from the County. In no event shall the total loan amount from the County exceed \$1,710,000.00. The "Total Cost of the Project" shall include easement acquisition, engineering, construction, inspection, testing, and construction administration costs including contingencies.

ARTICLE V.

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 VI.

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. Both parties agree that they are each entitled to governmental immunity in its broadest form from all claims and suits, including claims against the other Party.

ARTICLE VII.

INDEMNIFICATION. SUBJECT TO THE IMMUNITIES SET FORTH BELOW IN ARTICLE XII, WHICH ARE NOT WAIVED IN THIS ARTICLE VII, 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 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 the 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 a 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 final acceptance of the Project. This agreement shall automatically renew annually during this period.

APPROVED AS TO FORM:


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

ATTEST:
By: *Patti Scott Grey*
Name: Patti Scott Grey
Title: City Secretary
Date: August 30, 2016


COUNTY OF COLLIN, TEXAS

By: *Keith Self*
Name: Keith Self
Title: County Judge
Date: 9/30/16
Executed on this 30th day of September
2016, by the County of Collin,
pursuant to Commissioners Court
Order No. 2016-753-09-20.

APPROVED AS TO FORM:

By: 
Name: James E. Shepherd
Title: Parker City Attorney

CITY OF PARKER, TEXAS

By: 
Name: Z Marshall
Title: Mayor
Date: _____
Executed on behalf of the City of Parker
Date: August 30, 2016
Pursuant to City Council
Resolution No. _____