

**INTERLOCAL AGREEMENT BETWEEN COLLIN COUNTY,
THE CITY OF ALLEN AND THE TOWN OF FAIRVIEW CONCERNING THE CONSTRUCTION OF
STACY RD FROM GREENVILLE AVE. (SH 5) TO FM 1378
2007 BOND PROJECT #07-00-25**

WHEREAS, the County of Collin, Texas (the "County"), the City of Allen, Texas ("Allen"), and the Town of Fairview, Texas ("Fairview") (Allen and Fairview herein sometimes collectively referred to as "The Municipalities"), desire to enter into this agreement concerning the construction of improvements to Stacy Rd. from Greenville Ave. (SH 5) to FM 1378 (the "Project") in the City of Allen and Town of Fairview, 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 County, Allen, and Fairview have determined that the improvements related to the Project may be constructed most economically by implementing this Interlocal Agreement (ILA); and

WHEREAS, this ILA shall provide the terms and conditions for the required local match, which will be made available by the County to the Texas Department of Transportation (TxDOT) upon execution of an Advanced Funding Agreement; and

WHEREAS, the parties hereto have investigated and determined that is in the best interest of each of their respective jurisdictions to enter into this ILA.

NOW, THEREFORE, this ILA is made and entered into by and between the County, Allen, and Fairview upon and for the mutual consideration stated herein, the receipt and sufficiency of which is hereby acknowledged:

WITNESSETH:

ARTICLE I.

The Project shall consist of widening Stacy Rd (FM 2786) from Greenville Ave. (SH 5) to FM 1378 from 2 lanes to 4 lanes and will be administered entirely by TxDOT, since the Project is on the State System of Roads, and shall remain as such (FM 2786) for the foreseeable future.

ARTICLE II.

TxDOT estimates the local construction participation for the Project at \$3,000,000 ("Local Match"). The County, Allen and Fairview shall share this cost as follows:

- Allen shall be responsible for a payment of \$860,000 toward the local match.
- Fairview shall be responsible for a payment of \$640,000 toward the local match.
- The County shall be responsible for a payment of \$1,500,000 toward the local match, comprised of the following:
 - \$650,000 in 2007 Collin County Bond Proceeds
 - \$360,000 in 2007 Collin County Bond Proceeds (Town of Fairview Bond Project #07-016, Stacy Rd from FM 1378 to Ashcroft).
 - \$490,000 in 2007 Collin County Bond Proceeds (City of Allen Bond Project #07-006)

ARTICLE III.

TxDOT estimates the total cost of the Project to be \$20,000,000. The County agrees to fund one half of the Local Match of the Project in an amount not to exceed \$1,500,000. The County shall remit 100 percent of the Local Match amount of \$3,000,000 to TxDOT within the timeframe stipulated by that certain advanced funding agreement between the County and TxDOT for the Project. Fairview and Allen shall each remit their respective payments to

the County within thirty (30) days after the County and TxDOT execute an advanced funding agreement, committing the County to payment of the entire Local Match, and within thirty (30) days of receipt of formal invoice, whichever occurs later. The "total cost of the Project" includes land acquisition, engineering, construction, inspection, testing, and construction administration costs including contingencies.

ARTICLE IV.

The County's participation in the Project shall not exceed \$1,500,000. Except for right-of-way costs incurred by the Municipalities, by separate agreement between TxDOT and the Municipalities, Allen's participation shall not exceed \$860,000 and Fairview's participation shall not exceed \$640,000.

ARTICLE V.

The Municipalities 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 ILA, 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 ILA.

ARTICLE VII.

VENUE. The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this ILA. The parties agree that this ILA is performable in Collin County, Texas and that exclusive venue shall lie in Collin County, Texas.

ARTICLE VIII.

SEVERABILITY. The provisions of this ILA are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this ILA 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 ILA shall be enforced as if the invalid provision had never been included.

ARTICLE IX.

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

ARTICLE X.

SUCCESSORS AND ASSIGNS. This ILA shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns. None of the parties will assign or transfer an interest in this ILA without the written consent of the other parties.

ARTICLE XI.

IMMUNITY. It is expressly understood and agreed that, in the execution of this ILA, none of the parties waive, 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 ILA, the parties do not create any obligations, express or implied, other than those set forth herein, and this ILA shall not create any rights in parties not signatories hereto.

ARTICLE XII.

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

APPROVED AS TO FORM:

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

COUNTY OF COLLIN, TEXAS

By: _____
Name: Keith Self
Title: County Judge
Date: _____
Executed on this _____ day of _____,
2013, by the County of Collin,
pursuant to Commissioners' Court
Order No. _____.

ATTEST:

By: Shelley B. George
Name: Shelley B. George
Title: City Secretary
Date: 11-13-13

CITY OF ALLEN, TEXAS

By: Peter H. Vargas
Name: Peter H. Vargas
Title: City Manager
Date: 11-13-13
Executed on behalf of the City of
Allen pursuant to City Council
Resolution No. 3186-11-13(R)

APPROVED AS TO FORM:

By: Peter G. Smith
Name: Peter G. Smith
Title: City Attorney
Date: 11-12-13

ATTEST:

By: Michelle Lewis Sirianni
Name: Michelle Lewis Sirianni
Title: Town Secretary
Date: 11-5-13

TOWN OF FAIRVIEW, TEXAS

By: Julie Couch
Name: Julie Couch
Title: Town Manager
Date: 11-6-13
Executed on behalf of the Town of
Fairview pursuant to Town Council

APPROVED AS TO FORM:

By: Clark McCoy
Name: Clark McCoy
Title: Town Attorney
Date: 11-5-13