

**INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF MELISSA
CONCERNING THE PRELIMINARY DESIGN OF
DAVIS RD FROM US 75 TO FM 543
NEW 2007 BOND PROJECT # 07-00-65**

WHEREAS, the County of Collin, Texas (“County”) and the City of Melissa, Texas (“City”) desire to enter into this agreement (“Agreement”) concerning the preliminary design of Davis Rd (from US 75 to FM 543) (“Project”) in Melissa, 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 City and County have determined that the improvements may be constructed most economically by implementing this Agreement; and

WHEREAS, the City of Melissa wishes to reallocate \$50,000 in funding from their 2007 Bond Project #07-052, Fannin Rd. from Melissa Rd to SH 121, to this Davis Road Project; and

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 Project shall consist of preparing a preliminary design schematic for the ultimate 6-lane divided roadway for 7,300 linear feet of Davis Rd from US 75 to FM 543. All improvements shall be designed to meet or exceed Collin County design standards and shall be constructed in accordance with the plans and specifications approved by the City.

ARTICLE II.

The City shall prepare preliminary design schematic plans to build consensus between the County, the City and the City of McKinney regarding the future connection of Davis Road in the City’s jurisdiction to FM543 in the City of McKinney’s jurisdiction. The preliminary schematic design shall be used to facilitate acquisition of right of way for the project as development occurs in the City’s jurisdiction.

ARTICLE III.

The City estimates the total actual cost of the Project to be \$100,000 (“Estimated Project Cost”). The County agrees to participate in the Project by allocating **\$50,000** from the 2016 Bond sale proceeds for the 2007 Bond Project #07-052, Fannin Road from Melissa Rd. to SH 121. The County shall remit this funding to the City within thirty (30) days after the City issues a Notice to Proceed to the design engineer and the City submits a written request for payment to the County or upon the availability of bond funds for this Project, whichever occurs later.

If the actual cost of the Project (“Actual Project Cost”) is less than the Estimated Project Cost, and the County has participated up to fifty percent (50%) of the Estimated Project Cost, then the City shall reimburse the County in an amount equal to fifty percent (50%) of the difference between the Estimated Project Cost and the Actual Project Cost. The County Commissioners Court may revise this payment schedule based on the progress of the Project. As used herein, the term “Actual Project Cost” shall include preliminary engineering.

ARTICLE V.

The County’s participation in the Project shall not exceed **\$50,000**.

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.

[Signature page follows.]

APPROVED AS TO FORM:

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

COUNTY OF COLLIN, TEXAS

By: Keith Self
Name: Keith Self
Title: County Judge
Date: 10/25/16
Executed on this 25th day of October
2016, by the County of Collin,
pursuant to Commissioners' Court
Order No. 2016-809-10-24.

ATTEST:

By: Linda Bannister
Name: Linda Bannister
Title: City Secretary
Date: 8/11/16

CITY OF MELISSA, TEXAS

By: Jason Little
Name: Jason Little
Title: City Manager
Date: 8/11/16
Executed on behalf of the City of
Melissa pursuant to City Council
Resolution No. 16-37

APPROVED AS TO FORM:

By: Ryan D. Little
Name: _____
Title: City Attorney
Date: 8/15/16

