

**INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF MELISSA
CONCERNING THE DESIGN AND CONSTRUCTION OF
MELISSA RD FROM SH 5 TO SH 121
2007 BOND PROJECT # 07-049; 2020 FUNDING**

WHEREAS, the County of Collin, Texas ("County") and the City of Melissa, Texas ("City") desire to enter into this agreement ("Agreement") concerning the improvements to Melissa Rd (from SH 5 to SH 121) ("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, after various reallocations of funds from the City of Melissa Bond Project #07-049 to other projects in the 2007 Bond Program, the current balance for project #07-049 is \$353,880.00; and

WHEREAS, the City has completed construction for 2007 Bond Project #07-050, Throckmorton Rd., utilizing \$4,325,000.00 of the funds allocated to the project, leaving a balance of \$525,000.00; and

WHEREAS, the City has refunded the County \$525,000.00 leftover from the Throckmorton Rd Project; and

WHEREAS, the City has completed construction for 2007 Bond Project #07-051, Davis Rd., utilizing \$2,250,000.00 of the funds allocated to the project, leaving a balance of \$250,000.00; and

WHEREAS, the City has refunded the County \$250,000.00 leftover from the Davis Rd Project; and

WHEREAS, the City has completed construction for 2007 Bond Project #07-052, Fannin Rd., utilizing \$1,350,000.00 of the funds allocated to the project, leaving a balance of \$150,000.00; and

WHEREAS, the City has refunded the County \$150,000.00 leftover from the Fannin Rd Project; and

WHEREAS, the County has an additional \$230,000.00 for 2007 Bond Project #07-052, Fannin Rd. that was not distributed to the City; and

WHEREAS, the City is requesting additional funding, in the amount of \$1,155,000.00, to be used for Bond Project #07-049 Melissa Rd from SH 5 to SH 121, resulting in a total balance of \$1,508,880.00; 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 City shall arrange to design, acquire Right of Way and construct the Project. The Project shall consist of constructing a five and six lane undivided urban roadway from SH 5 to SH 121. 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 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 shall also acquire real property in the vicinity of the improvements for use as right-of-way in connection with the Project.

ARTICLE IV.

The City estimates the total actual cost of the Project to be \$6,500,000 ("Estimated Project Cost"). The County agrees to participate in the Project by allocating **\$1,508,880** from the 2016 Bond Sale. The County shall remit fifty percent (50%) of this amount, \$754,440 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. The County shall remit the remaining fifty percent (50%) (i) within thirty (30) days after the City issues a Notice to Proceed to the lowest responsible bidder and the City submits a written request for payment to the County; or (ii) upon the availability of bond funds for this Project, whichever occurs later.

If the actual cost to construct 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 land acquisition, engineering, construction, inspection, testing, street lighting, and construction administration costs including contingencies.

ARTICLE V.

The County's participation in the Project shall not exceed **\$1,508,880**.

ARTICLE VI.

The City shall install a **project sign** identifying the Project as being partially funded by the Collin County 2007 Bond Program. The City shall also provide **quarterly progress reports throughout the Project as well as before, during and after photos** during the construction process, in electronic format or via US mail to the Collin County Engineering Department. Following completion of the Project, the City shall provide an **itemized final accounting of expenditures** for the Project.

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: 
Name: Chris Hill
Title: County Judge
Date: 14 SEPTEMBER
Executed on this 14 day of SEP,
2020, by the County of Collin,
pursuant to Commissioners' Court
Order No. 2020-818-09-14

ATTEST:

By: 
Name: Kacie Galyon
Title: City Secretary
Date: 9/15/2020

CITY OF MELISSA, TEXAS

By: 
Name: Jason Little
Title: City Manager
Date: 9/15/2020
Executed on behalf of the City of
Melissa pursuant to City Council
Resolution No. 20-32 R

APPROVED AS TO FORM:

By: _____
Name: _____
Title: City Attorney
Date: _____

