

**INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF LUCAS
CONCERNING THE CONSTRUCTION OF
WEST LUCAS ROAD
2018 BOND PROJECT # RI18007**

WHEREAS, the County of Collin, Texas (“County”) and the City of Lucas, Texas (“City”) desire to enter into this agreement (“Agreement”) concerning the improvements to West Lucas Road from FM 1378/Country Club Road to FM 2551/Angel Parkway (“Project”) in Lucas, 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 Lucas City Council has requested that Collin County acquire the required additional right-of-way for the project using funds provided by the City of Lucas; and

WHEREAS, the Commissioners Court allocated Eight Million Three Hundred Sixty-Five Thousand One Hundred Eighty Dollars (\$8,365,180.00) from the 2018 Bond Program to the City of Lucas for Project, Collin County Bond Project #RI18007;

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 and construct the Project. The Project shall consist of constructing West Lucas Road as a four-lane divided arterial from FM 1378/Country Club Road to FM 2551/Angel Parkway. All improvements shall be designed to meet or exceed the City’s roadway design standards and criteria as well as the County’s 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 statutory requirements applicable to a municipal public work project. The City shall provide the County with a copy of the executed design and construction contract(s) for the Project. Changes to the Project, other than what was submitted for the initial project ranking or which alter the initial funding set forth in Article IV, must be reviewed and approved by Collin County.

ARTICLE III.

Real property or easements shall be acquired to protect the width of one hundred twenty feet (120’) in connection with the full length of the Project. The City requests and authorizes Collin County to acquire this land by all means necessary at the discretion of Collin County, including the use of eminent domain. The City will provide all survey parcel documents and any drainage or slope easements required and set monuments on all corners and points of intersection. The County recognizes that the City prefers the acquisition of easements rather than fee simple title. The City will provide to the County \$826,000 for right-of-way acquisition and any other costs necessary for the acquisition, such as appraisals, legal expenses, title, etc. If it is determined that more than that

amount is required to acquire land that is necessary for the project, the additional funds required will be deducted from the County participation amount. If it is determined that less than that amount is required to acquire land that is necessary for the project, the additional funds required will be added to the award that the County has made to the City.

ARTICLE IV.

The County agrees to participate in the Project by providing Eight Million Three Hundred Sixty-Five Thousand One Hundred Eighty Dollars (\$8,365,180.00) (the "County Participation Amount") to the performance of the Project. Eight Hundred Twenty-Six Thousand Dollars (\$826,000) of the County Participation Amount will be used by the County to fund the acquisition of right-of-way. The County shall remit fifty percent (50%) of the County Participation Amount 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%) less \$826,000, or any portion thereof, that was used by the County to acquire right-of-way of the County Participation Amount to the City within thirty (30) days after the City receives bids for the construction of the Project and the City submits a written request for payment to the County. The County Commissioners Court may revise this payment schedule based on the progress of the Project. If the payment schedule is revised and that revision results in the City facing the potential of incurring an unfunded debt in violation of the Texas Constitution the City, in its sole discretion, shall be free from any obligation or commitment to continue working on or complete the Project until the next installment of the County Participation Amount is paid to City.

If the actual cost to design and construct the Project is less than the County Participation Amount, then the City shall reimburse to the County an amount equal to the difference between the County Participation Amount and the actual project cost. The City shall remit any such reimbursement to the County following City's final acceptance of the Project and along with an itemized final accounting of expenditures for the Project.

ARTICLE V.

The County's participation in the Project shall not exceed Eight Million Three Hundred Sixty-Five Thousand One Hundred Eighty Dollars (\$8,365,180.00).

ARTICLE VI.

The City shall install a **project sign** identifying the Project as being partially funded by the Collin County 2018 Bond Programs. 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.

NO WAIVER OF IMMUNITY OR DEFENSE. No party, by execution of this Agreement, waives nor shall be deemed to have waived, any immunity or defense that would otherwise be available to it.

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.

EXPENSES FOR ENFORCEMENT. In the event either Party hereto is required to employ an attorney to enforce the provisions of this Agreement or is required to commence legal proceedings to enforce the provisions hereof, the prevailing Party shall be entitled to recover from the other, reasonable attorney's fees and court costs incurred in connection with such enforcement, including collection.

ARTICLE XV.

FORCE MAJEURE. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including, without limitation: acts of God; flood, fire or explosion; war, invasion, riot or other civil unrest; actions, embargoes or blockades in effect on or after the date of this Agreement; or national or regional emergency (each of the foregoing, a "Force Majeure Event"). A party whose performance is affected by a Force Majeure Event shall give notice to the other party, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

ARTICLE XVI.

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.]

COUNTY OF COLLIN, TEXAS


By: 
Name: Chris Hill
Title: County Judge
Date: December 7, 2020

Executed on this 7th day of December
2020 by the County of Collin,
pursuant to Commissioners' Court
Order No. 2020-1185-12-07.

ATTEST:

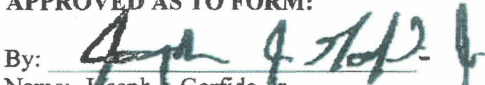
By: 
Name: Stacy Henderson
Title: City Secretary
Date: 11-5-2020

CITY OF LUCAS, TEXAS

By: 
Name: Jim Olk
Title: Mayor
Date: 11-5-2020

Executed on behalf of the City of
Lucas pursuant to City Council
Resolution No. 2020-11-00502

APPROVED AS TO FORM:

By: 
Name: Joseph F. Gorfida, Jr.
Title: City Attorney
Date: 11-6-2020