

## INTERLOCAL AGREEMENT REGARDING ROADWAY MAINTENANCE

This Interlocal Agreement Regarding Roadway Maintenance (the “Agreement”) is made and entered into as of \_\_\_\_\_, 2023 (the “Effective Date”), by and between the Collin County, Texas, acting by and through its Commissioners Court (the “County”), and Van Alstyne Municipal Utility District No. 3 (the “District”), a conservation and reclamation district created pursuant to Article XVI, Section 59, and Article III, Section 52, Texas Constitution, and operating pursuant to Chapters 49 and 54, Texas Water Code, as amended (each a “Party,” and collectively, the “Parties”).

### RECITALS

WHEREAS, the County is a local government as defined by Chapter 791 of the Texas Government Code (the “Act”), and as such is lawfully permitted to enter into an interlocal agreement; and

WHEREAS, the District is a political subdivision of the State of Texas that provides water, sanitary sewer, drainage, roads and other facilities and services within the boundaries of the District, is a local government as defined by the Act, and as such is lawfully permitted to enter into an interlocal agreement; and

WHEREAS, the County desires the District to conduct all maintenance and repairs of all roadways located within the boundaries of the District and that certain portion of the roadway depicted in Exhibit “A” attached hereto located outside the boundaries of the District and within the County (collectively, the “Roadways”), on the County’s behalf; and

WHEREAS, the District desires to conduct all maintenance and repairs of the Roadways on the County’s behalf; and

NOW THEREFORE, in consideration of the mutual promises, obligations, and benefits contained herein, the County and the District agree as follows:

### **ARTICLE I. SCOPE OF MAINTENANCE**

**1.1 Roadway Maintenance.** Subject to the terms and provisions of this Agreement, the District will perform or cause to be performed all maintenance and repairs, as necessary and at the sole discretion of the District, of the Roadways. The District assumes all responsibility for maintenance and/or repairs of the Roadways, and shall have no responsibility for the maintenance and/or repairs of any additional roadways located outside the boundaries of the District, except for that certain portion of the roadway depicted in Exhibit “A” attached hereto.

**1.2 District's Obligation to Provide Services.** The District agrees to continuously maintain the Roadways at its sole cost and expense in a functional condition. All costs associated with maintaining the Roadways will be the sole responsibility of the District.

## **ARTICLE II. REGULATORY REQUIREMENTS**

**2.1 Applicable Laws and Regulations.** This Agreement is subject to all applicable federal, state, and local laws and any applicable ordinances, rules, orders, and regulations of any federal governmental authority having jurisdiction. This Agreement is specifically subject to all applicable sections of the Texas Water Code and the Texas Local Government Code.

**2.2 Cooperation.** The Parties agree to cooperate with each other in pursuing all permits and approvals that any Party determines to be necessary or desirable from the Texas Department of Transportation and to comply with all applicable laws, rules, and regulations.

## **ARTICLE III. TERM AND TERMINATION**

**3.1 Term.** This Agreement shall be effective as of the Effective Date and shall continue in effect thereafter until the termination of this Agreement pursuant to Section 3.2.

**3.2 Termination.** It is understood and agreed between the Parties hereto that should the District fail to properly fulfill its obligations as herein outlined, the County may terminate this Agreement upon thirty (30) days' written notice. As a condition precedent to this forcible termination, however, the County shall provide the District with written notice of the alleged deficiency, after which the District shall have thirty (30) days (the "Cure Period") to correct the deficiency. If the deficiency is not corrected during the Cure Period, the County may terminate this Agreement pursuant to the procedure defined herein. It is further understood and agreed between the Parties hereto that the District may terminate this Agreement only by mutual agreement and consent of both Parties.

## **ARTICLE IV. MISCELLANEOUS**

**4.1 Remedies Upon Default.** It is not intended hereby to specify (and this Agreement shall not be considered as specifying) an exclusive remedy for any default, but all such other remedies existing at law or in equity may be availed of by any Party and shall be cumulative. Recognizing, however, that each Party's undertakings herein are obligations, failure in the performance of which cannot be adequately compensated in money damages alone, each Party agrees, in the event of any default on its part, that the other Party shall have available to them the equitable remedy of specific performance in addition to any other legal or equitable remedy that may also be available to them.

Notwithstanding any provision to the contrary contained in this Agreement, in no event

shall either Party be liable for any special, punitive, indirect, and/or consequential damages, including damages attributable to loss of use, loss of income, or loss of profit even if such Party has been advised of the possibility of such damages.

**4.2 Limited Waiver of Immunity.** It is understood that by execution of this Agreement the Parties do not waive or surrender any of their governmental powers, immunities, or rights. The Parties waive their respective governmental immunity from suit and liability only as to any action brought by the other Party to pursue the remedies available under this Agreement and only to the extent necessary to pursue such remedies. Nothing in this Section shall waive any claims, defenses, or immunities that the Parties have with respect to suits against each Party by persons or entities not a party to this Agreement.

**4.3 Additional Insured on Liability Insurance.** The District shall procure and maintain liability insurance that covers its roadwork and claims by the public with regard to the roads, and such insurance shall name the County as an additional insured. The insurance must have coverage of at least \$100,000 per person and \$300,000 per accident.

**4.4 No Additional Waiver Implied.** No waiver or waivers of any breach or default (or any breaches or defaults) by any Party hereto of any term, covenant, condition, or liability hereunder, or of performance by any other Party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstances.

**4.5 Notice.** Unless otherwise provided for in this Agreement, any notice, communications, request, reply, or advice (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made, or accepted by any Party to another Party must be in writing and may be given or be served by depositing the same in the U.S. mail postpaid and registered or certified and addressed to the Party to be notified, with return receipt requested, or by delivering the same to an officer of such Party addressed to the Party to be notified. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective, unless otherwise is stated in this Agreement, from and after the expiration of four (4) days after it is so deposited. Notice given in any other manner shall be effective only if and when received by the Party notified. For the purposes of Notice, the addresses of the Parties, until and unless changed as hereinafter provided, shall be as follows:

If to the District:

Van Alstyne Municipal Utility District No. 3  
c/o Coats Rose, P.C.  
16000 North Dallas Parkway, Suite 350  
Dallas, Texas 75248  
Attn: Mindy L. Koehne

If to the County:

Collin County Public Works  
700A Wilmeth Road

McKinney, Texas 75069  
Attn: Jon Kleinheksel

Collin County Administrator  
2300 Bloomdale, #4192  
McKinney, TX 75071  
Attn: Bill Bilyeu

Collin County Purchasing Department  
2300 Bloomdale, #3160  
McKinney, TX 75071

The Parties shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least fifteen (15) days written notice to the other Party.

**4.6 Modification.** This Agreement shall be subject to change(s) or modification(s) only with the mutual consent of the governing bodies of each Party hereto.

**4.7 Assignability.** This Agreement shall not be assignable by any Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

**4.8 Severability.** If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

**4.9 Captions.** The captions appearing at the first of each numbered article and section in this Agreement are inserted and included solely for convenience and shall never be considered or given effect in construing this Agreement, or any provision thereof, or in connection with the duties, obligations, or liabilities of the respective Parties hereto or in ascertaining intent, if any question of intent should arise.

**4.10 Governing Law.** This Agreement is performable in Collin County, Texas and shall be governed by and construed in accordance with the laws of the State of Texas. Venue shall be in Collin County, Texas.

**4.11 Expenses for Enforcement.** In the event either party hereto is required to employ an attorney to enforce the provisions of this agreement or 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.

**4.12 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.

[SIGNATURE PAGES TO FOLLOW]

EXECUTED on the 14<sup>th</sup> day of September, 2023, to be effective as of the Effective Date.

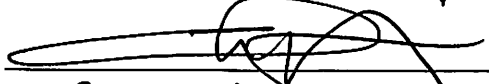
**VAN ALSTYNE MUNICIPAL UTILITY  
DISTRICT NO. 3**

By: Julia Peterson  
Name: Julia Peterson  
Title: President

ATTEST:

By: [Signature]  
Name: Kimberley Henney  
Title: Secretary

**COLLIN COUNTY, TEXAS**

By:   
Name: CHRIS HILL  
Title: COUNTY JUDGE








ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT "A"



**LEGEND**

-  BOUNDARY LINE
-  ADJACENT PARCEL LINE
-  RIGHT-OF-WAY
-  PAVEMENT
-  EX. PRESCRIPTIVE RIGHT-OF-WAY
-  RIGHT-OF-WAY DEDICATION BY OTHERS
-  RIGHT OF WAY DEDICATION BY DEED

RYAN & MISTY NESHBYA  
Inst. 2010230001438130  
C.R.C.C.T

LHB2 LP  
Inst. 20190716000831250  
C.R.C.C.T

SCHWITERS BRIAN & MELINDA  
Inst. 1445410  
C.R.C.C.T

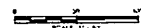
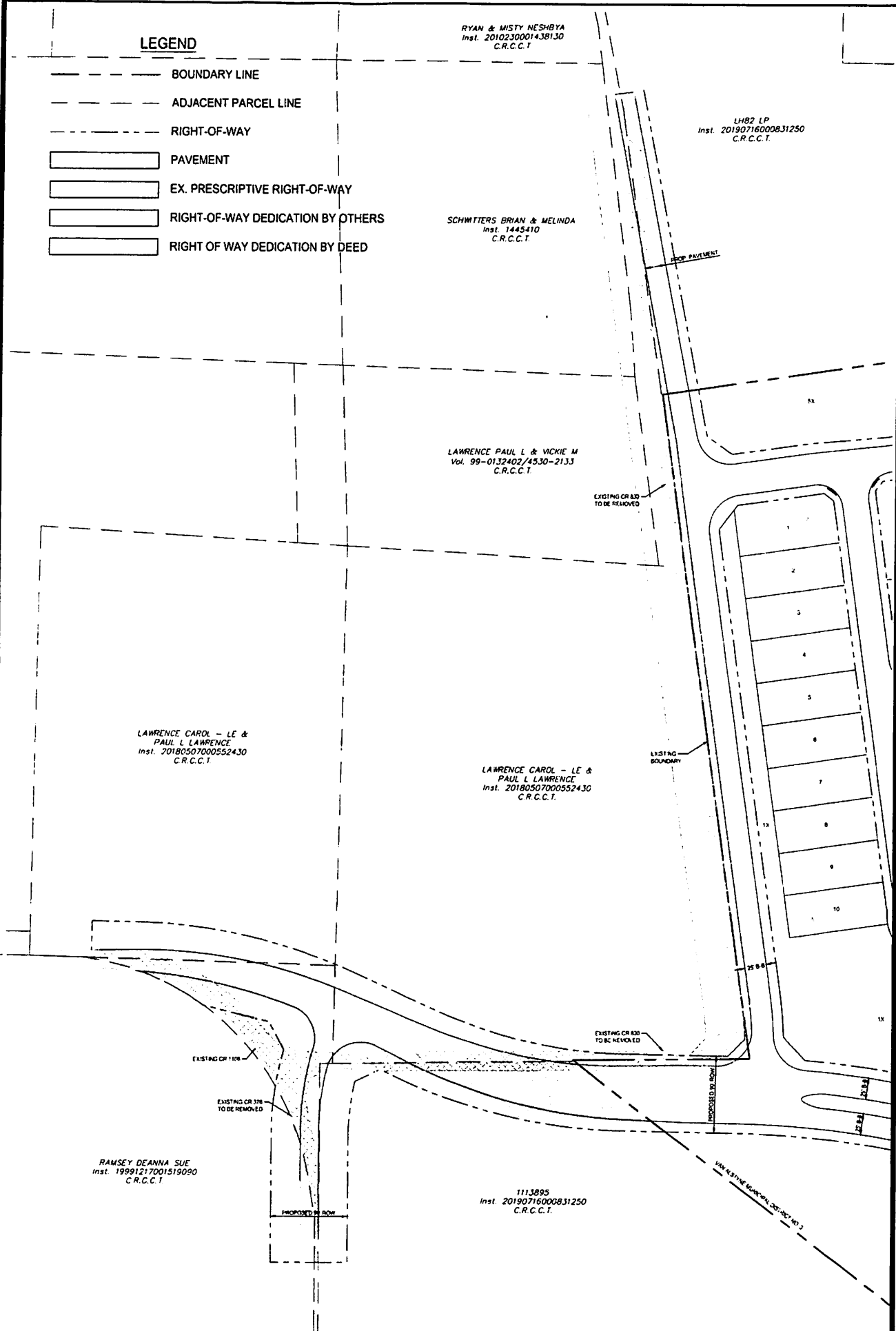
LAWRENCE PAUL L & VICKIE M  
Vol. 99-0132402/4530-2133  
C.R.C.C.T

LAWRENCE CAROL - LE &  
PAUL L LAWRENCE  
Inst. 20180507000552430  
C.R.C.C.T

LAWRENCE CAROL - LE &  
PAUL L LAWRENCE  
Inst. 20180507000552430  
C.R.C.C.T

RAMSEY DEANNA SUE  
Inst. 19991217001519090  
C.R.C.C.T

1113895  
Inst. 20190716000831250  
C.R.C.C.T



DATE PLOTTED: 11/14/2019 10:45:12 AM