

CITY OF ANNA, TEXAS

RESOLUTION NO. 2023-08-1498

**A RESOLUTION OF THE CITY OF ANNA, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF ANNA AND COLLIN COUNTY CONCERNING LEONARD ROAD FROM FOSTER CROSSING TO THE COLLIN COUNTY OUTER LOOP**

**WHEREAS**, the City staff has submitted for Collin County call for projects and was awarded two million five hundred and ninety thousand dollars (\$2,590,000) for the design and construction of Leonard Rd; and,

**WHEREAS**, the interlocal Cooperation Act (Texas Government Code Chapter 791) authorizes any local government to contract with one or more local governments functions and services under the terms of the Act; and,

**WHEREAS**, Leonard Avenue is identified on the master thoroughfare plan.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ANNA, TEXAS, THAT:**

**Section 1. Recitals Incorporated**

The recitals above are incorporated herein as if set forth in full for all purposes.

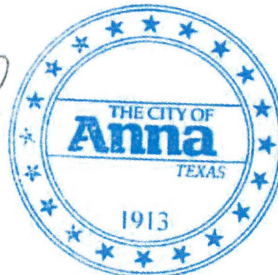
**Section 2. Authorization of Payment and Funding.**

That the City Council of the City of Anna authorizes the City Manager to execute an Interlocal Agreement with Collin County to receive funding for the design and construction of Leonard Rd, the City shall receive up to Two Million Five Hundred and Ninety Thousand Dollars (\$2,590,000) from Collin County for the Project.

**PASSED AND APPROVED** by the City Council of the City of Anna, Texas, on this 8<sup>th</sup> day of ~~July~~ August 2023.

ATTEST:

Carrie L. Land  
City Secretary, Carrie Land



APPROVED:

Nate Pike  
Mayor, Nate Pike

**INTERLOCAL AGREEMENT  
BETWEEN COLLIN COUNTY AND THE CITY OF ANNA  
CONCERNING LEONARD ROAD FROM FOSTER CROSSING TO THE  
COLLIN COUNTY OUTER LOOP  
NEW 2018 BOND PROJECT # RI18031**

**WHEREAS**, the County of Collin, Texas ("County") and the City of Anna, Texas ("City") desire to enter into this agreement ("Agreement") concerning the Leonard Road From Foster Crossing to Collin County Outer Loop Project ("Project") in Anna, 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

**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 the Project. The Project shall consist of designing and constructing Leonard Avenue from the intersection of Foster Crossing Rd. and Leonard Avenue to the Collin County Outer Loop. The design and construction include approximately 1800 linear feet of 4-lane divided roadway arterial divided from Foster Crossing Road to the Collin County Outer Loop. Storm Drainage, Water, and Sanitary Sewer Improvements are part of the project as well. All improvements shall be designed to meet or exceed the City's roadway design standards and criteria 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.**

The City shall also acquire real property in the vicinity of the improvements for use as right-of-way or easements in connection with the Project.

**ARTICLE IV.**

The City estimates the total actual cost of the Project to be Three Million Seven Hundred Thousand Dollars (\$ 3,700,000) ("Estimated Project Cost"). The County agrees to participate in the Project by allocating Two Million Five Hundred-Ninety Thousand Dollars (\$2,590,000) (the "County Participation Amount") to the performance of the Project. 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%) of the County Participation Amount to the City (i) 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, acquire right-of-way for, and construct the Project (collectively the "Actual Project Cost") is less than the Estimated Project Cost, and the County has participated up to Seventy percent (70%) of the total Estimated Project Cost for the 2018 Bond funding, then the City shall reimburse to the County an amount equal to the difference between the Estimated Project Cost and the Actual Project Cost such that the county has only contributed Seventy percent (70%) of 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. As used herein, the terms "Estimated Project Cost" and "Actual Project Cost" may 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 *Two Million Five Hundred-Ninety Thousand Dollars (\$ 2,590,000)*.

#### ARTICLE VI.

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

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.

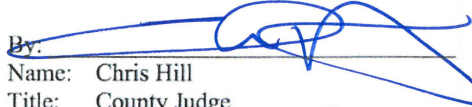
TERM. This Agreement shall be effective upon execution by both parties and shall continue in effect annually until final acceptance of the Project. This Agreement shall automatically renew annually during this period.

*[Signature page follows.]*

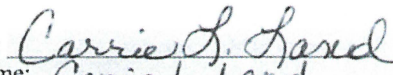
APPROVED AS TO FORM:

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

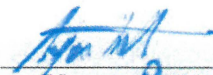
COUNTY OF COLLIN, TEXAS

By:   
Name: Chris Hill  
Title: County Judge  
Date: 1 September 2023  
Executed on this 1<sup>st</sup> day of SEPTEMBER  
2023 by the County of Collin,  
pursuant to Commissioners' Court  
Order No. 2023-756-08:28

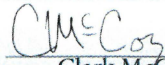
ATTEST:

By:   
Name: Carrie L. Land  
Title: City Secretary  
Date: August 9, 2023

CITY OF Anna, TEXAS

By:   
Name: Ryan Hudson  
Title: City Manager  
Date: 8/9/23  
Executed on behalf of the City of  
Anna pursuant to City Council  
Resolution No. 2023-08-1498

APPROVED AS TO FORM:

By:   
Name: Clark McCoy  
Title: City Attorney  
Date: 08/09/2023