

**INTERLOCAL AGREEMENT  
BETWEEN COLLIN COUNTY AND THE CITY OF MCKINNEY  
CONCERNING COSTS REIMBURSEMENT FOR THE UTILITY RELOCATIONS  
RELATING TO CONSTRUCTION OF THE 380 BYPASS AND SPUR 399 EXTENSION**

**WHEREAS**, the City of McKinney, Texas ("City") must relocate certain utility lines due to the Texas Department of Transportation ("TxDOT") construction of the U.S. 380 Bypass and Spur 399 Extension in McKinney, Collin County, Texas; and

WHEREAS, the construction of the U.S. 380 Bypass and Spur 399 extension in the City is part of a transportation project that serves an important County public purpose by increasing vehicular mobility, lessening congestion, and enhancing the ability to travel; 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 County of Collin, Texas ("County") and the City desire to enter into this interlocal agreement ("Agreement") whereby County agrees to reimburse City for its reasonable costs relating to the relocation of the utility lines (the "Project"), as provided for herein; and

WHEREAS, the Project is an integral component to serving the County's important public purpose as set forth above.

**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 recitals set forth above are incorporated herein and made findings of fact.

The City shall arrange to design and construct the Project. The Project shall consist of the relocation of utility lines necessary for the TxDOT construction of the US 380 Bypass and Spur 399 extension in accordance with the City's and TxDOT's standards and criteria, including program management, engineering, easement acquisition, construction, material testing, and construction inspection services, as further depicted on Exhibit A. All improvements shall be designed to meet the City's and TxDOT's standards and criteria and shall be constructed in accordance with the plans and specifications approved by the City, the County, and TxDOT.

**ARTICLE II.**

The City shall prepare plans and specifications for the designed 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.

### **ARTICLE III.**

The City estimates the total actual cost of the Project to be One Hundred Twenty Million Dollars (\$120,000,000.00) ("Estimated Project Cost"). The County agrees to initially allocate One Hundred Twenty Million Dollars (\$120,000,000.00) (the "County Participation Amount") to the performance of the Project.

At this time, it is anticipated that TxDOT will construct the US 380 Bypass and Spur 399 Extension project in multiple segments. To account for this timeline, County agrees to remit upfront that proportional amount of the County Participation Amount attributable to each segment of the Project to the City within sixty (60) days of the City submitting a written request for payment thereof to the County, the amount being based on the planning estimate for design and construction (the "Estimated Segment Cost"). After each segment is bid and a revised estimate is received (the "Revised Segment Cost"), the City shall reconcile the difference between the Estimated Segment Cost and the Revised Segment Cost by either requesting additional funds from the County, which the County hereby agrees to provide to City within sixty (60) days of the City submitting a written request for payment, provided the County approves the request, which approval shall not be unreasonably delayed or withheld. Or reimbursing the difference should the Revised Segment Cost be less than initially anticipated. During construction of each segment, City shall cover cost overruns; however, County agrees to provide reimbursement to City of said cost overruns, provided the cost overruns are directly related to the approved plans and specifications, when the final accounting for each segment is complete and the County has approved the final accounting, which approval shall not be unreasonably delayed or withheld

If the actual cost to design and construct the Project (collectively the "Actual Project Cost") is less than the Estimated Project Cost, then the City shall reimburse to the County an amount equal to the difference between the Estimated Project Cost and the Actual Project Cost. The City shall remit any such reimbursement to the County following City's final acceptance of the Project along with an itemized final accounting of expenditures for the Project. As used herein, the terms "Estimated Segment Cost," "Revised Segment Cost," "Estimated Project Cost," and "Actual Project Cost" may include program management, engineering, easement acquisition, construction, material testing, and construction inspection services. In addition, should the City receive reimbursement by TxDOT or any other source for those costs outlined herein, City agrees to remit said funds to County within thirty (30) days of receipt.

### **ARTICLE IV.**

County agrees that County's participation in the Project may exceed the County Participation Amount but shall otherwise not exceed One Hundred Fifty Million Dollars (\$150,000,000.00) without further amendment of this Agreement.

### **ARTICLE V.**

The City shall install a project sign identifying the Project as being funded by Collin County. The City shall also provide quarterly progress reports to the County 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.

All requests for payment must be accompanied by documentation supporting the request.

The County reserves the right to withhold any portion of a payment that it deems not to be supported by sufficient documentation, unduly inflated, or not related to the Project. The City will be given the opportunity to provide additional information to meet the County's concerns. Once the County's concerns are met the withheld portion of the payment(s) will be paid.

Any funding found to be used for other than Project purposes must be repaid by the City upon written demand by the County.

#### **ARTICLE VI.**

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 VII.**

**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 VIII.**

**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 IX.**

**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 X.**

**ENTIRE AGREEMENT.** This Agreement embodies the entire agreement between the parties and may only be modified in a writing executed by both parties.

**ARTICLE XI.**

**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 XII.**

**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 XIII.**

**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.

**APPROVED AS TO FORM:**

**COUNTY OF COLLIN, TEXAS**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: Chris Hill


Title: County Judge


Date: \_\_\_\_\_

Executed on this \_\_\_\_ day of \_\_\_\_\_,  
2024, by the County of Collin, pursuant  
to Commissioners' Court Order  
No. \_\_\_\_\_

**ATTEST:**


**CITY OF MCKINNEY, TEXAS**

By:   
Name: \_\_\_\_\_  
Title: City Secretary  
Date: 01-13-2025

By:   
Name: Paul G. Grimes  
Title: City Manager  
Date: 1/12/25

Executed on behalf of the City of  
McKinney pursuant to City Council  
Resolution No. 2024-12-204

**APPROVED AS TO FORM:**

By:   
Name: Alan D. Lathrop  
Title: City Attorney  
Date: 13 January 2025

## **EXHIBIT A**

### **General Location of Improvements**



