

**INTERLOCAL AGREEMENT BETWEEN
THE TOWN OF PROSPER, TEXAS AND THE CITY OF FRISCO, TEXAS
FOR MEDIAN MAINTENANCE AND IMPROVEMENTS ON US HIGHWAY 380 FROM
DENTON COUNTY LINE TO LOVERS LANE**

THIS AGREEMENT ("Agreement") is made and entered into by and between the **TOWN OF PROSPER, TEXAS**, a home-rule municipal corporation, hereinafter referred to as ("Prosper"); and the **CITY OF FRISCO, TEXAS**, a home-rule municipal corporation, hereinafter referred to as ("Frisco").

WHEREAS, the Interlocal Cooperation Act ("Act"), codified at Chapter 791 of the Texas Local Government Code, authorizes units of local government to contract with one or more units of local government to perform governmental functions and services; and

WHEREAS, Prosper and Frisco are political subdivisions of the State of Texas and are engaged in the provision of governmental services for the benefit of their citizens and users; and

WHEREAS, this Agreement is entered into pursuant to the authority, under the provisions of, and in accordance with, the Act for the performance of governmental functions and services; specifically, the Existing Median Maintenance project (as described herein), the Median Improvements project (as described herein) and the Roadway Illumination project (as described herein) (collectively, "Project"); and

WHEREAS, Prosper and Frisco have determined that the Project may be completed and maintained most economically by implementing this Agreement; and

WHEREAS, each of Prosper and Frisco has current funds available to satisfy any fees and costs required pursuant to this Agreement.

NOW, THEREFORE, in consideration of the covenants and conditions contained in this Agreement, Prosper and Frisco agree as follows:

**I.
TERM; TERMINATION**

This Agreement is effective upon the execution and delivery by all parties, and shall continue in effect for a period of one (1) year; provided, however, that the initial term of this Agreement will automatically be extended for successive one-year periods thereafter, unless any party gives written notice to the other parties to the contrary not less than ninety (90) days prior to the expiration of the then-current term. Notwithstanding the foregoing, however, this Agreement may be terminated by any party, with or without cause, and without penalty or prejudice to any other remedy it may be entitled to at law, or in equity or otherwise under this Agreement, by giving the other parties at least ninety

(90) days' prior written notice of the termination date, in which event this Agreement shall terminate as to all parties as of such termination date.

II. ROLES AND RESPONSIBILITIES OF THE PARTIES

A. Existing Median Maintenance

1. Prosper shall maintain the existing median of the US Highway 380 from Denton County Line to Lovers Lane and described in Exhibit 1, including all median and island areas but excluding paved areas intended for vehicular travel, in a functional and aesthetically pleasing condition (collectively, "Existing Median Maintenance"). The Existing Median Maintenance for landscape elements shall include mowing, edging, blowing and trash pickup.
2. Prosper and Frisco have agreed to the proposed maintenance services that will be provided by one or more contractors. Prosper will execute a contract with such contractor(s) in accordance with Prosper purchasing requirements after execution of this Agreement. In the event that Prosper determines additional, "on-demand" work is required in excess of the contract amounts due to seasonal conditions or excess trash, each party will be responsible for their proportionate share of the cost of such work based on linear feet of roadway per Exhibit 1. More particularly, pursuant to calculations based on said Exhibit 1, Prosper will be responsible for 50% and Frisco 50% of the total cost of the proposed maintenance services and any additional, "on demand" work. Prosper will notify Frisco prior to authorizing such "on-demand" work.
3. The cost of future maintenance services will be adjusted in the future and memorialized in an amendment to this Agreement to account for the construction of additional improvements that are anticipated in connection with the Roadway Illumination project and/or the Median Improvement project in the same proportion set forth in Subparagraphs 2 and 3, herein above.
4. Prosper shall designate a program liaison who will manage Existing Median Maintenance Median Maintenance program details and coordinate with Frisco's designated liaisons for Existing Median Maintenance.
5. Frisco shall designate a program liaison who will manage Existing Median Maintenance program details and coordinate with Prosper's designated liaisons for Existing Median Maintenance.

B. Median Landscape Improvements and Maintenance

1. Prosper and Frisco have agreed to the scope of services and Prosper has engaged a landscape architecture firm, hereafter referred to as the "Median Improvement Consultant," to prepare a design for median landscape improvements for US

Highway 380 from Denton County Line to Lovers Lane (collectively, the “Median Improvements”). The Design work has progressed in a collaborative process where each party has reviewed progress sets and made comments as to their desires. The Median Improvement Consultant will also prepare construction documents, specifications and cost estimates suitable for submission to the Texas Department of Transportation (“TxDOT”) and suitable for bidding and constructing the Median Improvement project. Frisco and Prosper will continue to receive progress sets for comments.

2. Prosper shall submit the Median Improvement project to TxDOT to be considered for the TxDOT Green Ribbon Funding Program. Prosper will manage the construction of the Median Improvement project if the project is selected to receive funding from TxDOT. Frisco and Prosper agree to each fund their proportional share of the cost of any items that were mutually agreed to be included in the future design of the Median Improvement project but not funded by TxDOT on the section of US380 from Denton County Line to Lovers Lane. The Median Improvement Consultant will provide quantities and estimates that detail the proportionate costs for Frisco and Prosper.
3. Frisco and Prosper agree that Prosper shall coordinate with service providers for the installation of electrical and water services, and the services shall be designed and placed in mutually acceptable location. Due to site conditions, electrical and/or water service may be located in Frisco or Prosper but in no case will there be a cross connection between municipal water systems.
4. Prosper shall engage the Median Improvement Consultant and manage the design contract and TxDOT submittal for the Median Improvement project. In the event that TxDOT does not manage the construction of the Median Improvement project, Prosper shall manage such construction. All construction and improvements in connection with the Median Improvement project shall be designed to meet or exceed the current TxDOT design standards and shall be constructed in accordance with the plans and specifications approved by Frisco and Prosper.
5. Frisco and Prosper agree that Prosper shall provide long-term maintenance of all improvements and landscaping within the median of the roadway that is located along US Highway 380 from the Denton County Line to Lovers Lane and shown in Exhibit 1, including all median and island areas but excluding paved areas intended for vehicular travel, in a reasonably timely manner. Landscape maintenance shall include but not be limited to plant maintenance, plant replacement, mowing and trimming, applications of herbicides and pesticides, hardscape element maintenance and irrigation system operation, maintenance and cost of irrigation water. All landscape elements will be maintained in a functional and aesthetically pleasing condition.

7. Prosper and Frisco shall designate a program liaison who will manage program details and coordinate with the respective designated liaisons during the design process and all maintenance activities.
8. Frisco and Prosper agree to each fund its proportional share of long-term maintenance costs associated with the Median Improvements. Per Exhibit 1, the proportionate share cost will be Frisco 50% and Prosper 50% of the maintenance cost associated for the area between US Highway 380 from Denton County Line to Lovers Lane.
9. All utility costs will be split proportionally based on Exhibit 1. The proportional utility cost will be Frisco 50% and Prosper 50% of the costs associated with for the area between US Highway 380 from Denton County Line to Lovers Lane.

C. Roadway Illumination and Maintenance

1. Frisco and Prosper agree to the scope of services for roadway illumination. Frisco and Prosper mutually agree that it will be beneficial to each for roadway illumination to be installed and maintained along a portion of US Highway 380 from Denton County Line to Lovers Lane referenced in Exhibit 2 (collectively, "Roadway Illumination") prior to the installation of the Median Improvements as contemplated in Section II (B) above. Frisco and Prosper shall provide reasonably adequate staff resources to ensure that the Roadway Illumination project is designed and constructed. It is anticipated that work will be finished _____.
2. Frisco shall manage the bidding and construction of the Roadway Illumination. All construction and improvements in connection with the Roadway Illumination project shall be designed to meet or exceed the current TxDOT design standards and shall be constructed in accordance with the plans and specifications approved by the parties.
3. The Roadway Illumination fixtures, poles and other improvements (collectively, the "Illumination Improvements") shall be as mutually approved by Frisco and Prosper, such approval not to be unreasonably withheld, conditioned or delayed. The parties agree that electrical service to the Illumination Improvements shall be placed in a mutually acceptable location and that, due to site conditions, electrical service may be located in either or both of the cities.
4. Prosper and Frisco agree that Frisco shall provide long-term maintenance of the Illumination Improvements in a reasonably timely manner to ensure that that the Roadway Illumination remains operational on the section of US380 from Denton County Line to Lovers Lane. This maintenance shall include but not be limited to trouble shooting outages; replacing bulbs, fixtures or poles; providing on-call services for repairs; and responding to accidents that cause damage to the Illumination Improvements. Subject to any reductions for recovery of costs pursuant to Subparagraph 6, herein below, Prosper will reimburse Frisco as

provided in Article III for Frisco's costs associated with the long-term maintenance of the Illumination Improvements.

5. Frisco and Prosper shall use reasonable efforts to seek reimbursement from the responsible party, if known, and/or the responsible party's insurance for all damages to the Illumination Improvements resulting from an accident occurring in the cities' respective city limits. In the event that Frisco or Prosper is unable to recover the full cost of replacement or repair from the responsible party and/or the responsible party's insurance, the cost of replacement or repair shall be equally shared by Prosper, on the one hand, and the city in which the accident occurred, on the other.
6. When the Illumination Improvements require replacement as the end of their respective life cycles, as determined by Frisco in its sole discretion, Frisco shall replace such Illumination Improvements and Prosper will reimburse Frisco for one-half of the costs of the same.

III. CONSIDERATION

A. Roadway Illumination and Maintenance

1. Pursuant to the terms of that certain Advanced Funding Agreement For Highway Safety Improvement Program Project between Frisco and TxDOT, Frisco will receive funding from TxDOT in the amount of _____ and No/100 Dollars (\$_____) as shown in Exhibit 3.
2. Frisco and Prosper agree to each fund its proportional share of costs in the event that the cost of Illumination Improvements exceed the funding provided in the Agreement. The proportionate share cost will be Frisco 50% and Prosper 50% for the area between US Highway 380 from Denton County Line to Lovers Lane.
3. In consideration for Frisco's obligations herein, Frisco shall submit to Prosper monthly itemized invoices of all expenses incurred by Frisco during the prior thirty (30) day period. Payments are due within thirty (30) days after receipt.
4. In consideration for Prosper's obligations herein, Prosper shall submit to Frisco monthly itemized invoices of all expenses incurred by Frisco during the prior thirty (30) day period. Payments are due within thirty (30) days after receipt.

B. Roadway Illumination Removal

1. Frisco and Prosper agree that, in the event TxDOT requires some or all of the Illumination Improvements to be removed prior to ten years from the execution of this agreement along US Highway 380 from Denton County Line to Lovers Lane shown in Exhibit 2, Frisco and Prosper will determine a mutually acceptable salvage value to be paid by the

party taking possession of the poles. If the removal occurs after ten years from the execution of this Agreement, Frisco shall remove and take possession of such Illumination Improvements for which it is responsible to provide maintenance services.

All costs incurred by any party as a result of its obligations under this Agreement shall be paid only from current revenues legally available to the paying party. The obligation of a party to pay an invoice within thirty (30) days of receipt of each invoice shall apply, unless supporting receipts or other supporting documentation have been requested by a party to whom an invoice is submitted, in which case the party to whom an invoice is submitted shall pay the invoice as soon after receiving the supporting receipts or documentation as is reasonable; or unless a dispute arises as to any charge(s) contained in the invoice, in which case the party to whom an invoice is submitted shall pay the undisputed amount of the invoice within thirty (30) days of receipt and shall pay the remaining amount, if any, of the invoice after resolution of the dispute as soon after resolution as is reasonable. Notwithstanding anything to the contrary herein, a party to whom an invoice is submitted shall not be required to pay any invoice submitted by the party submitting the invoice if the party submitting the invoice is in breach of this Agreement.

The parties acknowledge and agree that the continuation of this Agreement after the close of any given fiscal year of a party shall be subject to approval by each party's governing body. In the event that a party's governing body does not approve the appropriation of funds required to be paid under this Agreement, this Agreement shall terminate at the end of the fiscal year for which funds were appropriated, and the parties shall have no further obligations hereunder, but the party responsible for payment shall be obligated to pay all charges incurred by the party to whom payment must be made through the end of that fiscal year provided that the party to whom payment must be made is not in breach of this Agreement.

IV. RELEASE AND HOLD HARMLESS

TO THE EXTENT ALLOWED BY LAW, AND WITHOUT WAIVING GOVERNMENTAL OR SOVEREIGN IMMUNITY, 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.

THIS INDEMNIFICATION CLAUSE IS VALID ONLY TO THE EXTENT PERMITTED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS, PARTICULARLY

SECTION 7 OF ARTICLE XI OF THE TEXAS CONSTITUTION, AND WITH THE MUTUAL UNDERSTANDING THAT THE PARTIES ARE POLITICAL SUBDIVISIONS OF THE STATE OF TEXAS AND THAT THIS EXECUTORY INDEMNITY OBLIGATION CANNOT BE PAID FROM CURRENT REVENUES AND THAT NO TAX NOR INTEREST AND SINKING FUND HAS BEEN SET, ADOPTED OR ESTABLISHED FOR THE PAYMENT OF THIS EXECUTORY INDEMNITY OBLIGATION.

**V.
INDEPENDENT CONTRACTOR**

Each party covenants and agrees that each party is an independent contractor of the other parties and not an officer, agent, servant or employee of any other party and that nothing herein shall be construed as creating a partnership or joint enterprise between any party.

**VI.
NOTICE**

Any notice provided under this Agreement shall be delivered by mail or personal service to the parties named below:

Frisco Representative:

City of Frisco
Attn: _____
6101 Frisco Square Blvd.
Frisco, Texas 75034

Prosper Representative:

Town of Prosper
Attn: _____

**VII.
AUTHORITY TO SIGN/CITY COUNCIL AUTHORIZATION**

The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto. Prosper has executed this Agreement pursuant to duly authorized action of the Prosper Town Council on _____. Frisco has executed this Agreement pursuant to duly authorized action of the Frisco City Council on _____.

_____. Each of the parties shall provide written documentation evidencing the grant of approval by its respective governing body.

VIII. 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 to be contrary to the law or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Agreement. However, upon the occurrence of such event, any party may terminate this agreement by giving the other parties thirty (30) days written notice.

IX. VENUE

This Agreement and any of its terms or provisions, as well as the rights and duties of the parties hereto, shall be governed by the laws of the State of Texas. The parties agree that this Agreement shall be enforceable in Collin County, Texas, and if legal action is necessary, exclusive venue shall lie in Collin County, Texas.

X. INTERPRETATION OF AGREEMENT

Although this Agreement is drafted by Prosper, this is a negotiated document. Should any part of this Agreement be in dispute, the parties agree that the Agreement shall not be construed more favorably for any party.

XI. REMEDIES

No right or remedy granted herein or reserved to the parties is exclusive of any right or remedy granted by law or equity; but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this Agreement may be waived without the express written consent of the parties. It is further agreed that one (1) or more instances of forbearance by any party in the exercise of its respective rights under this Agreement shall in no way constitute a waiver thereof.

XII. SUCCESSORS AND ASSIGNS

The parties each bind themselves, their respective successors, executors, administrators and assigns to the other parties to this Agreement. No party will assign, sublet, subcontract or transfer any interest in this Agreement without the prior written consent of the other parties. No assignment, delegation of duties or subcontract under this Agreement will be effective without the written consent of all parties.

**XIII.
IMMUNITY**

It is expressly understood and agreed that, in the execution and performance of this Agreement, no 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.

**XIV.
MULTIPLE COUNTERPARTS**

This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. An electronic mail and/or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other party.

**XV.
ENTIRE AGREEMENT**

This Agreement embodies the entire agreement between the parties with respect to the subject matter hereof and may only be modified in a writing executed by all parties.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Agreement by signing below:

CITY OF FRISCO, TEXAS

By: _____
Wesley S. Pierson, City Manager
Date: _____

APPROVED AS TO FORM:

Abernathy Roeder Boyd & Hullett P.C.
Ryan D. Pittman, City Attorneys

ACKNOWLEDGEMENT

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on this the ____ day of _____, 2022 by Wesley S. Pierson, City Manager of the **CITY OF FRISCO**.

Notary Public, State of Texas

TOWN OF PROSPER, TEXAS

By: _____
Printed Name: _____
Title: _____
Date: _____

APPROVED AS TO FORM:

Terrence Welch, Town Attorney

ACKNOWLEDGEMENT

STATE OF TEXAS §

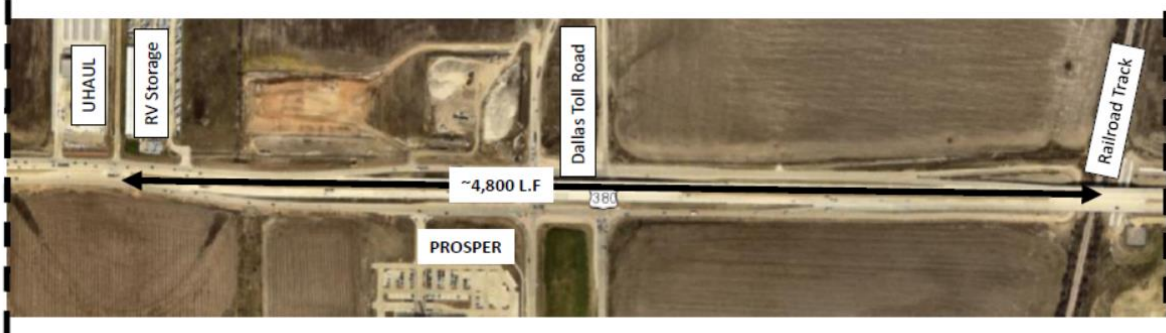
§

COUNTY OF COLLIN §

This instrument was acknowledged before me on this the ____ day of _____, 2022 by _____, _____ of the **TOWN OF PROSPER.**

Notary Public, State of Texas

Exhibit 1
Mowing Exhibit (Lovers Lane to Mahard Parkway)



Total length: approximately
11,800 linear feet (2.23 miles)

Exhibit 2



Exhibit 3

TxDOT:				Federal Highway Administration:	
CSJ #	0135-02-069; 0135-11-025			CFDA No.	20.205
District #	18 - Dallas	AFA ID	Z00002488	CFDA Title	Highway Planning and Construction
Code Chart 64 #	15400				
Project Name	Install Safety Lighting			<i>AFA Not Used For Research & Development</i>	

STATE OF TEXAS §

COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT
For
Highway Safety Improvement Program Project
On-System**

THIS AGREEMENT (Agreement) is made by and between the State of Texas, acting by and through the **Texas Department of Transportation** called the "State", and the **City of Frisco**, acting by and through its duly authorized officials, called the "Local Government". The State and Local Government shall be collectively referred to as "the parties" hereinafter.

WITNESSETH

WHEREAS, federal law establishes federally funded programs for transportation improvements to implement its public purposes, and

WHEREAS, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

WHEREAS, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds, and

WHEREAS, the Texas Transportation Commission has codified 43 TAC, Rules 15.50-15.56 that describe federal, state, and local responsibilities for cost participation in highway improvement and other transportation projects, and

WHEREAS, the Texas Transportation Commission passed Minute Order Number **116073** authorizing the State to undertake and complete a highway improvement or other transportation project generally described as **Install Safety Lighting**. The portion of the project work covered by this Agreement is identified in the Agreement, Article 3, Scope of Work (Project), and

WHEREAS, the Governing Body of the Local Government has approved entering into this Agreement by resolution, ordinance, or commissioners court order dated **August 2, 2022** which is attached to and made a part of this Agreement as Attachment C, Resolution, Ordinance, or Commissioners Court Order (Attachment C). A map showing the Project location appears in Attachment A, Location Map Showing Project (Attachment A), which is attached to and made a part of this Agreement.

TxDOT:				Federal Highway Administration:	
CSJ #	0135-02-069; 0135-11-025			CFDA No.	20.205
District #	18 - Dallas	AFA ID	Z00002488	CFDA Title	Highway Planning and Construction
Code Chart 64 #	15400				
Project Name	Install Safety Lighting			<i>AFA Not Used For Research & Development</i>	

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties, to be by them respectively kept and performed as set forth in this Agreement, it is agreed as follows:

AGREEMENT

1. Responsible Parties:

For the Project covered by this Agreement, the parties shall be responsible for the following work as stated in the article of the Agreement referenced in the table below:

1.	Local Government	Utilities	Article 8
2.	Local Government	Environmental Assessment and Mitigation	Article 9
3.	Local Government	Architectural and Engineering Services	Article 11
4.	State	Construction Responsibilities	Article 12
5.	Local Government	Right of Way and Real Property	Article 14

2. Period of the Agreement

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until the Project is completed or unless terminated as provided below.

3. Scope of Work

The scope of work for the Project consists of **Safety Lighting at the following locations; US 380 from SH 289 to Lovers Lane and US 380 from Denton County Line to SH 289, as shown in Attachment B. Location Maps.**

4. Project Sources and Uses of Funds

The total estimated cost of the Project is shown in Attachment B, Project Budget (Attachment B) which is attached to and made a part of this Agreement.

- A. If the Local Government will perform any work under this Agreement for which reimbursement will be provided by or through the State, the Local Government must complete training. If federal funds are being used, the training must be completed before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled "Local Government Project Procedures and Qualification for the Texas Department of Transportation" and retains qualification in accordance with applicable TxDOT procedures. Upon request, the Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not continuously designated in writing a qualified individual to work actively on or to directly oversee the Project.

TxDOT:				Federal Highway Administration:	
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- B. The expected cash contributions from the federal government, the State, the Local Government, or other parties are shown in Attachment B. The State will pay for only those Project costs that have been approved by the Texas Transportation Commission. For projects with federal funds, the State and the federal government will not reimburse the Local Government for any work performed before the federal spending authority is formally obligated to the Project by the Federal Highway Administration (FHWA). After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including federal award information. The Local Government is responsible for 100% of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.
- C. Attachment B shows, by major cost categories, the cost estimates and the party responsible for performing the work for each category. These categories may include but are not limited to: (1) costs of real property; (2) costs of utility work; (3) costs of environmental assessment and remediation; (4) cost of preliminary engineering and design; (5) cost of construction and construction management; and (6) any other local project costs.
- D. The State will be responsible for securing the federal and State share of the funding required for the development and construction of the local Project. If the Local Government is due funds for expenses incurred, these funds will be reimbursed to the Local Government on a cost basis.
- E. The Local Government will be responsible for all non-federal or non-State participation costs associated with the Project, unless otherwise provided for in this Agreement or approved otherwise in an amendment to this Agreement. For items of work subject to specified percentage funding, the Local Government shall only in those instances be responsible for all Project costs that are greater than the maximum State and federal participation specified in Attachment B and for overruns in excess of the amount specified in Attachment B to be paid by the Local Government.
- F. The budget in Attachment B will clearly state all items subject to fixed price funding, specified percentage funding, and the periodic payment schedule, when periodic payments have been approved by the State.
- G. When the Local Government bears the responsibility for paying cost overruns, the Local Government shall make payment to the State within thirty (30) days from the receipt of the State's written notification of additional funds being due.
- H. When fixed price funding is used, the Local Government is responsible for the fixed price amount specified in Attachment B. Fixed prices are not subject to adjustment unless (1) differing site conditions are encountered; (2) further definition of the Local Government's requested scope of work identifies greatly differing costs from those estimated; (3) work requested by the Local Government is determined to be ineligible for federal participation; or (4) the adjustment is mutually agreed to by the State and the Local Government.
- I. Prior to the performance of any engineering review work by the State, the Local Government will pay to the State the amount specified in Attachment B. At a minimum, this amount shall equal the Local Government's funding share for the estimated cost of preliminary engineering performed or reviewed by the State for

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Code Chart 64 #	15400				
Project Name	Install Safety Lighting			<i>AFA Not Used For Research & Development</i>	

- the Project. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall remit its remaining financial share for the State's estimated construction oversight and construction cost.
- J. The State will not execute the contract for the construction of the Project until the required funding has been made available by the Local Government in accordance with this Agreement.
- K. Whenever funds are paid by the Local Government to the State under this Agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation" or may use the State's Automated Clearing House (ACH) system for electronic transfer of funds in accordance with instructions provided by TxDOT's Finance Division. The funds shall be deposited and managed by the State and may only be applied by the State to the Project.
- L. The State will not pay interest on any funds provided by the Local Government.
- M. If a waiver for the collection of indirect costs for a service project has been granted under 43 TAC §15.56, the State will not charge the Local Government for the indirect costs the State incurs on the Project, unless this Agreement is terminated at the request of the Local Government prior to completion of the Project.
- N. If the Local Government is an Economically Disadvantaged County (EDC) and if the State has approved adjustments to the standard financing arrangement, this Agreement reflects those adjustments.
- O. Where the Local Government is authorized to perform services under this Agreement and be reimbursed by the State, the Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice, in a form and containing all items required by the State, no more frequently than monthly and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.
- P. Upon completion of the Project, the State will perform a final accounting of the Project costs for all items of work with specified percentage funding. Any funds due by the Local Government, the State, or the federal government for these work items will be promptly paid by the owing party.
- Q. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this Agreement or indirectly through a subcontract under this Agreement. Acceptance of funds directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
- R. Payment under this Agreement beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this Agreement shall be terminated immediately with no liability to either party.

TxDOT:				Federal Highway Administration:	
CSJ #	0135-02-069; 0135-11-025			CFDA No.	20.205
District #	18 - Dallas	AFA ID	Z00002488	CFDA Title	Highway Planning and Construction
Code Chart 64 #	15400				
Project Name	Install Safety Lighting			<i>AFA Not Used For Research & Development</i>	

5. Termination of This Agreement

This Agreement shall remain in effect until the Project is completed and accepted by all parties, unless:

- A. The Agreement is terminated in writing with the mutual consent of the parties;
- B. The Agreement is terminated by one party because of a breach, in which case any costs incurred because of the breach shall be paid by the breaching party;
- C. The Local Government elects not to provide funding after the completion of preliminary engineering, specifications, and estimates (PS&E) and the Project does not proceed because of insufficient funds, in which case the Local Government agrees to reimburse the State for its reasonable actual costs incurred during the Project; or
- D. The Agreement is terminated by the State because the parties are not able to execute a mutually agreeable amendment when the costs for Local Government requested items increase significantly due to differing site conditions, determination that Local government requested work is ineligible for federal or state cost participation, or a more thorough definition of the Local Government's proposed work scope identifies greatly differing costs from those estimated. The State will reimburse Local Government remaining funds to the Local Government within ninety (90) days of termination; or
- E. The Project is inactive for thirty-six (36) consecutive months or longer and no expenditures have been charged against federal funds, in which case the State may in its discretion terminate this Agreement.

6. Amendments

Amendments to this Agreement due to changes in the character of the work, terms of the Agreement, or responsibilities of the parties relating to the Project may be enacted through a mutually agreed upon, written amendment.

7. Remedies

This Agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this Agreement and shall be cumulative.

8. Utilities

The party named in Article 1, Responsible Parties, under AGREEMENT shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable state laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or State funds for the cost of required utility work. The Local Government must obtain advance approval for any variance from established procedures. Before a construction contract is let, the Local Government shall provide, at the State's request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction is commenced.

TxDOT:				Federal Highway Administration:	
CSJ #	0135-02-069; 0135-11-025			CFDA No.	20.205
District #	18 - Dallas	AFA ID	Z00002488	CFDA Title	Highway Planning and Construction
Code Chart 64 #	15400				
Project Name	Install Safety Lighting			<i>AFA Not Used For Research & Development</i>	

9. Environmental Assessment and Mitigation

Development of a transportation project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects. The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

- A. The identification and assessment of any environmental problems associated with the development of a local project governed by this Agreement.
- B. The cost of any environmental problem's mitigation and remediation.
- C. Providing any public meetings or public hearings required for the environmental assessment process. Public hearings will not be held prior to the approval of the Project schematic.
- D. The preparation of the NEPA documents required for the environmental clearance of this Project.

If the Local Government is responsible for the environmental assessment and mitigation, before the advertisement for bids, the Local Government shall provide to the State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

10. Compliance with Accessibility Standards

All parties to this Agreement shall ensure that the plans for and the construction of all projects subject to this Agreement are in compliance with standards issued or approved by the Texas Department of Licensing and Regulation (TDLR) as meeting or consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

11. Architectural and Engineering Services

The party named in Article 1, Responsible Parties, under AGREEMENT has responsibility for the performance of architectural and engineering services. The engineering plans shall be developed in accordance with the applicable State's *Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges* and the special specifications and special provisions related to it. For projects on the State highway system, the design shall, at a minimum conform to applicable State manuals. For projects not on the State highway system, the design shall, at a minimum, conform to applicable American Association of State Highway and Transportation Officials (AASHTO) design standards.

In procuring professional services, the parties to this Agreement must comply with federal requirements cited in 23 CFR Part 172 if the Project is federally funded and with Texas Government Code 2254, Subchapter A, in all cases. Professional contracts for federally funded projects must conform to federal requirements, specifically including the provision for participation by Disadvantaged Business Enterprises (DBEs), ADA, and environmental matters. If the Local Government is the responsible party, the Local

TxDOT:				Federal Highway Administration:	
CSJ #	0135-02-069; 0135-11-025			CFDA No.	20.205
District #	18 - Dallas	AFA ID	Z00002488	CFDA Title	Highway Planning and Construction
Code Chart 64 #	15400				
Project Name	Install Safety Lighting			<i>AFA Not Used For Research & Development</i>	

Government shall submit its procurement selection process for prior approval by the State. All professional services contracts must be reviewed and approved by the State prior to execution by the Local Government.

12. Construction Responsibilities

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

- A. Advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by the State prior to advertising for construction.
- B. If the State is the responsible party, the State will use its approved contract letting and award procedures to let and award the construction contract.
- C. If the Local Government is the responsible party, the Local Government shall submit its contract letting and award procedures to the State for review and approval prior to letting.
- D. If the Local Government is the responsible party, the State must concur with the low bidder selection before the Local Government can enter into a contract with the vendor.
- E. If the Local Government is the responsible party, the State must review and approve change orders.
- F. Upon completion of the Project, the party responsible for constructing the Project will issue and sign a "Notification of Completion" acknowledging the Project's construction completion and submit certification(s) sealed by a professional engineer(s) licensed in the State of Texas.
- G. For federally funded contracts, the parties to this Agreement will comply with federal construction requirements cited in 23 CFR Part 635 and with requirements cited in 23 CFR Part 633, and shall include the latest version of Form "FHWA-1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR 635, Subpart B.

13. Project Maintenance

The Local Government shall be responsible for maintenance of locally owned roads and locally owned facilities after completion of the work. The State shall be responsible for maintenance of the State highway system after completion of the work if the work was on the State highway system, unless otherwise provided for in existing maintenance agreements with the Local Government.

TxDOT:				Federal Highway Administration:	
CSJ #	0135-02-069; 0135-11-025			CFDA No.	20.205
District #	18 - Dallas	AFA ID	Z00002488	CFDA Title	Highway Planning and Construction
Code Chart 64 #	15400				
Project Name	Install Safety Lighting			<i>AFA Not Used For Research & Development</i>	

14. Right of Way and Real Property

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the provision and acquisition of any needed right of way or real property.

15. Insurance

If this Agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work, the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

16. Notices

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

Local Government:	State:
City of Frisco 6101 Frisco Square Boulevard Frisco, TX 75034	Texas Department of Transportation ATTN: Director of Contract Services 125 E. 11 th Street Austin, TX 78701

All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this Agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

17. Legal Construction

If one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

18. Responsibilities of the Parties

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party, and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

TxDOT:				Federal Highway Administration:	
CSJ #	0135-02-069; 0135-11-025			CFDA No.	20.205
District #	18 - Dallas	AFA ID	Z00002488	CFDA Title	Highway Planning and Construction
Code Chart 64 #	15400				
Project Name	Install Safety Lighting			<i>AFA Not Used For Research & Development</i>	

19. Ownership of Documents

Upon completion or termination of this Agreement, all documents prepared by the State shall remain the property of the State. All data and information prepared under this Agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be transmitted to the State, in the format directed by the State, on a monthly basis or as required by the State. The originals shall remain the property of the Local Government.

20. Compliance with Laws

The parties to this Agreement shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement. When required, the Local Government shall furnish the State with satisfactory proof of this compliance.

21. Sole Agreement

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

22. Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the cost principles established in 2 CFR 200 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

23. Procurement and Property Management Standards

The parties to this Agreement shall adhere to the procurement and property management standards established in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and to the Texas Uniform Grant Management Standards. The State must pre-approve the Local Government's procurement procedures for purchases to be eligible for state or federal funds.

24. Inspection of Books and Records

The parties to this Agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the FHWA and the U.S. Office of the Inspector General or their duly authorized representatives for review and inspection at its office during the Agreement period and

TxDOT:				Federal Highway Administration:	
CSJ #	0135-02-069; 0135-11-025			CFDA No.	20.205
District #	18 - Dallas	AFA ID	Z00002488	CFDA Title	Highway Planning and Construction
Code Chart 64 #	15400				
Project Name	Install Safety Lighting			<i>AFA Not Used For Research & Development</i>	

for seven (7) years from the date of final reimbursement by FHWA under this Agreement or until any impending litigation or claims are resolved. Additionally, the State, the Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

25. Civil Rights Compliance

The parties to this Agreement are responsible for the following:

- A. Compliance with Regulations: Both parties will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made part of this Agreement.
- B. Nondiscrimination: The Local Government, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Local Government will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Local Government for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by the Local Government of the Local Government's obligations under this Agreement and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
- D. Information and Reports: The Local Government will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of the Local Government is in the exclusive possession of another who fails or refuses to furnish this information, the Local Government will so certify to the State or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of the Local Government's noncompliance with the Nondiscrimination provisions of this Agreement, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - 1. withholding of payments to the Local Government under the Agreement until the Local Government complies and/or
 - 2. cancelling, terminating, or suspending of the Agreement, in whole or in part.
- F. Incorporation of Provisions: The Local Government will include the provisions of paragraphs (A) through (F) in every subcontract, including procurement of

TxDOT:				Federal Highway Administration:	
CSJ #	0135-02-069; 0135-11-025			CFDA No.	20.205
District #	18 - Dallas	AFA ID	Z00002488	CFDA Title	Highway Planning and Construction
Code Chart 64 #	15400				
Project Name	Install Safety Lighting			<i>AFA Not Used For Research & Development</i>	

materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Local Government will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Local Government becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, the Local Government may request the State to enter into such litigation to protect the interests of the State. In addition, the Local Government may request the United States to enter into such litigation to protect the interests of the United States.

26. Pertinent Non-Discrimination Authorities

During the performance of this Agreement, each party, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the federal-aid recipients, subrecipients and contractors, whether such programs or activities are federally funded or not).
- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- I. The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).

TxDOT:				Federal Highway Administration:	
CSJ #	0135-02-069; 0135-11-025			CFDA No.	20.205
District #	18 - Dallas	AFA ID	Z00002488	CFDA Title	Highway Planning and Construction
Code Chart 64 #	15400				
Project Name	Install Safety Lighting			<i>AFA Not Used For Research & Development</i>	

- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

27. Disadvantaged Business Enterprise (DBE) Program Requirements

If federal funds are used:

- A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
- B. The Local Government shall adopt, in its totality, the State's federally approved DBE program.
- C. The Local Government shall incorporate into its contracts with subproviders an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall submit its proposed scope of services and quantity estimates to the State to allow the State to establish a DBE goal for each Local Government contract with a subprovider. The Local Government shall be responsible for documenting its actions.
- D. The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.
- E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the

TxDOT:				Federal Highway Administration:	
CSJ #	0135-02-069; 0135-11-025			CFDA No.	20.205
District #	18 - Dallas	AFA ID	Z00002488	CFDA Title	Highway Planning and Construction
Code Chart 64 #	15400				
Project Name	Install Safety Lighting			<i>AFA Not Used For Research & Development</i>	

matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate.*

28. Debarment Certifications

If federal funds are used, the parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this Agreement, the Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this Agreement shall require any party to a subcontract or purchase order awarded under this Agreement to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

If state funds are used, the parties are prohibited from making any award to any party that is debarred under the Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter G, Rule §20.585 and the Texas Administrative Code, Title 43, Part 1, Chapter 9, Subchapter G.

29. Lobbying Certification

If federal funds are used, in executing this Agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants,

TxDOT:				Federal Highway Administration:	
CSJ #	0135-02-069; 0135-11-025			CFDA No.	20.205
District #	18 - Dallas	AFA ID	Z00002488	CFDA Title	Highway Planning and Construction
Code Chart 64 #	15400				
Project Name	Install Safety Lighting			<i>AFA Not Used For Research & Development</i>	

loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- C. The parties shall require that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

30. Federal Funding Accountability and Transparency Act Requirements

If federal funds are used, the following requirements apply:

- A. Any recipient of funds under this Agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This Agreement is subject to the following award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B. The Local Government agrees that it shall:
1. Obtain and provide to the State a System for Award Management (SAM) number (Federal Acquisition Regulation, Part 4, Sub-part 4.11) if this award provides more than \$25,000 in federal funding. The SAM number may be obtained by visiting the SAM website whose address is: <https://www.sam.gov/portal/public/SAM/>
 2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows federal government to track the distribution of federal money. The DUNS may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and
 3. Report the total compensation and names of its top five executives to the State if:
 - i. More than 80% of annual gross revenues are from the federal government, and those revenues are greater than \$25,000,000; and
 - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

TxDOT:				Federal Highway Administration:	
CSJ #	0135-02-069; 0135-11-025			CFDA No.	20.205
District #	18 - Dallas	AFA ID	Z00002488	CFDA Title	Highway Planning and Construction
Code Chart 64 #	15400				
Project Name	Install Safety Lighting			<i>AFA Not Used For Research & Development</i>	

31. Single Audit Report

If federal funds are used:

- A. The parties shall comply with the single audit report requirements stipulated in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- B. If threshold expenditures of \$750,000 or more are met during the fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division by email at singleaudits@txdot.gov.
- C. If expenditures are less than the threshold during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Compliance Division as follows: "We did not meet the \$_____ expenditure threshold and therefore, are not required to have a single audit performed for FY _____."
- D. For each year the Project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the Agreement, unless otherwise amended or the Project has been formally closed out and no charges have been incurred within the current fiscal year.

TxDOT:				Federal Highway Administration:	
CSJ #	0135-02-069; 0135-11-025			CFDA No.	20.205
District #	18 - Dallas	AFA ID	Z00002488	CFDA Title	Highway Planning and Construction
Code Chart 64 #	15400				
Project Name	Install Safety Lighting			<i>AFA Not Used For Research & Development</i>	

32. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this Agreement on behalf of the entity represented.

Each party is signing this Agreement on the date stated under that party's signature.

THE STATE OF TEXAS

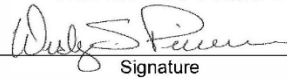
Signature

Kenneth Stewart
Typed or Printed Name

Director of Contract Services
Typed or Printed Title

Date

THE CITY OF FRISCO


Signature

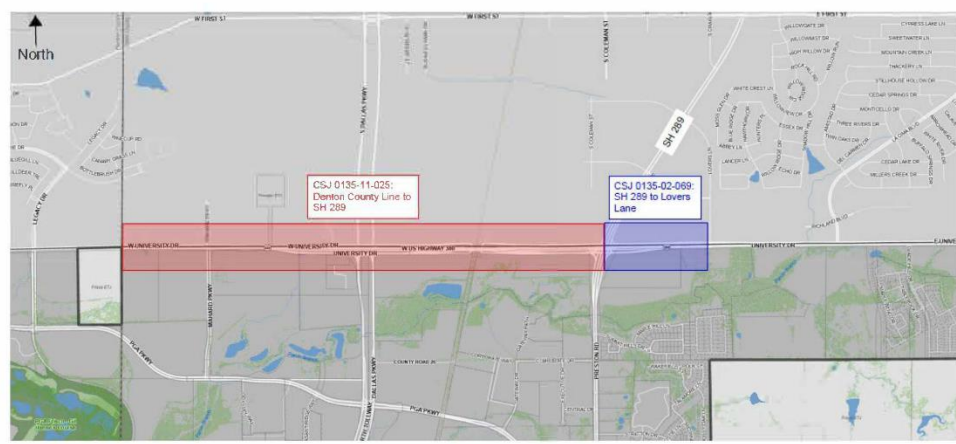
Wesley S. Pierson
Typed or Printed Name

City Manager
Typed or Printed Title

August 2, 2022
Date

TxDOT:				Federal Highway Administration:	
CSJ #	0135-02-069; 0135-11-025			CFDA No.	20.205
District #	18 - Dallas	AFA ID	Z00002488	CFDA Title	Highway Planning and Construction
Code Chart 64 #	15400				
Project Name	Install Safety Lighting			<i>AFA Not Used For Research & Development</i>	

**ATTACHMENT A
LOCATION MAP SHOWING PROJECT**



TxDOT:				Federal Highway Administration:	
CSJ #	0135-02-069; 0135-11-025			CFDA No.	20.205
District #	18 - Dallas	AFA ID	Z00002488	CFDA Title	Highway Planning and Construction
Code Chart 64 #	15400				
Project Name	Install Safety Lighting			<i>AFA Not Used For Research & Development</i>	

ATTACHMENT B PROJECT BUDGET

Costs will be allocated based on 90% Federal funding and 10% State funding until the federal funding reaches the maximum obligated amount. The Local Government will then be responsible for 100% of the costs.

DESCRIPTION	TOTAL ESTIMATED COST	FEDERAL PARTICIPATION		STATE PARTICIPATION		LOCAL PARTICIPATION	
		%	Cost	%	Cost	%	Cost
Engineering (by Local)	\$100,500.00	0%	\$0	0%	\$0	100%	\$100,500.00
Construction (by State) 0135-02-069	\$147,706.00	90%	\$132,935.40	10%	\$14,770.60	0%	\$0
Construction (by State) 0135-11-025	\$1,411,460.00	90%	\$1,270,314.00	10%	\$141,146.00	0%	\$0
Subtotal	\$1,659,666.00		\$1,403,249.40		\$155,916.60		\$100,500.00
Environmental Direct State Costs	\$13,662.19	0%	\$0	0%	\$0	100%	\$13,662.19
Right of Way Direct State Costs	\$13,662.19	0%	\$0	0%	\$0	100%	\$13,662.19
Engineering Direct State Costs	\$13,662.19	0%	\$0	0%	\$0	100%	\$13,662.19
Utility Direct State Costs	\$13,662.20	0%	\$0	0%	\$0	100%	\$13,662.20
Construction Direct State Costs (7.01%)	\$54,648.77	0%	\$0	0%	\$0	100%	\$54,648.77
Subtotal	\$109,297.54		\$0		\$0		\$109,297.54
Indirect State Cost – 4.52%	\$75,016.90	0%	\$0	100%	\$75,016.90	0%	\$0
TOTAL	\$1,843,980.44		\$1,403,249.40		\$230,933.50		\$209,797.54

Initial Payment by the Local Government to the State: **\$54,648.77**

Payment by the Local Government to the State before Construction: **\$54,648.77**

Total payment by the Local Government to the State: **\$109,297.54**

This is an estimate. The final amount of Local Government participation will be based on actual costs.