

**INTERLOCAL COOPERATION AGREEMENT BETWEEN WALLER COUNTY,
TEXAS AND THE CITY OF PRAIRIE VIEW**

This Interlocal Agreement (“Agreement”) is made and entered into pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code (the “Act”), as of the date of the last signature affixed hereto (the “Effective Date”) by and between **WALLER COUNTY, TEXAS** (“County”), a political subdivision of the State of Texas, and the **CITY OF PRAIRIE VIEW, TEXAS** (“City”), a Texas home rule municipality, each referred to individually as party and collectively as parties.

WHEREAS, Section 791.011(c) of the Act authorizes a local government to contract with another local government to provide a governmental function or service that each party to the contract is authorized to perform individually;

WHEREAS, both County and City are local governments as defined by the Act;

WHEREAS, City desires to improve Owens Road, Cameron Road, and James Muse Parkway by patching potholes and surface defects (the “Project”), and has requested the assistance of the County in exchange for reimbursing the County for all costs necessary to complete the Project;

WHEREAS, County and City each find that the Project contemplated in this Agreement serves a public purpose;

WHEREAS, County and City agree to participate in this Project according to the terms and conditions of this Agreement; and

NOW, THEREFORE, for and in consideration of the promises, mutual benefits, covenants, and agreements contained herein, the parties agree as follows:

SECTION 1 AGREEMENT

- 1.1 Purpose: The purpose of this Agreement is to outline the responsibilities and funding obligations of each party related to patching potholes and surface defects of Owens Road, Cameron Road, and James Muse Parkway, each located wholly within the boundaries of the City.
- 1.2 County’s Obligations: The County shall supply the labor and equipment for applying patch material to potholes and pavement surface defects on Owens Road, Cameron Road, and James Muse Parkway.
- 1.3 City’s Obligations: The City agrees to pay all costs associated with the Project, including but not limited to labor, equipment, and material. Equipment costs will be billed in accordance with FEMA’s 2023 Schedule of Equipment Rates. Labor costs will be calculated using the pay rate of the employees actually performing work at the site, which shall include any associated fringe benefit costs. The City shall reimburse the County after receiving an invoice from the County. The City agrees to pay all costs for the maintenance of the Project after repair.

- 1.4 Time for Performance: The County is only responsible for performing the work under this Agreement if and when County resources allow. Whether or not the County has sufficient resources to perform the work under this Agreement is solely within the discretion of the County.
- 1.5 City Roads: The City represents and warrants that all portions of Owens Road, Cameron Road, and James Muse Parkway to be repaired by the County pursuant to this Agreement are public roads owned and maintained by the City.
- 1.6 Maintenance: Upon completion of the repair work, the County shall have no further obligations with respect to the roads repaired pursuant to this Agreement.

SECTION 2 DESIGNATED REPRESENTATIVES

- 2.1 County's Designated Representative: The County designates J. Ross McCall, the County Engineer, as its Designated Representative with regard to the services performed under this Agreement.
- 2.2 City's Designated Representative: The City designates _____ [NAME], _____ [TITLE], as its Designated Representative with regard to the services performed under this Agreement.
- 2.3 Changes to Designated Representatives: Either party may change its Designated Representative(s) by providing written notice to the other party.

SECTION 3 FINANCIAL OBLIGATIONS

- 3.1 Invoices: The County shall submit invoices to the City for the actual expenses it incurs for the Project. The County may invoice the City at the completion of the Project, or as the work progresses. The City agrees to remit payment to the County within forty-five (45) days after receipt of any invoice.
- 3.2 Invoice Disputes: In the event there is a dispute as to the accuracy of an invoice or whether the services performed were satisfactory, the City will notify the County in writing in accordance with Section 7.16.

SECTION 4 TERM AND TERMINATION

- 4.1 Agreement Term: The term of this Agreement shall begin on the Effective Date, and continue until terminated in accordance with its terms.
- 4.2 Automatic Termination: This Agreement shall automatically terminate upon complete performance of the terms and conditions of the Agreement by each party, or otherwise in accordance with its terms.
- 4.3 Termination for Failure to Perform: Either party may terminate this Agreement if the other party fails to perform in accordance with the terms of this Agreement, provided that the failure to perform is at no fault of the terminating party. Each party shall be responsible for any expenses it incurs after the date of termination.
- 4.4 Termination for Cause or Convenience: Either party may terminate this Agreement for cause or convenience by providing written notice to the non-terminating party in accordance with Section 7.16. The notice must state the reasons for such termination. Each party must stop work under the Agreement upon receipt of the notice of termination. Each

party is responsible for costs incurred under the Agreement prior to receiving or providing the notice of termination.

- 4.5 Notice of Termination: The terminating party shall provide ten (10) days written notice of termination to the other party as provided in Section 7.16 unless the applicable termination provision specifies otherwise.
- 4.6 Opportunity to Cure: A party receiving notice of termination for failure to perform in accordance with the terms of this Agreement shall have the opportunity to cure its failure to perform beginning on the day of its receipt of the written notice, and continuing for thirty (30) calendar days thereafter. The cure, if made, shall be to the terminating party's satisfaction. If no cure is made, the Agreement will terminate on the date specified in the written termination notice, or if no date is specified, on the thirtieth (30th) calendar day after the date of receipt of the notice, unless otherwise agreed by the parties.
- 4.7 Payment After Termination: If County or City terminates this Agreement, County shall be entitled only to payment for costs already incurred prior to the termination date.

SECTION 5 INDEPENDENT CONTRACTORS

- 5.1 Independent Contractor: County and City's status shall be that of independent contractors, and neither shall be an agent, servant, employee, or representative of the other in the performance of the Agreement. Each shall exercise independent judgment in performing its duties under this Agreement, and in cooperation with the relevant County and District department, and is solely responsible for setting working hours, scheduling or prioritizing the work flow, and determining how the work is to be performed. No term or provision of this Agreement or act of either party in the performance of this Agreement shall be construed as making one party the agent, servant, or employee of the other.

SECTION 6 LIMITATION OF LIABILITY

- 6.1 **Limitation of Liability**: The parties agree that no provision of this Agreement extends the County's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas. Neither the execution of this Agreement, nor any other conduct of either party relating to this Agreement shall be considered a waiver by the County of any right, defense, or immunity on behalf of itself, its employees, or agents under the Texas Constitution or the laws of the State of Texas.

SECTION 7 MISCELLANEOUS

- 7.1 Interlocal Cooperation Act: The parties expressly acknowledge that each party to this Agreement is a local government as that term is defined in the Interlocal Cooperation Act. Nothing in this Agreement will be construed as a waiver or relinquishment by either party of its right to claim such exemptions, privileges, and immunities as may be provided by the Constitution and the laws of the State of Texas.
- 7.2 Current Revenues: Each party's monetary obligations are for the performance of governmental functions or services and are payable only from the current revenues appropriated and available for the performance of those functions or services.
- 7.3 Good Faith: The parties agree to work together at all times in good faith, and keep each other informed as to activities of the other parties, and maintain at all times formal representatives to serve as points of contact for communications.

- 7.4 Entire Agreement: This Agreement is the entire agreement between the parties and no modification thereof or subsequent agreement relative to the subject matter hereof shall be binding on either party unless in writing and signed by the party to be bound.
- 7.5 Recitals: The parties agree that the Recitals are true and correct, and are incorporated into this Agreement.
- 7.6 Headings: The headings and captions used herein are for convenience only, and do not limit or amplify the provisions hereof.
- 7.7 Severability: If any provision of this agreement is invalid, illegal, or unenforceable under any applicable statute, court decision, or rule of law, it is to that extent to be deemed omitted. In such event, there shall be substituted for such deleted provisions a provision as similar as possible in terms and in effect to such deleted provision that is valid, legal, or enforceable. The remainder of the agreement shall be valid and enforceable to the maximum extent possible.
- 7.8 Governing Law and Venue: This Agreement shall be governed and construed in accordance with the laws of the State of Texas. Any action brought to enforce or interpret this Agreement shall be brought in the district court of Waller County, Texas.
- 7.9 Agreement Interpretation: In the event of any dispute over the meaning or application of this Agreement, it shall be interpreted fairly and reasonably, and neither more strongly for nor against either party.
- 7.10 Amendments: Any amendment, modification, or addition to this Agreement or its exhibits must be in writing and approved by the governing bodies of each party.
- 7.11 No Assignment: Neither this Agreement, nor any right or interest hereunder may be assigned by either party without the written consent of the other party. This Agreement shall inure to the benefit of and be binding on the parties hereto and their respective heirs, legal representatives, successors, and permitted assigns.
- 7.12 No Waiver: No claim or right arising out of a breach of this Agreement can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. Either party's failure to require strict performance of any provision of this Agreement does not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. A party's waiver or failure to exercise in any respect any right provided for in this agreement shall not be deemed a waiver of any further right under this agreement. The County, City, and their employees, officers, and officials do not waive, modify, or alter to any extent any of their defenses, immunities, or remedies.
- 7.13 Force Majeure: Neither party shall be deemed to have breached any provision of this Agreement as a result of any delay, failure in performance, or interruption of services resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, energy crises, fires, transportation contingencies, interruptions in third-party telecommunications, or Internet equipment or service, or other catastrophes, or any other occurrences which are reasonably beyond a party's control. The parties are required to use due caution and preventive measures to protect against the effects of force majeure, and the burden of proving that a force majeure event has occurred shall rest on the party seeking relief under this provision. The party seeking relief due to force

majeure is required to promptly notify the other party in writing, citing the details of the force majeure event and the relief sought, and shall resume performance immediately after the obstacles to performance caused by a force majeure event have been removed, provided the Agreement has not been terminated. Delay or failure of performance, by either party to this Agreement, caused solely by a force majeure event, shall be excused.

- 7.14 No Third-Party Beneficiaries: This Agreement does not inure to the benefit of any third party, except permitted successors or assigns.
- 7.15 Authority to Sign: Signatories to this Agreement represent and warrant that they have the authority to bind the respective parties.
- 7.16 Notices: Any notice required or permitted to be given under this Agreement must be in writing and may be served by depositing same with the United States Postal Service, addressed to the party to be notified, postage prepaid and in registered or certified form, with return receipt requested, or by deposit with a reputable overnight courier for overnight delivery with tracking provided. Notice given as aforesaid shall be effective on the date actually received at the address to which such notice was sent, or if delivery is refused or not accepted, such notice shall be effective on the date of such refusal or failure to accept delivery. Notice given in any other manner shall not be effective. For purposes of notice, the addresses of the parties shall be as follows:

COUNTY: Waller County, Texas
 ATTN: County Judge Carbett "Trey" Duhon, III
 425 FM 1488, Suite 106
 Hempstead, Texas 77445

CITY: City of Prairie View, Texas
 ATTN: Mayor Ron Leverett
 PO BOX 817
 Prairie View, Texas 77446

Either party may change its address upon five (5) calendar days' prior written notice to the other given in the manner provided above.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Agreement has been entered into as of the Effective Date.

COUNTY

WALLER COUNTY, TEXAS

a political subdivision of the State of Texas

CITY

PRAIRIE VIEW, TEXAS

a Texas home rule municipality

Carbett “Trey” Duhon, III
County Judge

ATTEST

Debbie Hollan
County Clerk

Ron Leverett
Mayor

ATTEST

Vivian Rogers
Acting City Secretary