

**INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF WYLIE
CONCERNING MCMILLEN DRIVE FROM MCCREARY ROAD TO COUNTRY CLUB ROAD
NEW 2018 BOND PROJECT # RI18028**

WHEREAS, the County of Collin, Texas (“County”) and the City of Wylie, Texas (“City”) desire to enter into this agreement (“Agreement”) concerning the McMillen Drive from McCreary Road to County Club Road Project (“Project”) in Wylie, Collin County, Texas; and

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

WHEREAS, the City and County have determined that the improvements may be constructed most economically by implementing this Agreement; and

WHEREAS, the 2007 Bond program allocated a total of \$4,149,375 to the City of Wylie’s project #07-091, McMillen Drive from McCreary Road to FM 1378; and

WHEREAS, on October 14, 2008 a (2008 FUNDING) Interlocal Agreement in the amount of \$500,000 was approved for engineering services (CO# 2008-861-10-14), and on December 6, 2012, a (2009 FUNDING) Interlocal Agreement in the amount of \$500,000 was approved for engineering services (CO# 2010-976-12-06); and

WHEREAS, the Collin County Commissioners Court approved the 2007 Discretionary prioritization list to include this project on October 20, 2014, Court Order #2014-810-10-20 for an additional funding amount of \$1,676,775; and

WHEREAS, on December 21, 2015, the Collin County Commissioners Court approved an Interlocal Agreement for land acquisition, engineering, construction, inspection, testing, and construction administration costs using 2007 Bond funds and the 2007 Discretionary Funding in the amount of \$2,426,775 (2015 DISCRETIONARY; CO# 2015-991-12-21) ; and

WHEREAS, the Collin County Commissioners Court approved the 2022 Call for Projects list to include this project on May 15, 2023, Court Order #2023-406-05-15 for an additional funding amount of \$2,999,999, bringing the total approved bond funding for this project to \$8,826,149 between the 2007 and 2018 bond programs of which \$5,399,374 (\$2,399,375 from ’07 and \$2,999,999 from ’18) is left to be encumbered on this ILA; and

NOW, THEREFORE, this Agreement is made and entered into by the County and the City upon and for the mutual consideration stated herein.

WITNESSETH:

ARTICLE I.

The City shall arrange to construct improvements to McMillen Drive from McCreary Road to Country Club Road, hereinafter called (the “Project”). The Project shall consist of constructing a 4-lane divided concrete roadway (ultimate 6-lane divided roadway), a distance of approximately 6,000 feet. The improvements will also include construction of underground utilities and storm sewer, as well as a 6-lane bridge. All improvements shall be designed to meet or exceed the City’s roadway design standards and criteria and shall be constructed in accordance with the plans and specifications approved by the City.

ARTICLE II.

The City shall prepare plans and specifications for the improvements, accept bids and award a contract to construct the improvements and administer the construction contract. In all such activities, the City shall comply with all statutory requirements applicable to a municipal public work project. The City shall provide the County with a copy of the executed design and construction contract(s) for the Project. Changes to the Project, other than what was

submitted for the initial project ranking or which alter the initial funding set forth in Article IV, must be reviewed and approved by Collin County.

ARTICLE III.

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

ARTICLE IV.

The City estimates the total actual cost of the Project to be thirty million dollars (\$30,000,000) ("Estimated Project Cost"). The County agrees to participate in the Project by allocating an additional five million, three hundred ninety-nine thousand, three hundred seventy-four dollars (\$5,399,374) (the "County Participation Amount") to the performance of the Project. The County shall remit one-hundred percent (100%) of the County Participation Amount to the City within thirty (30) days after the City receives bids for the construction of the Project and the City submits a written request for payment to the County.

As used herein, the terms "Estimated Project Cost" and "Actual Project Cost" may include land acquisition, engineering, construction, inspection, testing, street lighting, and construction administration costs including contingencies.

ARTICLE V.

The County's participation in the Project shall not exceed eight million, eight hundred twenty-six thousand, one hundred forty-nine dollars (\$8,826,149).

ARTICLE VI.

The City shall install a **project sign** identifying the Project as being partially funded by the Collin County 2018 Bond Program. The City shall also provide **quarterly progress reports throughout the Project as well as before, during and after photos** during the construction process, in electronic format or via US mail to the Collin County Engineering Department. Following completion of the Project, the City shall provide an **itemized final accounting of expenditures** for the Project.

ARTICLE VII.

The City and County agree that the party paying for the performance of governmental functions or services shall make those payments only from current revenues legally available to the paying party.

ARTICLE VIII.

INDEMNIFICATION. TO THE EXTENT ALLOWED BY LAW, EACH PARTY AGREES TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE OTHER (AND ITS OFFICERS, AGENTS, AND EMPLOYEES) FROM AND AGAINST ALL CLAIMS OR CAUSES OF ACTION FOR INJURIES (INCLUDING DEATH), PROPERTY DAMAGES (INCLUDING LOSS OF USE), AND ANY OTHER LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO, OR RESULTING FROM ITS PERFORMANCE UNDER THIS AGREEMENT, OR CAUSED BY ITS NEGLIGENT ACTS OR OMISSIONS (OR THOSE OF ITS RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, OR ANY OTHER THIRD PARTIES FOR WHOM IT IS LEGALLY RESPONSIBLE) IN CONNECTION WITH PERFORMING THIS AGREEMENT.

ARTICLE IX.

VENUE. The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Agreement. The parties agree that this Agreement is performable in Collin County, Texas and that exclusive venue shall lie in Collin County, Texas.

ARTICLE X.

SEVERABILITY. The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation having the force and effect of the law, the remaining portions of the Agreement shall be enforced as if the invalid provision had never been included.

ARTICLE XI.

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

ARTICLE XII.

SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns. Neither party will assign or transfer an interest in this Agreement without the written consent of the other party.

ARTICLE XIII.

IMMUNITY. It is expressly understood and agreed that, in the execution of this Agreement, neither party waives, nor shall be deemed hereby to have waived any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied other than those set forth herein, and this Agreement shall not create any rights in parties not signatories hereto.

ARTICLE XIV.

EXPENSES FOR ENFORCEMENT. In the event either Party hereto is required to employ an attorney to enforce the provisions of this Agreement or is required to commence legal proceedings to enforce the provisions hereof, the prevailing Party shall be entitled to recover from the other, reasonable attorney's fees and court costs incurred in connection with such enforcement, including collection.

ARTICLE XV.

FORCE MAJEURE. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including, without limitation: acts of God; flood, fire or explosion; war, invasion, riot or other civil unrest; actions, embargoes or blockades in effect on or after the date of this Agreement; or national or regional emergency (each of the foregoing, a "Force Majeure Event"). A party whose performance is affected by a Force Majeure Event shall give notice to the other party, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

ARTICLE XVI.

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

[Signature page follows.]

APPROVED AS TO FORM:

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

COUNTY OF COLLIN, TEXAS

By: _____
Name: Chris Hill
Title: County Judge
Date: _____
Executed on this ____ day of _____,
20__, by the County of Collin,
pursuant to Commissioners' Court
Order No. _____.

ATTEST:

By: _____
Name: Stephanie Storm
Title: City Secretary
Date: _____

CITY OF WYLIE, TEXAS

By: _____
Name: Brent Parker
Title: City Manager
Date: _____
Executed on behalf of the City of
Wylie, Texas pursuant to City Council
Resolution No.2023-12(R)

APPROVED AS TO FORM:

By: _____
Name: _____
Title: City Attorney
Date: _____