

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING A PROJECT SPECIFIC AGREEMENT FOR ASPHALT REPAIR ALONG APPROXIMATELY TWO MILES OF ADDISON ROAD BETWEEN THE NORTHERN DALLAS COUNTY LIMIT AND ARAPHAHO ROAD IN CONFORMANCE WITH THE MASTER INTERLOCAL AGREEMENT BETWEEN THE TOWN OF ADDISON AND DALLAS COUNTY FOR THE JOINT FUNDING OF TRANSPORTATION IMPROVEMENTS WITHIN THE CITY; PROVIDING FOR A TOTAL PROJECT BUDGET OF APPROXIMATELY \$993,000 TO BE JOINTLY PAID BY THE CITY AND DALLAS COUNTY; PROVIDING FOR THE CITY'S PORTION OF THE PROJECT FUNDING IN AN AMOUNT NOT TO EXCEED \$496,500; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison ("City") previously entered into a Master Interlocal Agreement with Dallas County ("County") on November 21, 2017 (the "Master Interlocal Agreement"), providing for joint funding of qualifying road and bridge maintenance projects; and

WHEREAS, the City Council desires to enter into a project specific agreement (the "PSA") in conformance with the Master Interlocal Agreement to provide joint funding for an asphalt repair project along an approximately two mile portion of Addison Road between the northern Dallas County limit and Arapaho Road, as more particularly described herein (the "Project").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

SECTION 1. The City Council hereby approves the PSA between the City and the County providing for joint funding of an asphalt repair project along an approximately two mile portion of Addison Road between the northern Dallas County limit and Arapaho Road, as more particularly described and depicted in Attachments A (Project Description) and B (Project Map) to the PSA, a copy of which is attached to this Resolution as **Exhibit A**. The total budget for the Project is established as \$993,000, with the City's portion of the joint Project funding hereby authorized in an amount not-to-exceed of \$496,500. The City Manager is authorized to execute the Agreement.

SECTION 2. This Resolution shall take effect from and after its date of adoption.

DULY RESOLVED AND ADOPTED by the City Council of the Town of Addison, Texas, on this the 12th day of APRIL 2022.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A

**PROJECT SPECIFIC AGREEMENT
RE: ADDISON ROAD, “TYPE B” PUBLIC ROADWAY -- MADE PURSUANT TO
MASTER ROAD & BRIDGE INTERLOCAL MAINTENANCE AGREEMENT
BETWEEN DALLAS COUNTY, TEXAS AND TOWN OF ADDISON, TEXAS**

This Project Specific Agreement, (hereinafter “PSA”), supplemental to the Master Interlocal Agreement, is made by and between Dallas County, Texas (hereinafter “County”) and the Town of Addison, Texas (hereinafter “Town ”), acting by and through their duly authorized representatives and officials, for the purpose of transportation-related maintenance, repairs and improvements to be undertaken on the Streets listed on public roadway in the Town of Addison (“Project”) set forth and described in Attachment “A” which is incorporated herein by reference.

WHEREAS, Chapter 791 of the Texas Government Code and Chapters 251 and 472 of the Texas Transportation Code provide authorization for local governments to contract amongst themselves for the performance of governmental functions and services;

WHEREAS, on November 21, 2017, County and Town entered into a Master Interlocal Agreement (“Agreement”), whereby County agreed to provide partial funding for such duly qualified “Type B” road and bridge maintenance projects, said projects situated within the territorial limits and jurisdiction of Town; and

WHEREAS, Town now desires County to provide partial funding for such a duly qualified project consisting of repair of designated blocks of enumerated public roadway situated in the Town of Addison, Texas, as more fully described in Attachments “A” and “B.”

NOW THEREFORE THIS PSA is made by and entered into by County and Town for the mutual consideration stated herein.

Witnesseth

Article I

Project Specific Agreement

This PSA is specifically intended to identify a Project authorized under the Master Agreement. This document sets forth the rights and responsibilities pertaining to each party hereto, and is additional and supplemental to the Master Agreement, and all amendments and supplements thereto, which are incorporated herein by reference. All terms of the Master Agreement remain in full force and effect, except as modified herein. In the event of any conflict between the Master Agreement and this PSA, this PSA shall control.

Article II

Incorporated Documents

This PSA incorporates by reference, as if fully reproduced herein word for word and number for number, the following items:

1. Master Interlocal Agreement authorized by County Commissioners Court Order 2017-1529 dated November 21, 2017, and additions thereto as incorporated herein,
2. The Construction Estimate (Attachment “A”).

EXHIBIT A

Article III

Term of Agreement

This PSA becomes effective when signed by the last party whose signature makes the agreement fully executed and shall terminate upon the completion and acceptance of the Project by Town or upon the terms and conditions in the Master Agreement.

Article IV

Project Description

This PSA is entered into by the parties for purpose of jointly identifying and funding repair, maintenance and improvements on duly qualified "Type B" public roadway within the Town of Addison, Texas. The Project shall consist of full-depth asphalt spot repairs on a two-mile stretch of Addison Road from the northern Dallas County boundary line to Arapaho Road in the Town of Addison, Texas, (hereinafter "Project"), and as more fully described in Attachments "A" and "B," which are attached hereto and incorporated herein by reference. The Project is authorized by the aforementioned Master Interlocal Agreement, with the parties' obligations and responsibilities governed thereby, as well as by the terms and provisions of this PSA. The Project will facilitate the safe and orderly movement of public transportation to benefit both the Town and County. The Town has and hereby does give its approval for expenditure of County funds for the construction, improvement, maintenance, or repair of a street located within the municipality.

Article V

Fiscal Funding

Notwithstanding anything to the contrary herein, this PSA is expressly contingent upon the availability of County funding for each item and obligation contained herein. Town shall have no right of action against the County of Dallas as regards this PSA, specifically including any funding by County of the Project in the event that the County is unable to fulfill its obligations under this PSA as a result of the lack of sufficient funding for any item or obligation from any source utilized to fund this PSA or failure of any funding party to budget or authorize funding for this PSA during the current or future fiscal years. In the event of insufficient funding, or if funds become unavailable in whole or part, the County, at its sole discretion, may provide funds from a separate source or terminate this PSA. In the event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code.

Notwithstanding anything to the contrary herein, this PSA is expressly contingent upon the availability of Town funding for each item and obligation contained herein. County shall have no right of action against the Town as regards this PSA, specifically including any funding by Town of the Project in the event that the Town is unable to fulfill its obligations under this PSA as a result of the lack of sufficient funding for any item or obligation from any source utilized to fund this PSA or failure of any funding party to budget or authorize funding for this PSA during the current or future fiscal years. In the event of insufficient funding, or if funds become unavailable in whole or part, the Town, at its sole discretion, may provide funds from a separate source or terminate this PSA. In the event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code.

EXHIBIT A

Article VI **Agreements**

I. Town's Responsibilities:

1. Town, at its own expense, shall be responsible for the following: (a) posting appropriate and required notices to inform the public of the proposed maintenance, repairs, improvements, or construction of the Project; (b) locating all manholes, water valves, and other utilities within the Project; (c) making or causing to be made all utility relocations or adjustments necessary for execution and completion of the Project; (d) acquiring any right-of-way necessary to complete the Project; (e) remediating any hazardous or regulated materials, or other environmental hazard on or near the Project site; (f) providing appropriate traffic control support, including but not limited to flagging, cones, barricades, shadow vehicles, arrow boards, signage, police presence, etc., to enable the Project to be completed in a timely and safe manner; and (g) funding the purchase of all materials necessary to perform the Project construction.
2. Town shall further be responsible for maintaining the project site once the Project is completed.

II. County Responsibilities:

1. County shall be a funding participant.
2. County, its Auditor or its designated representative(s) shall have the unrestricted right to audit any and all accounting or other records regarding any funds paid or claimed under this PSA, including, but not limited to all books, records, reports, tickets, deposits, expenditures, budget or any item therein, supporting data, computer records and programs, and all items of hardware, software or firmware, or any other item utilized by the Town regarding this PSA. Town agrees that all related records shall be retained for a period of time not less than four (4) years from the date of termination of this PSA. Such records shall be provided to the County in Dallas County, Texas and available for any audit at any time upon request. The results of any audit may be furnished to Town for comment.

III. Funding:

County and Town mutually agree that the initial and anticipated Project cost is approximately \$993,000.00 as set forth in Attachment "A." The parties hereto further agree that Town shall be responsible to pay \$496,500.00. County shall contribute an amount not to exceed \$496,500.00 to be paid from Fund 105.2520.

Town and County further agree as follows:

Should unforeseen and unforeseeable circumstances arise which adversely and materially impact the costs and expenses necessary to complete the Project as contemplated, County and Town shall renegotiate the terms hereof, taking into proper account then-current conditions and estimated total costs to complete the Project.

EXHIBIT A

Article VII
Miscellaneous:

- I. **Indemnification.** County and Town agree that each shall be responsible for its own negligent acts or omissions or other tortious conduct in the course of performance of this Agreement, without waiving any governmental immunity available to County or Town or their respective officials, officers, employees, or agents under Texas or other law and without waiving any available defenses under Texas or other law. Nothing in this paragraph shall be construed to create or grant any rights, contractual or otherwise, in or to any third persons or entities.
- II. **No Third Party Beneficiaries.** The terms and provisions of this PSA are for the benefit of the parties hereto and not for the benefit of any third party. It is the express intention of County and Town that any entity other than County or Town receiving services or benefits under this PSA shall be deemed an incidental beneficiary only. This PSA is intended only to set forth the contractual right and responsibilities of the parties hereto.
- III. **Applicable Law.** This PSA is and shall be expressly subject to the County's and Town's Sovereign Immunity and/or Governmental Immunity, pursuant to Title 5 of the Texas Civil Practice and Remedies Code, as amended and all applicable federal and state laws. This PSA shall be governed by and construed in accordance with the laws of the State of Texas. Exclusive venue for any legal action regarding this PSA shall lie in Dallas County, Texas.
- IV. **Notice.** All notices, requests, demands, and other communication under this PSA shall be tendered in writing and shall be deemed to have been duly given when either delivered in person, via e-mail, or via certified mail, postage prepaid, return receipt requested to the respective parties as follows:

COUNTY:

Director of Public Works
Dallas County
500 Elm Street, Suite 5300
Dallas, Texas 75202

and

Commissioner JJ Koch
Road & Bridge District #2
411 Elm Street, Second Floor
Dallas, Texas 75202

TOWN:

Shannon Hicks
Director of Public Works and Engineering Services
Town of Addison
16801 Westgrove Drive
Addison, Texas 75001

EXHIBIT A

Either party may change its address for notice by giving the other party notice thereof.

- V. Assignment. This PSA may not be assigned or transferred by either party without the prior written consent of the other party.
- VI. Binding Agreement; Parties Bound. Upon execution by the parties, this PSA shall constitute a legal, valid and binding obligation of the parties, their successors and permitted assigns.
- VII. Amendment. This PSA may not be amended except in a written instrument specifically referring to this PSA and signed by the parties hereto.
- VIII. Counterparts. This PSA may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
- IX. Severability. If one or more of the provisions in this PSA shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not cause this PSA to be invalid, illegal or unenforceable, but this PSA shall be construed as if such provision had never been contained herein, and shall not affect the remaining provisions of this PSA, which shall remain in full force and effect.
- X. Entire Agreement. This PSA embodies the complete agreement of the parties, and except where noted, it shall supersede previous and/or contemporary agreements, oral or written, between the parties and relating to matters in the PSA.
- XI. Contingent. This PSA is expressly subject to and contingent upon formal approval by the Dallas County Commissioners Court and by resolution of the Town Council of the Town of Addison.
- XII. Effective Date. The Contract shall commence on the Effective Date. The Effective Date of this Contract shall be the date it is executed by the last of the parties. Reference to the date of execution shall mean the Effective Date.
- XIII. No Joint Enterprise/Venture. The parties agree that no party is an agent, servant, or employee of the other parties. The parties, including their agents, servants, or employees, are independent contractors, and not an agent, servant, joint enterprise/venture, or employee of any other party, and are responsible for their own acts, forbearance, negligence, and deeds, and for those of their agents, servants, or employees in conjunction with this Contract. No joint enterprise/venture exists between the parties.

(the remainder of this page intentionally left blank)

(signatures appear on the following page)

EXHIBIT A

The Town of Addison, State of Texas, has executed this PSA pursuant to duly authorized Town Council Resolution _____, Minutes _____, dated the ___ day of _____, 2022.

The County of Dallas, State of Texas, has executed this PSA pursuant to Commissioners Court Order Number _____ and passed on the _____ day of _____, 2022

Executed this the _____ day of _____, 2022.

Executed this the _____ day of _____, 2022.

TOWN OF ADDISON:

COUNTY OF DALLAS:

MAYOR

CLAY LEWIS JENKINS
COUNTY JUDGE

ATTEST:

APPROVED AS TO FORM:*
JOHN CREZOT
DISTRICT ATTORNEY

TOWN SECRETARY

Jana Prigmore Ferguson
Assistant District Attorney

*By law, the District Attorney’s Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).

EXHIBIT A

Attachment A

Town of Addison
Dallas County Type B Roads 2022 Cost Share Candidates

| Type B Street Name | From | To | Pavement Type | Lanes Miles | Commissioner District | Maintenance Plan | Estimated Cost |
|--------------------|------------------------------|--------------|---------------|-------------|-----------------------|----------------------------|----------------|
| Addison Road | Northern Dallas County Limit | Arapaho Road | Asphalt | 8.03 | 2 | Full Depth Asphalt Repairs | \$993,000 |

| | |
|--------------------------|-----------|
| Town of Addison Funding | \$496,500 |
| Dallas County Funding | \$496,500 |
| <hr/> Total Project Cost | \$993,000 |

Attachment B
Project Map

