

DALLAS COUNTY CAPITAL IMPROVEMENT PROGRAM FUNDING AGREEMENT

The City of Grand Prairie, Texas, hereinafter called "City", and the County of Dallas, Texas, hereinafter called "County", desire to enter into a Funding Agreement, hereinafter called "FA", in order to contract for the implementation of the Major Capital Improvement Projects authorized by Court Order 2014-0457 dated April 01, 2014 which approved specified projects including Rock Island Road Bridge, MCIP 40812 at Bear Creek in the City of Grand Prairie, Texas, hereinafter called "Project".

Witnesseth

WHEREAS, the City has requested that it be designated as the Lead Agency for the Project Preliminary Design phase and will provide the Project Manager; and

WHEREAS, the Project is located within the City of Grand Prairie, Texas: and

WHEREAS, City and County entered into a Master Agreement Governing Major Capital Improvement Program on May 10, 2011, by Commissioners Court Order 2011-860 for the purpose of Transportation Improvements on roads inside Dallas County; and

WHEREAS, Chapter 791 of the Texas Government Code and Texas Transportation Code Section 251 provide authorization for local governments to contract with each other for the performance of governmental functions and services, and joint funding of road or street projects; and

WHEREAS, Chapter 562 of the Texas Local Government Code provides an authorization for local governments to contract with each other for water or sewer projects.

NOW THEREFORE THIS FUNDING AGREEMENT is made by and entered into by the City and the County for the mutual consideration stated herein.

Article I. Project Funding Agreement

This FA is between the County and the City to establish a preliminary proposed budget for the Project which will facilitate the movement of public transportation to benefit both the City and County. This FA is to specifically identify the Project as well as any changes in the rights and responsibilities of each of the parties as set forth in the Master Agreement which is hereby incorporated herein as if written word for word and any additions thereto. 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 FA, this FA shall control.

Article II Incorporated Documents

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

1. Master Agreement authorized by County Commissioners Court Order 2011-860 dated May 10, 2011, and additions thereto as incorporated herein.

2. Project Vicinity Map, as shown in Exhibit "A".
3. Current Cost Estimates and Funding Sources, as shown in Exhibit "B".

Article III **Term of Agreement**

This FA becomes effective when signed by the last party whose signature makes the respective agreement fully executed. This Agreement shall remain in effect until:

1. Incorporated into the Project Specific Agreement; or
2. Terminated upon the terms and conditions as set forth in the Master Agreement, Article IV Section A, Termination.

Article IV **Project Description**

This FA is entered into by the parties to develop public transportation improvements within the City of Grand Prairie, Texas. The project is defined as the preliminary design for the replacement of the existing Rock Island Road Bridge at Bear Creek from the existing two lanes to a proposed four lane divided bridge design. The City and County will consider the options of building the full four lane bridge or a two lane bridge from the full design that will allow taking the existing bridge out of service with the remainder of the bridge being constructed at a later date. Upon taking the existing bridge out of service the City will annex that remaining portion of Rock Island Road including the bridge. The County does hereby give its approval for the expenditure of City 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 FA is expressly contingent upon the availability of City funding for each item and obligation contained herein. County shall have no right of action against the City of Grand Prairie as regards this FA, specifically including any funding by City of the Project in the event that the City is unable to fulfill its obligations under this FA as a result of the lack of sufficient funding for any item or obligation from any source utilized to fund this FA or failure of any funding party to budget or authorize funding for this FA during the current or future fiscal years. In the event of insufficient funding, or if funds become unavailable in whole or part, the City, at its sole discretion, may provide funds from a separate source or terminate this FA. 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 FA is expressly contingent upon the availability of County funding for each item and obligation contained herein. City shall have no right of action against the County as regards this FA, specifically including any funding by County of the Project in the event that the County is unable to fulfill its obligations under this FA as a result of the lack of sufficient funding for any item or obligation from any source utilized to fund this FA or failure of any funding party to budget or authorize funding for this FA during the current or future fiscal years. In the event of insufficient funding, or if funds become unavailable in whole or part, the

County, as its sole discretion, may provide funds from a separate source or terminate this FA. In the event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code.

Article VI **Agreements**

I. County and City Responsibilities:

1. City will be the Lead Agency for the Project.
2. City and County have mutually agreed that the Project limits are the existing Rock Island Road Bridge at Bear Creek from the existing two lanes to a proposed four lane divided bridge design in the City of Grand Prairie, Texas on the attached Exhibit "A".
3. County and City shall execute the necessary agreements for the completion of the Project mutually agreed upon and incorporated herein by this FA.

II. County Responsibilities:

1. County will attend all Project task force meetings and public meetings.
2. The preliminary design will be submitted to the County for approval, prior to proceeding with the final design. The County shall review and comment on all preliminary design documents within thirty (30) days. If the City has not received comments within thirty (30) days, the City will assume the County has reviewed the plans, had no comments and the Project may proceed.

III. City Responsibilities:

1. City shall use the total funding committed by County and City solely for the purpose of eligible Projects Costs for Design.
2. City shall inform County of all Project activity and approvals.
3. City shall provide a final accounting of Project Costs once the planning is complete and accepted by the County. The accounting shall have sufficient detail for the Auditor to verify Project Costs.
4. City shall be responsible for maintaining the water transmission pipeline within its city after the Project is complete.
5. City shall be responsible for maintaining the roadway, grading area, drainage structures, striping, and signage after the Project is complete.

Article VII **Funding**

I. Funding

County and City mutually agree to proportionately fund the Direct Project and Program cost as follows:

1. Notwithstanding any provision in the Master Agreement, this FA, any amendment thereto, or any other agreement between the parties regarding this Project, the total Project cost is estimated at Three Hundred Thousand Dollars and no cents (\$300,000.00) as shown in Exhibit "B". The County's total obligation to this Project Preliminary Design is to provide funding in the amount not to exceed One Hundred

Fifty Thousand Dollars and no cents (\$150,000.00), reduced by all County in-house delivery costs of the total Project.

2. The County in-house Project delivery costs may include, but are not limited to, preliminary scoping and research, special services, site inspection meetings and preliminary coordination.
3. The City will have a total obligation to this Project Design in the amount of One Hundred Fifty Thousand Dollars and no cents (\$150,000.00).
4. Any payments to be made by any party hereto shall be from current revenue or other lawfully available funds in accordance with Chapter 791 of the Texas Government Code.

Article VIII **Miscellaneous**

- I. No Third Party Beneficiaries. The terms and provisions of this FA are for the benefit of the parties hereto and not for the benefit of any third party. It is the express intention of City and County that any entity other than City or County receiving services or benefits under this FA shall be deemed an incidental beneficiary only. This FA is intended only to set forth the contractual right and responsibilities of the parties hereto.
- II. Applicable Law. This FA is and shall be expressly subject to the Sovereign Immunity of County and Governmental Immunity of City, Title 5 of the Texas Civil Practice and Remedies Code, as amended, and all applicable Federal and State laws. This FA shall be governed by and construed in accordance with the laws and case decisions of the State of Texas. Exclusive venue for any legal action regarding this FA filed by either City or County shall be in Dallas County, Texas.
- III. Notice. Any notice provided for in this Agreement to be given by either party to the other, shall be required to be in writing and shall be deemed given when personally delivered, or two (2) business days after being deposited in the United States Mail, postage prepaid, by certified mail, return receipt requested, or by registered mail, and addressed as follows:

To County: County of Dallas
Director of Public Works
Dallas County Administration Building
411 Elm Street, Fourth Floor
Dallas County, Texas 75202-3389

To City: City of Grand Prairie, Texas
Romin A. Khavari, P.E., CFM
City Engineer
205 W. Church Street
Grand Prairie, Texas 75053-4045

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

- IV. Assignment. This FA may not be assigned or transferred by either party without the prior written consent of the other party.
- V. Binding Agreement; Parties Bound. This FA has been duly executed and delivered by both parties and constitutes a legal, valid and binding obligation of the parties, their successors and permitted assigns.

- VI. Amendment. This FA may not be amended except in a written instrument specifically referring to this FA and signed by the parties hereto.
- VII. Number and Gender. Words of any gender used in this FA shall be held and construed to include any other gender and words in the singular shall include the plural and vice versa, unless the context clearly requires otherwise.
- VIII. Counterparts. This FA 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 FA shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not cause this FA to be invalid, illegal or unenforceable, but this FA shall be construed as if such provision had never been contained herein, and shall not affect the remaining provisions of this FA, which shall remain in full force and effect.
- X. Entire Agreement. This FA embodies the complete agreement of the parties, supersedes all oral or written previous and contemporary agreements between the parties and relating to matters in the FA.
- XI. Contingent. This Agreement is expressly subject to and contingent upon formal approval by the Dallas County Commissioners Court and by resolution of the City Council.

The City/Town of Grand Prairie, State of Texas, has executed the Agreement pursuant to duly authorized City/Town Council Resolution _____, Minutes _____ Dated the ____ day of _____, 20__.

The County of Dallas, State of Texas, has executed this agreement pursuant to Commissioners Court Order Number _____ and passed on the ____ day of _____, 20__.

City of Grand Prairie, Texas

County of Dallas

By: _____

Clay Lewis Jenkins, County Judge

Title: _____

Date

Date

Attest:

Approved as to Form*:
Susan Hawk
District Attorney

City Secretary \ Attorney

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"

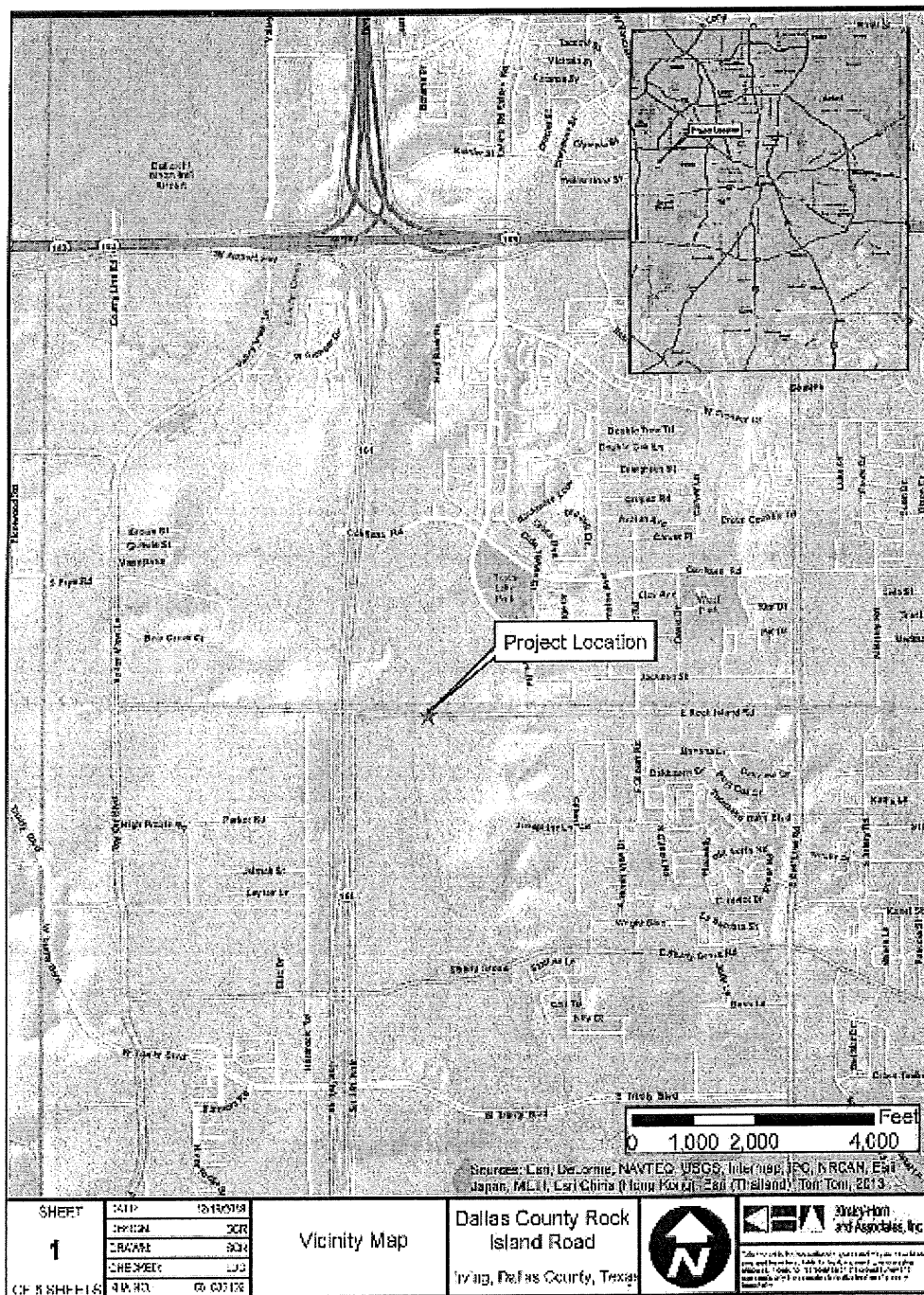


EXHIBIT “B”
Dallas County Capital Improvement
Program Funding Agreement
CURRENT COST ESTIMATES & FUNDING SOURCES

Project Name: Rock Island Road Bridge, MCIP 40812

Total Estimated Project Preliminary Design Cost	
Preliminary Design & Dallas County IHPD	\$300,000.00
Total	\$300,000.00
Funding Source	
Dallas County	\$125,000.00
Dallas County IHPD	\$25,000.00
City of Grand Prairie	\$150,000.00
Total	\$300,000.00