

**PROJECT SPECIFIC AGREEMENT
RE: PAVEMENT SECTION REPAIRS, CURB AND GUTTER, ADA RAMPS AND
LANE MARKINGS ALONG ALPHA ROAD FROM VALLEY VIEW LANE TO
MIDWAY ROAD**

**A “TYPE B” ROADWAY PROJECT-- MADE PURSUANT TO DALLAS COUNTY’S
MASTER ROAD & BRIDGE INTERLOCAL MAINTENANCE AGREEMENT WITH
CITY OF FARMERS BRANCH, 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 City of Farmers Branch, Texas (hereinafter “City”), acting by and through their duly authorized representatives and officials, for the purpose of transportation-related maintenance, repairs and improvements to be undertaken in certain designated blocks of enumerated public roadway as more fully set forth and described in Attachments “A” and “B”, incorporated herein by reference (“Project”).

WHEREAS, Chapter 791 of the Texas Government Code provides authorization for local governments to contract amongst themselves for the performance of governmental functions and services;

WHEREAS, on or about January 22, 2013, County and City entered into a Master Interlocal Agreement (“Agreement”), whereby County agreed to provide partial funding for certain duly qualified “Type B” road and bridge maintenance projects, said projects situated within the territorial limits and jurisdiction of City; and

WHEREAS, City now desires County to provide partial funding for such a duly qualified project, consisting of pavement section repairs, curb and gutter, ADA ramps and lane markings along Alpha Road from Valley View Lane to Midway Road, all on public roadway situated in the City as more fully described on Attachment “A”;

NOW THEREFORE THIS PSA is made by and entered into by County and City, 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. 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, 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. 2013-0277 dated February 12, 2013, and additions thereto as incorporated herein,
2. Initial Projected Project Cost (Attachment “A”), and
3. Map/Diagram of the Proposed Work Site (Attachment “B”).

Article III

Term of Agreement

This PSA becomes effective when signed by the last party whose signature makes the PSA fully executed and shall terminate upon the completion and acceptance of the Project by City 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 City of Farmers Branch, Texas. The Project shall consist of **pavement section repairs, curb and gutter, ADA ramps and lane markings along Alpha Road from Valley View Lane to Midway Road** in enumerated blocks of designated public streets, in the City of Farmers Branch, Texas, (hereinafter “Project”), and as more fully described in Attachments “A” and “B”. 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 City and County.

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. City 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.

Article VI **Agreements**

I. City's Responsibilities:

1. Where necessary, City, at its own expense, shall be responsible for the following: (a) managing construction of the Project; (b) informing the public of the proposed reconstruction of the Project; (c) locating all manholes, water valves, and other utilities within the Project; (d) making or causing to be made all utility relocations or adjustments necessary for execution and completion of the Project; (e) acquiring any right-of-way necessary to complete the Project; (f) remediating any hazardous or regulated material, or any other environmental hazard in the Project location; (g) receiving and processing all payments due contractors City hires to work on the Project; (h) contracting through formal bidding procedures to acquire the services of contractors; and (i) furnishing materials, labor, and equipment necessary to perform the Project construction.
2. City shall be responsible for all maintenance on or about the Project site.

II. County Responsibilities and Rights:

1. County shall only reimburse City for proportionate Project Costs, as more fully set forth in Section III below.
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 City regarding this agreement. City agrees that all related records shall be retained for a period of time not less than four (4) years from the date of the termination of this Agreement. 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 City for comment.
3. In the event that any audit shall determine that funds are due and owing to County, such sums shall be due and payable to County within thirty (30) days of the date that an invoice for same is provided to City.

III. Funding:

County and City mutually agree that the initial and anticipated Project Cost is \$471,014.00, as set forth in the attached Exhibit "A". The parties hereto further agree that City shall be totally responsible for the construction and maintenance of said Project, and that County shall only be responsible to City for a contribution, in the form of reimbursement of \$200,000.00, which amount shall not exceed Fifty Percent (50%) of the initial and anticipated Project Cost. City and County further agree as follows:

1. Should the final cost of the Project exceed the initial and anticipated Project Costs, City agrees to either reduce the scope of the Project or to seek additional funding to facilitate its completion. In either event, City shall be solely responsible for all such costs in excess thereof, and County shall bear no additional responsibilities beyond those contemplated herein, and
2. City shall submit timely invoices to County, which invoices shall provide complete information and documentation to substantiate City's charges, and which shall not be for periods of work totaling less than thirty (30) days. County's acceptances of City's invoices are contingent upon City's compliance with County's invoicing procedures. County may withhold any disputed amounts until such time as the underlying dispute is resolved to County's satisfaction, but shall pay all undisputed amounts timely. City understands and acknowledges that occasionally there might be short-term delays in the County's review and processing of invoices. Should such reasonable and necessary delays occur, City agrees that shall not place the County in default of this Agreement.

Article VII **Miscellaneous:**

- I. **Indemnification.** County and City 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 City 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 City that any entity other than County or City 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 City's Sovereign Immunity and/or Governmental Immunity of City, Title 5 of the Texas Civil Practice and Remedies Code, as amended, and all applicable Federal and State Law. 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:

Commissioner Mike Cantrell
Road & Bridge District # 2
1701 N. Collins, Ste. 1000
Richardson, Texas 75080

and

Alberta Blair, Director
Dallas County Public Works
411 Elm Street, Suite 400
Dallas, Texas 75202

CITY:

Gary D. Greer, City Manager
City of Farmers Branch
13000 William Dodson Parkway
Farmers Branch, Texas 75234

With copy to:

Director of Public Works
City of Farmers Branch and
13000 William Dodson Parkway
Farmers Branch, Texas 75234

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith LLP
500 N. Akard, Suite 1800
Dallas, Texas 75201

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.

Project Specific Agreement

Rev. 10/2014 by Dallas County District Attorney Civil Section

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 governing body of the City of Lancaster.

The City of Farmers Branch, State of Texas, has executed the Agreement pursuant to duly authorized City Council Resolution _____, 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__.

Executed this the _____ day of _____, 20__.

Executed this the _____ day of _____, 20__.

CITY OF FARMERS BRANCH

COUNTY OF DALLAS:

GARY D. GREER
CITY MANAGER

CLAY LEWIS JENKINS
DALLAS COUNTY JUDGE

ATTEST:

APPROVED AS TO FORM:
CRAIG WATKINS
DISTRICT ATTORNEY

CITY SECRETARY

TERESA GUERRA SNELSON
CHIEF, CIVIL DIVISION

APPROVED AS TO FORM:

PETER G. SMITH
CITY ATTORNEY
(kbl:10/12/14:68639)

SHERRI TURNER
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).

ATTACHMENT "A"

PROJECT SPECIFIC AGREEMENT
TYPE B ROADWAY PROJECT

Alpha Road (Valley View to Midway)

Pavement Repairs	Est. Qty.			Est. Cost		Cost per line item
10" Paving	6,100	SY	@	\$74.00	SY	\$451,400.00
6" Integral Curb	2,500	LF	@	\$2.00	LF	\$5,000.00

Lane Markings	Est. Qty.			Est. Cost		Cost per line item
4" white thermo	1,600	LF	@	\$0.60	LF	\$960.00
6" white thermo	500	LF	@	\$0.70	LF	\$350.00
II-RC Buttons	160	EA	@	\$2.70	EA	\$432.00
I-C Buttons	160	EA	@	\$2.70	EA	\$432.00

Other	Est. Qty.			Est. Cost		Cost per line item
Centerline Saw Cut for Expansion	6220	LF	@	\$2.00		\$12,440.00

Total Estimated Cost: \$471,014

ATTACHMENT "B"

Map/Diagram of the Proposed Work Site

