

INTERLOCAL AGREEMENT

BETWEEN

DALLAS AREA RAPID TRANSIT AND CITY OF UNIVERSITY PARK, TEXAS

RELATED TO PROCUREMENT AND FINANCIAL MATTERS FOR IMPLEMENTATION OF THE APPROVED CITY OF UNIVERSITY PARK, TEXAS STREET REPAIR PROJECT

This Interlocal Agreement, hereinafter referred to as the Agreement, is made and entered into by and between the DALLAS AREA RAPID TRANSIT ("DART"), a regional transportation authority organized and existing pursuant to Chapter 452, Texas Transportation Code, and City of University Park, Texas (the "City"), a Texas home rule municipal corporation, (each a "Party" and collectively referred to as "the Parties") acting by and through their respective representatives.

RECITALS

WHEREAS, the DART Board of Directors has authorized the President/Executive Director or designee to implement a Street Repair Program (the "Program") in 1997 as stipulated in Board Resolution No. 970192, and

WHEREAS, the City has identified certain eligible Transit Enhancement projects (the "Projects") and submitted the Projects for inclusion in this Program, as listed in "Exhibit A" and incorporated herein for all purposes, and

WHEREAS, DART has verified that the Projects meet the Program criteria, and

WHEREAS, Chapter 791 of the Texas Government Code provides authorization for local governments to contract with each other for the performance of governmental functions and services, and joint funding of road or street improvements, and

WHEREAS, it is the desire of the City to enter into an agreement with DART for implementation of the Project, and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. CONTRACT PERIOD

This Agreement becomes effective upon the last date of execution hereof by a Party (the "Effective Date") and terminates upon City's tender of the "Certificate of Final Completion" to DART, subject to events of force majeure, no later than January 1, 2021.

2. MAXIMUM FUNDING

The maximum, not-to-exceed amount of the Program funding to be provided by DART for Projects pursuant to this Agreement is One Hundred Thirty-Seven Thousand, Six Hundred and Sixty-Nine Dollars (\$137,669) to be paid as set forth herein ("Maximum Amount").

3. ENGINEERING RESPONSIBILITIES

City shall prepare plans, surveys, designs and engineering and all other documents necessary for procurement and award of a construction contract for the Projects, including by example and not limitation, the plans, specifications and engineer's estimate (the "Approved Plans"). The engineering plans prepared under this Agreement will be based on the City's applicable design standards.

4. ELIGIBLE PROJECTS

To be eligible for reimbursement to City under the Program, the Project must be authorized under and consistent with the provisions of Chapter 452 of the Texas Transportation Code. The Project may include planning, environmental impact studies, engineering, final design, right-of-way acquisition, construction, testing, inspection, surveying, traffic control systems and additional work regarding utilities, field changes, supplemental agreements or additional change orders that may become necessary for or to the design and construction of the Project (Eligible Costs"). City acknowledges that payment by DART for the Project shall include only the Eligible Costs for the Project and is limited by the Maximum Amount set forth in Section 2 hereof.

5. CONSTRUCTION

City shall cause its contractor to perform the construction of the Project in accordance with the Approved Plans. City shall supervise and inspect all Project work and shall provide such engineering, inspection and testing services as may be required to ensure that the construction of the Project is accomplished in accordance with the Approved Plans, the construction and implementation of the Project is fully completed, and the Project is functioning as anticipated. City agrees and acknowledges that DART has no obligations with respect to inspection, supervision, functionality or warranty of any Project and that all aspects, including design and construction, of the Project are controlled by and the responsibility of the City.

Within fifteen (15) business days after completion of the Project City shall provide to DART a "Certificate of Acceptance and Final Completion", acknowledging that the Project has been completed in accordance with the Approved Plans.

MAINTENANCE AND WARRANTY REQUIREMENTS

Upon completion of the Project, City shall be responsible for the maintenance of the Project. City shall require its contractor(s) to provide a maintenance bond or other warranty for all

work related to the Project against defects in materials and workmanship for a minimum period of one (1) year from completion of the Project.

6. FUNDING AND REIMBURSEMENT PROCEDURES

a. City shall provide to DART a schedule of total Project costs and a schedule for completion by Project. City shall provide DART a monthly invoice for payment of Eligible Cost for the Project incurred and paid by the City accompanied by paid invoices and other written evidence of the Eligible Costs incurred and paid by the City and a written certification from an engineer specifying the Project work that has been completed as of the date of the invoice, and providing any reasons for material delays or deviation from the construction schedule if any. DART shall within thirty (30) days after receipt of the written invoice, reimburse City for Eligible Costs for the Project for completed Project work based upon written invoice

b. Any Project costs in excess of the Maximum Amount shall be paid by City.

c. DART shall remit funds to City by electronic transfer or by a check made payable to City within thirty (30) days after receipt by DART of the written invoice and related required documentation.

7. OWNERSHIP OF DOCUMENTS

Upon termination of this Agreement, the Approved Plans shall become the property of the City. City shall provide DART a copy of as-builts for the Project (at no cost to DART) within 30 days of completion of each Project.

8. MISCELLANEOUS

a. Third Party Beneficiaries. There are no third-party beneficiaries of this Agreement.

b. Entire Agreement. The recitals and exhibits to this Agreement are incorporated herein for all purposes. This Agreement constitutes the entire agreement of DART and City with respect to the subject matter hereof. There is no other collateral oral or written Agreement between the Parties that in any manner relates to the subject matter of this Agreement, except as provided in any Exhibits attached hereto and which are incorporated herein.

c. Amendment. This Agreement may not be amended except by the mutual agreement of the Parties. The City Manager for the City, or designee is authorized to execute on behalf of the City any amendments to, or other instruments related to this Agreement.

d. Termination. This Agreement shall terminate upon written notice by either Party, if the other Party breaches or is in default of this Agreement and such breach or default is not cured within ninety (90) days after written notice thereof. Upon written termination by the non-defaulting Party, unspent funds and misapplied funds, if any, provided to City shall be refunded to DART and neither Party shall have further obligation to the other pursuant to this Agreement thereafter.

- e. Governing Law and Construction. This Agreement shall be governed by the laws of the State of Texas. The Parties agree that venue for any action shall be in state district court of Dallas County, Texas.
- f. Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.
- g. Terminology. “Hereunder,” “hereof,” and similar or related terminology refers to this entire Agreement. Where appropriate, all references to the singular shall include the plural and vice versa and all references to any gender shall include any and every other gender.
- h. Counterparts. This Agreement may be executed in any number of counterparts, each deemed to be an original.
- i. Authority to Execute. The individual signatories below each represent they have authority to sign for and bind the respective Party.
- j. Notice. Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, addressed to the Party at the address set forth below (or such other address as such Party may subsequently designate in writing) or on the day actually received if sent by courier or otherwise hand delivered::

CITY: Attention City Manager
 City of University Park
 3800 University Boulevard
 University Park, Texas 75205

With copy to:

With copy to:

DART: Todd Plesko
 VP Service Planning and Scheduling
 Dallas Area Rapid Transit
 1401 Pacific Ave.
 Dallas, TX 75202

- k. Current Funds. Each Party paying for the performance of governmental functions or services pursuant to this Agreement shall make those payments from current revenues available to the paying Party.
- l. Severability and Legal Construction. In the event any one or more of the provisions contained in

this Agreement shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision(s) hereof, and this Agreement shall be revised so as to cure such invalid, illegal, or unenforceable provision(s) to carry out as nearly as possible the original intent of the Parties.

EXECUTED this the _____ day of _____, 2019.

DALLAS AREA RAPID TRANSIT

CITY OF UNIVERSITY PARK, TEXAS

By: _____

By: _____

Gary C. Thomas, P.E.
President Executive Director

Robbie Corder
City Manager

Date: _____

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____

Gene Gamez
General Counsel

City Attorney

Date: _____

Date: _____

Exhibit “A”

Project Location

Scope of Work:

The project will include:

- Replacement of the traffic signals and associated appurtenances at the following intersections:
 - Preston Road @ Centenary Drive
 - Preston Road @ Villanova Street
 - Hillcrest Avenue @ Caruth Boulevard