

**STATE OF TEXAS           §       Interlocal Agreement for**  
**§       South Elm Street Reconstruction**  
**COUNTY OF TARRANT   §**

This interlocal agreement (ILA) is entered into between Tarrant County, Texas, hereinafter referred to as the “COUNTY”, and the City of Keller, hereinafter referred to as the “CITY”, and collectively referred to as the “parties”, for the purpose of providing funding through the Tarrant County 2006 Transportation Bond Program (2006 TBP) and the Tarrant County 2021 Transportation Bond Program (2021 TBP) to a needed transportation project within the boundaries of both parties which the Commissioners Court of the COUNTY and the governing body of the CITY find serves a public purpose and promotes the public welfare of the citizens of Tarrant County.

The COUNTY and the CITY make the following findings of fact:

1. This ILA is made pursuant to Chapter 791 of the Texas Government Code, the Tarrant County 2006 Transportation Bond Process/Policy, and the Tarrant County 2021 Transportation Bond Program Policy, as amended;
2. To the extent necessary, the parties will use current revenues to pay obligations in this ILA;
3. The project benefits the public in that it is a needed transportation project;
4. The COUNTY and the CITY each has the legal authority to perform its obligations in this ILA;
5. The division of costs provided in this ILA constitute adequate consideration to each party; and
6. Both parties acknowledge they are each a “governmental entity” and not a “business entity” as those terms are defined in Texas Government Code Section 2252.908, and therefore, no disclosure of interested parties is required.

**I.**  
**PROJECT DESCRIPTION**

This project, hereinafter referred to as the “Project”, will consist of the construction (or reconstruction) of South Elm Street from Bear Creek Parkway to FM 1709. This project consists of widening and reconstructing approximately 0.60 miles of existing two-lane undivided concrete urban collector, including street parking, curb and gutter, internal drainage, water and sewer lines, streetlights, shared use paths and crosswalks.

**II.**  
**SCOPE OF SERVICES PROVIDED BY CITY**

The services to be provided by the CITY shall include, but are not limited to, the following:

- A. All total project costs including construction, right of way acquisition, utility relocation,

engineering, planning, surveying, and governmental approval costs (collectively referred to as “Costs”);

- B. Following project completion, the CITY will provide the overall total project cost summary with final cost share between funding partners;
- C. Construction agreement administration, site review, permitting, and inspection;
- D. The CITY agrees to facilitate the efficient operations of the Project through ongoing transportation system maintenance efforts, including signal timing optimization as applicable;
- E. Interagency coordination, including CITY notification to the North Central Texas Council of Government (NCTCOG) and the COUNTY of any amendments or modifications to NCTCOG’s Transportation Improvement Program (TIP);
- F. A detailed project schedule documenting the percent complete for each major component of the Project shall be provided to the COUNTY with every reimbursement request;
- G. The CITY agrees to invite the COUNTY to any project groundbreaking or ribbon cutting events; and
- H. The CITY will include the following language on all public notices, web pages, and on-site signage related to the Project:

“This project is funded by the City of Keller and the Tarrant County Commissioners Court through the Tarrant County 2006 and 2021 Transportation Bond Programs, Precinct 3: Commissioner Gary Fickes and County Judge Tim O’Hare”

### **III.** **TERM**

This ILA shall become effective upon the approval of both parties and shall terminate on September 30, 2027, unless terminated as described in Section XII in this ILA or extended in writing and approved by both parties.

### **IV.** **FISCAL FUNDING ACKNOWLEDGEMENT**

Tarrant County bond funds will be encumbered on a fiscal year basis in accordance with the Certification of Available Funds shown herein. In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable by any means whatsoever in any fiscal period for payments due under this ILA, then the affected party will immediately notify the other party of such occurrence and this ILA may be terminated on the last day of the fiscal period for which appropriations were received without penalty or expense to the affected party of any kind whatsoever, except to the portions of annual payments herein agreed upon for which funds shall have been appropriated.

**V.**  
**REIMBURSEMENT PROCESS**

The COUNTY agrees to reimburse the CITY for 50% of the actual eligible PROJECT costs in an amount not to exceed \$7,590,000.00. Any reimbursement request from the CITY should include: 1) a copy of the invoice or billing for design services, right-of-way acquisition purchase, and construction; and 2) a copy of the check, a certification letter, or other documentation to verify the CITY's proof of payment. The final reimbursement payment to the CITY will be contingent upon the City Manager or Mayor providing written notification to the COUNTY that the project is complete along with identification of final project costs. COUNTY bond funds for the Project are allocated as follows:

**County Payment by Phase\***

Design:	\$875,000.00	(2006 TBP)
ROW Acquisition:	\$0.00	
Construction:	\$37,601.00	(2006 TBP)
	\$927,399.00	(2021 TBP)
	<u>\$5,750,000.00</u>	(2021 TBP)
TOTAL:	\$7,590,000.00	

TBP Funding Category: 2006 Pct 3 Discretionary (\$912,601.00), 2021 Pct 3 Discretionary (\$463,699.50), 2021 County Judge Discretionary (\$463,699.50), and 2021 Call for Projects (\$5,750,000.00)

*\* Reimbursement payments will be issued by the COUNTY for eligible expenses incurred during the Fiscal Year for which bond funds are certified by the Tarrant County Auditor.*

The CITY understands that the CITY will be responsible for cost overruns and any other expenses incurred by the CITY in performing the services described herein. The CITY agrees that the COUNTY retains control over when reimbursement payments will be disbursed to the CITY.

**VI.**  
**AGENCY-INDEPENDENT CONTRACTOR**

Neither the COUNTY nor any employee thereof is an agent of the CITY, and neither the CITY nor any employee thereof is an agent of the COUNTY. This ILA does not and shall not be construed to entitle either party or any of their respective employees, if applicable, to any benefit, privilege or other amenities of employment by the other party.

The COUNTY will have no right to control the manner or means of construction of the CITY's contractor for this PROJECT.

**VII.**  
**ASSIGNMENT**

Neither party may assign, in whole nor in part, any interest it may have in this ILA without the prior written consent of the other party.

**VIII.**  
**THIRD-PARTY BENEFICIARY EXCLUDED**

No person other than a party to this ILA may bring a cause of action pursuant to this ILA as a third-party beneficiary. This ILA may not be interpreted to waive the sovereign or governmental immunity of any party to this ILA to the extent such party may have immunity under Texas law.

**IX.**  
**AUDIT OF RECORDS**

The CITY's records regarding this PROJECT shall be subject to audit by the COUNTY during the term of this ILA and for five years after the completion of the PROJECT.

**X.**  
**ENTIRE AGREEMENT**

This ILA represents the entire understanding of and between the parties and superseded all prior representations. This ILA may not be varied orally but must be amended by written document of subsequent date duly executed by these parties.

**XI.**  
**VENUE**

This ILA shall be governed by the laws of the State of Texas and venue for any action under this ILA shall be in the district courts of Tarrant County, Texas.

**XII.**  
**TERMINATION**

Until funded by the COUNTY as described in Section V, this ILA may be terminated by either party by providing written notice to the other party at least thirty (30) days prior to the intended date of termination. Such notice shall be deemed given when personally delivered or mailed by certified or registered mail (with return-receipt and postage prepaid) and addressed to:

COUNTY:  
County Administrator  
Tarrant County  
100 E. Weatherford Street, Ste. 404  
Fort Worth, Texas 76196

CITY:  
Mayor or City Manager  
City of Keller  
1100 Bear Creek Parkway  
Keller, TX 76248

**XIII.**  
**SOVEREIGN POWERS**

The COUNTY and the CITY agree and understand neither Party waives nor surrenders any of its governmental powers by execution of this ILA.

**XIV.**  
**COMPLIANCE WITH LAWS**

In providing services required by this Agreement, CITY and any contractors the CITY engages to perform these services must observe and comply with all applicable federal, state and local statutes, ordinances, rules and regulations, including, without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and non-discrimination laws and regulations. CITY shall be responsible for ensuring its compliance with any laws and regulations applicable to its business, including maintaining any necessary licenses and permits.

**APPROVED** on this day the \_\_\_\_ day of \_\_\_\_\_, 2024, by Tarrant County.

Commissioners Court Order No. \_\_\_\_\_.

**TARRANT COUNTY, TEXAS**

**CITY OF KELLER**

\_\_\_\_\_  
Tim O'Hare, County Judge

\_\_\_\_\_  
Armin Mizani, Mayor

\_\_\_\_\_  
Gary Fickes, Commissioner Pct 3

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Criminal District Attorney's Office\*

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
City Secretary (If applicable)

\* By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead, those parties should seek contract review from independent counsel.

**CERTIFICATION OF AVAILABLE FUNDS IN THE AMOUNT OF:**

\$ \_\_\_\_\_ *as follows:*

Fiscal year ending September 30, 2024:

\$875,000.00 2006 TBP – Pct 3 Discretionary

\_\_\_\_\_  
Auditor's Office

## RESOLUTION NO. 4792

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KELLER, TEXAS, APPROVING AN UPDATED INTERLOCAL AGREEMENT WITH TARRANT COUNTY FOR THE SOUTH ELM STREET RECONSTRUCTION PROJECT; AND FURTHER AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY OF KELLER, TEXAS.

WHEREAS, the South Elm Street reconstruction project is part of the voter approved Tarrant County 2021 Transportation Bond Program; and

WHEREAS, City Council has a strategic goal to leverage partnerships to improve and maintain sound infrastructure and the City's appreciates Tarrant County's partnering with the City on the South Elm Street reconstruction project; and

WHEREAS, City Council approved Resolution 4720 on November 20, 2023, for an Interlocal agreement for construction cost reimbursements of up to \$5,750,000; and

WHEREAS, Tarrant County has agreed to increase the interlocal agreement for the South Elm Street reconstruction cost reimbursement by \$1,840,000 for a total reimbursement of \$7,590,000; and

WHEREAS, the Tarrant County Commissioners requires that a revised Interlocal Agreement be entered into with each participating municipality, Exhibit A; and

WHEREAS, the City Council of the City of Keller, Texas has deemed it necessary and in the best interest, health, and welfare of the citizens of Keller to move forward with the Interlocal Agreement with Tarrant County.

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

Section 1: THAT, the above findings are hereby found to be true and correct and are incorporated herein in their entirety.

Section 2: THAT, the City Council of the City of Keller, Texas hereby approves an Interlocal Agreement with Tarrant County to share in the cost for the reconstruction of South Elm Street; and further authorizes the Mayor to execute said Interlocal Agreement on behalf of the City of Keller, Texas.

AND IT IS SO RESOLVED.

Passed by a vote of 6 to 0 on this the 21st day of May 2024.




CITY OF KELLER, TEXAS

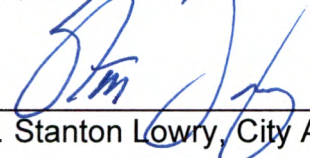
BY:

  
Armin Mizani, Mayor

ATTEST:

  
Kelly Ballard, City Secretary

Approved as to Form and Legality:

  
L. Stanton Lowry, City Attorney