

DONATION AGREEMENT

This DONATION AGREEMENT (“Donation Agreement”) is made by and between the Walsh Ranches Limited Partnership, hereinafter called the “Donor”, and Tarrant County, Texas, a political subdivision of the State of Texas, hereinafter called the “County.”

RECITALS

WHEREAS, the County plans to enter into a Local Transportation Project Advanced Funding Agreement with the Texas Department of Transportation (“TxDOT Advanced Funding Agreement”) to facilitate the preparation of the final design and plans, specifications, and estimates (“PS&E”) for a proposed interchange on I-20 at Bentley Road in Tarrant County. The design of the proposed interchange shall be in accordance with the configuration as shown in the approved schematic and in the Interstate Access Justification Report (“IAJR”) that is being developed by others / TXDOT) approved by the Federal Highway Administration. This includes the design as shown in the IAJR for the ramp configuration / locations on the I-20 mainlanes, as well as the widths and locations of the auxiliary lanes along the outside of I-20 between the entrance and exit ramps, the widths and locations of mainlanes, and the widths and locations of the shoulders on I-20. The proposed limits of this scope of work on I-20 is from the Parker / Tarrant County line to Markum Ranch Rd. as shown in Attachment A to the TxDOT Advanced Funding Agreement (collectively, the “Project”); and

WHEREAS, the County desires to facilitate the construction of the Project acting as a Local Government Sponsor, but under no circumstances will the County be responsible for any Project Costs associated with the Project; and

WHEREAS, the Donor has previously entered into a Master Task Order Prime Agreement for Professional Services (“Master Agreement”), dated May 20, 2021, Task Order Number 1 dated May 24, 2021, Supplemental Task Order Number 1 to Task Order Number 1 dated August 24, 2021, Supplemental Agreement No. 1 dated December 7, 2021, Task Order Number 2 dated December 7, 2021 and Supplemental Number 1 to Task Order Number 2 dated May 19, 2022 with HNTB Corporation for the development of engineering plans for the Project (the “Project Plans”); and

WHEREAS, the Project Plans are scheduled to be completed in January 2023 and the Project is scheduled for letting by the Texas Department of Transportation on or about May 2023; and

WHEREAS, the TxDOT Advanced Funding Agreement includes the expenditure of \$3,475,000 for Project Plans as the Project Local Participation (“Local Participation”); and

WHEREAS, the Donor wishes to donate the Project Plans, valued at \$3,475,000, to the County, and the County wishes to accept and receive said Project Plans for Local Participation in the Project; and

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, Donor and County do agree as follows:

AGREEMENT

Article 1. Effective Date

This Agreement becomes effective when signed by the last party whose signature makes the Agreement fully executed.

Article 2. Funding and Work Responsibilities

Donor is contracted with HNTB Corporation to pay all engineering costs associated with the Master Agreement. The Parties to this Agreement acknowledge and agree that Donor's contribution of Project Plans is being made for the sole purpose of the County providing the Local Participation for the Project, and that, except as otherwise provided in this Agreement, Donor has no further financial or other responsibility for the Project. Donor and the County agree that the County will not be responsible for cost overruns related to completion of the Project Plans, and that if the actual cost of the Project Plans exceeds \$3,475,000, the County will not be responsible for the additional amount and funding of the excess cost would be subject to amendment of this Agreement by Donor and the County.

Article 3. Donation and Acceptance

Donor acknowledges that the TxDOT Advanced Funding Agreement requires County to furnish the final architecture and engineering documents for the Project. Donor also acknowledges that the Project benefits Donor and that County would not participate in the Project but for Donor's providing the architecture and engineering services, including the Project Plans.

As inducement for the County to enter into the TxDOT Advanced Funding Agreement, Donor agrees to donate, convey and transfer to the County, and the County agrees to receive and accept from Donor, all of Donor's right, title and interest in the Project Plans subject to the terms, conditions and provisions hereof, and the Project Plans are being conveyed "AS IS" without any warranties or representations of any kind or nature, whether oral or written, express or implied concerning the Project Plans. County acknowledges that TxDOT will enter into a Construction Phase Services Agreement with an engineer of its choosing to administer the construction of the Project, and that Donor will have no further obligation, or responsibility, for any costs associated with the project.

Article 4. Termination of Project

In the event that Advanced Funding Agreement for Voluntary Local Government Contribution to Transportation Improvement Project, CSJ 0008-16-044, is terminated by the County or TxDOT, then the Parties to this agreement acknowledge and agree that Project Plans will be returned to Donor within ninety (90) days after the termination.

Article 5. Notices

All notices to either party by the other as required under this Agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, or sent by electronic mail (electronic notice being permitted to the extent permitted by law but only after separate, written consent of the parties), addressed to such party at the following addresses:

Tarrant County:

Tarrant County Administrators Office
ATTN: G. K. Maenius
100 E. Weatherford Street, Suite 404
Fort Worth, TX 76196

Walsh Ranches Limited Partnership:

Walsh Companies
ATTN: Ryan B. Dickerson
155 Walsh Drive
Aledo, TX 76008

All notices shall be deemed given on the date so delivered or so deposited in the mail unless otherwise provided herein. Either part may change the above address by sending written notice of the change to the other party. Either party may request in writing that such notices shall delivered personally or by certified U.S. mail and such request shall be honored and carried out by the other party.

Article 6. Entire Agreement

This Agreement represents the entire and integrated agreement between the County and Donor and supersedes all prior negotiations, representations, or arguments either written or oral.

Article 7. Lawful Authority

The execution and performance of this Agreement by the County and Donor have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of the County and Donor in accordance with its terms.

Article 8. Amendments

No amendment, modification or alteration of the terms hereof shall be binding unless the same shall be in writing and dated subsequent to the date hereof and duly executed by the parties hereto.

Article 9. No Third-Party Obligations

It is understood and agreed between the Parties that the County and Donor, in executing this Agreement, and in performing their respective obligations, are acting independently, and not in any form of partnership or joint venture. **NEITHER COUNTY NOR DONOR ASSUMES ANY RESPONSIBILITIES OR LIABILITIES TO ANY THIRD PARTIES IN CONNECTION WITH THIS AGREEMENT.**

Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, ordinance or administrative executive or judicial regulation, order or decree, or amendment thereof, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.

Article 10. No Waiver

No waiver by the County of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same of any other provision hereof.

Article 11. Public Information Act

The County is governed by the Texas Public Information Act, Chapter 552 of the Texas Government Code. This Agreement and all written information generated under this Agreement may be subject to release under this Act.

Article 12. Counterparts

This Agreement has been executed by the parties in multiple originals or counterparts each having full force and effect

[Remainder of Page Intentionally Left Blank]

SIGNED AND EXECUTED This _____ day of _____, 2022.

**TARRANT COUNTY
STATE OF TEXAS**

Signature

Typed or Printed Name

Title

WALSH RANCHES LIMITED PARTNERSHIP,
a Texas limited partnership

By: Walsh North Star Company, LLC,
a Delaware limited liability company,
its general partner

Signature

Ryan B. Dickerson

Typed or Printed Name

Vice President

Title

APPROVED AS TO FORM:

Criminal District Attorney's Office*

*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.