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CO#139976

COMMISSIONERS COURT
COMMUNICATION

REFERENCE NUMBER _____

PAGE 1 OF 8

DATE: 12/13/2022

(Fully executed)

SUBJECT: **APPROVAL OF AN INTERLOCAL AGREEMENT WITH THE CITY
OF FOREST HILL FOR IMPROVEMENTS TO WICHITA STREET
RELATED TO THE 2021 TRANSPORTATION BOND PROGRAM**

COMMISSIONERS COURT ACTION REQUESTED

It is requested that the Commissioners Court approve an Interlocal Agreement (ILA) with the City of Forest Hill for improvements to Wichita Street.

BACKGROUND

On November 1, 2022, the Commissioners Court gave consent to provide funding for the Wichita Street improvement project through the 2021 Transportation Bond Program – Countywide Initiatives and Partnerships. This project is located within the corporate limits of the Cities of Forest Hill, Everman and Fort Worth. The City of Forest Hill will be the lead agency for this construction project described in the attached ILA. This ILA is necessary to encumber 2021 Transportation Bond Program funds for the right-of-way acquisition and construction phases in accordance with the County's Bond Policy approved by the Commissioners Court on March 30, 2021, through Court Order #135141.

This ILA has been approved as to form by the Criminal District Attorney's Office.

FISCAL IMPACT

The fiscal impact to Tarrant County will be \$11,110,000.00 to be disbursed according to the schedule shown in Attachment A. Funds are available in account 579061/47800-2023/6840100000.

SUBMITTED BY: Transportation

PREPARED BY: Randy Skinner
APPROVED BY:

STATE OF TEXAS § **Funding Interlocal Agreement for**
 § **Wichita Street Widening**
COUNTY OF TARRANT §

This interlocal agreement (ILA) is entered into between Tarrant County, Texas, hereinafter referred to as COUNTY, and the City of Forest Hill, hereinafter referred to as CITY, and collectively referred to as the "Parties", for the purpose of providing funding through 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 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;
6. This agreement becomes effective upon full execution by both parties and upon the full execution of the Interlocal Agreements identified in Section II, subsection G of this agreement; and
7. 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, the "Project") will improve Wichita Street from an existing 2-lane asphalt roadway, from IH-20 to Roy Brooks Boulevard, to a 5-lane undivided curb and gutter roadway with continuous median turn-lane. Improvements will also include drainage improvements to the north fork of South Creek and South Creek crossings with an enclosed stormwater system to minimize current flooding conditions. Additionally, the project will provide traffic signalization, illumination, and a 10-foot shared-use path.

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 construction 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. The CITY will provide written notification to the COUNTY of any additional Project funding sources not specifically stated in this Agreement;
- G. The CITY agrees that any additional funding sources not stated in this Agreement may reduce the COUNTY's funding commitment by the same amount as the additional funding sources stated herein;
- H. A detailed quarterly project schedule documenting the percent complete for each major component of the Project shall be provided to the COUNTY;
- I. The CITY will enter into separate Interlocal Agreements with the Cities of Fort Worth and Everman that provide the COUNTY with authority to acquire right-of-way for the Project, require that each city stated herein accept conveyance of the right-of-way from the COUNTY, provide the CITY with authority to make improvements to Wichita Street within the corporate limits of each city stated herein, and ensures that any funding contributions from other agencies are encumbered;
- J. The CITY will invite the COUNTY to project groundbreaking or ribbon cutting events; and
- K. 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 Forest Hill and the Tarrant County Commissioners Court through the Tarrant County 2021 Transportation Bond Program."

III. **TERM**

This ILA shall become effective upon the approval of both parties and shall expire on September 30, 2023, unless terminated as described in Section XIII in this ILA or extended in writing and approved by both parties.

IV.
FISCAL FUNDING ACKNOWLEDGEMENT

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 shall 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 100% of the actual eligible PROJECT construction costs in an amount not to exceed \$11,110,000. The COUNTY's reimbursement will be in accordance with the reimbursement schedule shown in Attachment A. Any reimbursement request from the CITY should include: 1) a copy of the construction invoices; 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.

The TBP will reimburse for only transportation-related costs as determined by the COUNTY. Enhancements, including park benches, landscape lighting, trees, monuments, etc. are not eligible for reimbursement. Expenses related to the construction of sidewalks, multi-use paths, street lighting, drainage, and the relocation or replacement of utilities and water/sewer infrastructure are eligible for reimbursement by the County if such improvements are directly related to, or are necessary for, a roadway improvement selected for funding in the TBP.

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.

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.
SCHEDULING

The CITY agrees that the COUNTY retains control over the reimbursement payment schedule identified in Attachment A. The COUNTY agrees to notify the CITY of any changes to the reimbursement payment schedule 30 days in advance, if such changes are the result of COUNTY requirements. Such notification will be in the form of written correspondence by e-mail or regular mail.

XIII.
TERMINATION

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. In the event of the giving of such notice, CITY shall submit, within that thirty (30) days, all requests for work started on or before the date of such notice and the COUNTY will provide such reimbursement no later than sixty (60) days thereafter. 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:

City Manager
City of Forest Hill
3219 California Parkway
Forest Hill, TX 76119

XIV.
SOVEREIGN POWERS

The COUNTY and the CITY agree and understand neither Party waives or surrenders any of its governmental powers by execution of this ILA.

APPROVED on this day the 13 day of December, 2022, by Tarrant County.

Commissioners Court Order No. 139976.

TARRANT COUNTY, TEXAS

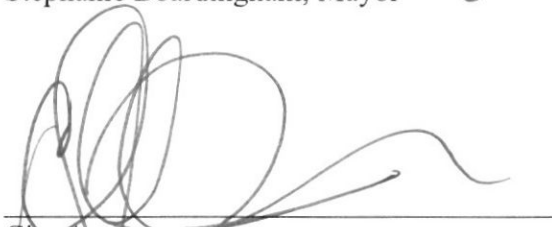

B. Glen Whitley, County Judge

CITY OF FOREST HILL


Stephanie Boardingham, Mayor

APPROVED AS TO FORM:


Criminal District Attorney's Office*


City Attorney

* 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:

\$ 3,000,000.00 as follows:

Fiscal year ending September 30, 2023:	\$3,700,000.00 [#]
Fiscal year ending September 30, 2024:	\$6,000,000.00
Fiscal year ending September 30, 2025:	\$2,110,000.00
Fiscal year ending September 30, 2026:	\$0.00

	\$11,810,000.00**



Auditor's Office

[#]Includes \$700,000 for ROW acquisition conducted by Tarrant County.

** The construction phase of this project will be funded as follows:

Tarrant County Funding

2021 Transportation Bond Program - Countywide Initiatives and Partnerships: \$11,110,000

Other Funding (by separate agreements)

City of Forest Hill contribution: \$ 2,390,000

City of Fort Worth contribution: \$ 500,000

Total \$14,000,000

ATTACHMENT A

Project Information

Jurisdiction: City of Forest Hill
Project Name: Wichita Street Widening

Project Schedule (by month/year)

	<u>Start Date</u>	<u>Duration (mo.)</u>	<u>End Date</u>
Design:	-	-	-
ROW Acquisition:	-	-	-
Construction:	Aug-23	14	Dec-24

County Payment by Phase*

Design:	\$0.00
ROW Acquisition#:	\$700,000.00
Construction:	<u>\$11,110,000.00</u>
TOTAL:	\$11,810,000.00

TBP Funding Category: 2021 Countywide Initiatives and Partnerships Category

** Invoice Schedule*

Design = Completion of Design Phase

ROW Acquisition = Completion of Property Acquisition and/or utility relocation

Construction = Monthly or quarterly throughout the construction period.

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.

Reimbursement Schedule by Fiscal Year Quarter (SUBJECT TO CHANGE)

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
FY23	\$0.00	\$0.00	\$1,500,000.00	\$1,500,000.00	\$3,000,000.00
FY24	\$1,500,000.00	\$1,500,000.00	\$1,500,000.00	\$1,500,000.00	\$6,000,000.00
FY25	\$2,110,000.00	\$0.00	\$0.00	\$0.00	\$2,110,000.00
FY26	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Right-of-way will be acquired by Tarrant County with funds from the Countywide Initiatives category of the 2021 Transportation Bond Program. Once acquired, this Right-of-way will be conveyed to the appropriate municipality.