

**INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF
THE COLONY AND THE CITY OF CARROLLTON
FOR
ASSISTANCE IN ENGINEERING INSPECTIONS FOR PRIVATE
SUBDIVISIONS**

THIS AGREEMENT, (the “Agreement”), is made and entered into by and between the City of Carrollton, Texas a home-rule municipal corporation located in Collin, Dallas and Denton counties, Texas (hereinafter referred to as “Carrollton”) and the City of The Colony, Texas, a home-rule municipal corporation located in Denton County, Texas (hereinafter referred to as “The Colony”)

WHEREAS, this Agreement is being entered into pursuant to the Interlocal Cooperation Act, V.T.C.A., Government Code, Section 791.001, et seq. (the “Act”); and

WHEREAS, Carrollton and The Colony are both local governments as defined by Section 791.003(a) of the Act engaged in the provision of governmental functions and services to their citizens. Part of these governmental functions and services includes review of residential and commercial subdivision infrastructure design and construction; and

WHEREAS, these functions and services serve the public health, safety and welfare, promote efficiency and effectiveness of local governments, and are of mutual concern to the contracting parties; and

WHEREAS, Carrollton Engineering Department performs infrastructure examination, inspections and The Colony has a need for such services on a temporary basis; and

WHEREAS, The Colony has current revenues available to satisfy the fees and/or expenses incurred pursuant to this Agreement; and

WHEREAS, The Colony may utilize Carrollton on an as needed basis when necessary to keep up with work load demands as specifically requested; and

WHEREAS, Carrollton and The Colony mutually desire to be subject to the provisions of V.T.C.A. Government Code §791.001, et. seq., the Interlocal Cooperation Act, and other applicable sections, statutes and contracts pursuant thereto;

NOW THEREFORE, for mutual consideration hereinafter stated, Carrollton and The Colony agree as follows:

I. TERM

The initial term of this Agreement shall be for a period beginning on the effective date of the Agreement, as provided herein, and ending August 26, 2016. Thereafter, upon mutual agreement of the parties hereto, this Agreement may be renewed for an additional 45 days term, unless terminated earlier by either Carrollton or The Colony as set forth below.

II. AGREEMENT

Carrollton agrees to provide infrastructure inspection services to The Colony at the rate of \$65.00 per hour, subject to the following conditions:

- 1) The Colony City Manager, or his duly authorized designee shall identify the projects for which The Colony is requesting assistance and Carrollton's Director of Engineering will coordinate Carrollton staff to provide these services to The Colony on an "as available" basis. Carrollton's own projects shall take precedence over The Colony's projects.
- 2) The Colony will make available all plans for projects to be inspected by the Carrollton's Engineering Department either by deliver to Carrollton City Hall located at 1945 East Jackson Road, Carrollton, Texas 75006 or by providing a copy at the Colony City Hall.
- 3) Carrollton will perform:
 - a) Standard pavement inspection including inspection of steel rebar spacing, size and tied;
 - b) Review material tests lab reports prior to accepting concrete shipment. In the event of a failure to meet the applicable standard, have the authority to not accept the concrete mix;
 - c) Inspect placement of underground water and sewer pipes to ensure they are placed in accordance with applicable specifications;
 - d) Request Materials Testing services, CATV pipeline services and other testing services necessary to ensure conformance with project requirement.
- 4) Carrollton will perform other associated surface and subsurface inspection work as needed.

**III.
PAYMENT/FUNDING**

The Colony shall compensate Carrollton at the rate of \$65.00 per hour for the time that Carrollton spends inspecting subdivision projects for The Colony. Carrollton will invoice The Colony for services rendered once a month. Carrollton will invoice The Colony in increments no smaller than one-half of an hour. The Colony shall make payment to Carrollton within thirty (30) days of receipt of invoice. All charges incurred by The Colony as a result of its obligations hereunder shall be paid from current revenues legally available to The Colony. The Colony and Carrollton recognize that the continuation of any contract after the close of any given fiscal year of either The Colony or Carrollton, which fiscal year's end on September 30th of each year, shall be subject to approval by the Carrollton City Council and/or The Colony City Council. In the event that either the Carrollton City Council or The Colony City Council does not approve the appropriation of funds for this contract, the contract shall terminate at the end of the fiscal year for which funds were appropriated and the parties shall have no further obligations hereunder.

**IV.
TERMINATION**

This Agreement may be terminated at any time, with or without cause, by either party giving thirty (30) days advance written notice to the other party. In the event of such termination by either party, The Colony shall immediately pay all fees which may be due and owing to Carrollton for work performed through the date of termination of the agreement.

**V.
NOTICE**

Notice as required by this Agreement shall be in writing delivered to the parties via facsimile or certified mail at the addresses listed below:

CARROLLTON

Cesar Molina
Director of Engineering
City of Carrollton
1945 East Jackson Road
Carrollton, Texas 75006
Telephone: 972 466-3051
Facsimile: 972 466-3193

THE COLONY

Gordon Scruggs
Director of Engineering
City of The Colony
6800 Main Street
The Colony, Texas 75056
Telephone: 972 624-
Facsimile: 972 624-2229

Each party shall notify the other in writing within ten (10) days of any change in the information listed in this paragraph.

**VI.
HOLD HARMLESS**

Each party does hereby agree to waive all claims against, release, and hold harmless the other party and its respective officials, officers, agents, employees, in both their public and private capacities, from any and all liability, claims, suits, demands, losses, damages, attorney's fees, including all expenses of litigation or settlement, or causes of action which may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property arising out of or in connection with this contract.

In the event of joint or concurrent negligence of the parties, responsibility, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to either party individually under Texas law. Carrollton shall be responsible for its sole negligence. THE COLONY shall be responsible for its sole negligence. The provisions of this paragraph are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

**VII.
ENTIRE AGREEMENT**

This Agreement represents the entire and integrated agreement between Carrollton and The Colony and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both parties.

**VIII.
VENUE**

This Agreement and any of its terms or provisions, as well as the rights and duties of the parties hereto, shall be governed by the laws of the State of Texas, and this Agreement is performable in Denton County, Texas. Exclusive venue shall be in Denton County, Texas.

**IX.
SEVERABILITY**

The provisions of this agreement are severable. In the event that any paragraph, section, subdivision, sentence, clause, or phrase of this agreement shall be found to be contrary to the law, or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of this agreement. However, upon the occurrence of such event, either party may terminate this Agreement by giving the other party thirty (30) days written notice of its intent to terminate

**X.
AUTHORITY TO SIGN / CITY COUNCIL AUTHORIZATION**

The undersigned officer and/or agents of the parties hereto are the duly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto. **THE COLONY** has executed this Agreement pursuant to duly authorized action of the governing body for the City of The Colony, Texas on _____, 2016. **CARROLLTON** has executed this Agreement pursuant to duly authorized City Council Resolution No. _____ dated _____, 2016.

**XI.
ASSIGNMENT AND SUBLETTING**

This Agreement may not be assigned without the prior written consent of the parties.

**XII.
INTERPRETATION OF AGREEMENT**

This is a negotiated document. Should any part of this Agreement be in dispute, the parties agree that the Agreement shall not be construed more favorably for either party.

**XIII.
REMEDIES**

No right or remedy granted herein or reserved to the parties is exclusive of any right or remedy granted by law or equity; but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this Agreement may be waived without the express written consent of the parties. It is further agreed that one (1) or more instances of forbearance by either party in the exercise of its respective rights under this Agreement shall in no way constitute a waiver thereof.

EXECUTED in duplicate originals this ____ day of _____, 2016.

CITY OF CARROLLTON, TEXAS

By: _____
Leonard Martin
CITY MANAGER
1945 East Jackson Road
Carrollton, Texas 75006

APPROVED AS TO FORM:

Meredith Ladd, CITY ATTORNEY

CITY OF THE COLONY, TEXAS

By: _____
Troy C. Powell
CITY MANAGER
6800 Main Street
The Colony, TX 75056

ACKNOWLEDGMENTS

STATE OF TEXAS)
)
DENTON COUNTY)

This instrument was acknowledged before me on the _____ day of _____, 2016, by **Troy C. Powell**, City Manager of **THE COLONY, TEXAS**, a home-rule municipal corporation, on behalf of such corporation.

Notary Public, State of Texas

STATE OF TEXAS)
)
DALLAS COUNTY)

This instrument was acknowledged before me on the _____ day of _____, 2016, by **Leonard Martin**, City Manager of the **CITY OF CARROLLTON, TEXAS**, a home-rule municipal corporation, on behalf of such corporation.

Notary Public, State of Texas