

CSJ #: 0196-03-240  
District #: 18-Dallas  
Code Chart 64 #: 07400  
Project: IH 35E  
Limits: at Belt Line Road  
County: Denton

**STATE OF TEXAS** §  
**COUNTY OF TRAVIS** §

**LOCAL PROJECT ADVANCE FUNDING AGREEMENT FOR  
VOLUNTARY LOCAL GOVERNMENT CONTRIBUTIONS  
TO TRANSPORTATION IMPROVEMENT  
PROJECTS WITH NO REQUIRED MATCH**

**ON SYSTEM**

**THIS AGREEMENT** is made by and between the State of Texas, acting by and through the Texas Department of Transportation, called the "State", and the City of Carrollton, acting by and through its duly authorized officials, called the "Local Government."

## WITNESSETH

**WHEREAS**, Texas Transportation Code, Chapter 201 and 222 authorizes the State to lay out, construct, maintain, and operate a system of streets, roads, and highways that comprise the State Highway System; and,

**WHEREAS**, Texas Government Code Chapter 791 and Texas Transportation Code §201.209 and Chapter 221, authorizes the State to contract with municipalities and political subdivisions; and,

**WHEREAS**, the Texas Transportation Code Chapter 223 authorizes design-build contracts with private entities for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project; and,

**WHEREAS**, the Texas Transportation Commission (the Commission) passed Minute Order Number 113398 dated December 13, 2012 designates the IH 35E Managed Lanes Project in Denton County as a design-build project; and,

**WHEREAS**, Texas Transportation Commission Minute Order Number 113319 authorizes the State to undertake and complete a highway improvement generally described as the construction of grade separation of frontage roads along Dallas Area Rapid Transit Railroad on IH 35E at Belt Line Road, and,

**WHEREAS**, the Local Government has requested that the State allow the Local Government to participate in said improvement by funding that portion of the improvement described as the construction of a culvert at the Northbound Frontage Road and Vandergriff Street on IH 35E at Belt Line Road in the City of Carrollton, called the "Project"; and,

**WHEREAS**, the State has determined that such participation is in the best interest of the citizens of the State;

**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, the State and the Local Government do agree as follows:

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## AGREEMENT

### **1. Time Period Covered**

The period of this Local Project Advance Funding Agreement (LPAFA) is as stated in the Master Agreement Governing Local Transportation Project Advance Funding Agreements (MAFA), without exception.

### **2. Project Funding and Work Responsibilities**

The State will authorize the performance of only those Project items of work which the Local Government has requested and has agreed to pay for as described in Attachment A, Payment Provision and Work Responsibilities which is attached to and made a part of this contract. In addition to identifying those items of work paid for by payments to the State, Attachment A, Payment Provision and Work Responsibilities, also specifies those Project items of work that are the responsibility of the Local Government and will be carried out and completed by the Local Government, at no cost to the State.

### **3. Payment of Funds**

Whenever funds are paid by the Local Government to the State under this agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation Trust Fund." The check or warrant shall be deposited by the State in an escrow account to be managed by the State. Funds in the escrow account may only be applied by the State to the Project. If, after final Project accounting, excess funds remain in the escrow account, those funds may be applied by the State to the Local Government's contractual obligations to the State under another advance funding agreement with approval by appropriate personnel of the Local Government.

### **4. Right of Access**

If the Local Government is the owner of any part of the Project site, the Local Government shall permit the State or its authorized representative access to the site to perform any activities required to execute the work.

### **5. Adjustments Outside the Project Site**

The Local Government will provide for all necessary right of way and utility adjustments needed for performance of the work on sites not owned or to be acquired by the State.

### **6. Responsibilities of the Parties**

Responsibilities of the Parties will be under the conditions as provided for in the MAFA, without exception.

### **7. Document and Information Exchange**

The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements and related documentation in a Microsoft® Word or similar document. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate including types of activities and month in the format required by the State. This

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requirement applies whether the local entity creates the documents with its own forces or by hiring a consultant or professional provider. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

## **8. Inspection and Conduct of Work**

Unless otherwise specifically stated in Attachment A, Payment Provision and Work Responsibilities, to this contract, the State will supervise and inspect all work performed hereunder and provide such engineering inspection and testing services as may be required to ensure that the Project is accomplished in accordance with the approved plans and specifications. All correspondence and instructions to the contractor performing the work will be the sole responsibility of the State. Unless otherwise specifically stated in Attachment A to this contract, all work will be performed in accordance with the Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges adopted by the State and incorporated in this agreement by reference, or special specifications approved by the State.

## **9. Increased Cost**

Increased cost will be under the conditions as provided for in the MAFA, without exception.

## **10. Maintenance**

The Local Government shall assume responsibility for the Project maintenance and the repair, replacement, repainting and/or any other required or needed work on the culvert. Upon written notification and approval by the State, the Local Government shall maintain the Project in accordance with applicable State roadway maintenance manuals and standards.

## **11. Termination**

Termination of this LPAFA shall be under the conditions as stated in the MAFA, without exception.

## **12. Notices**

Notices of this LPAFA shall be under the conditions as stated in the MAFA, without exception.

<b>Local Government:</b>	<b>State:</b>
City Manager City of Carrollton 1945 East Jackson Road Carrollton, Texas 75011-0535	Director of Contract Services Office Texas Department of Transportation 125 E. 11 <sup>th</sup> Street Austin, Texas 78701

## **13. Successors and Assigns**

The State and the Local Government each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this agreement.

## **14. Amendments**

Amendments to this LPAFA shall be made as described in the MAFA, without exception.

## **15. Incorporation of Master Agreement Provisions**

This LPAFA incorporates all relevant provisions of the MAFA in effect on the date of final execution of this LPAFA, unless such MAFA provision is specifically excepted in this agreement.

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Any conflict between the terms of the MAFA and this LPAFA shall be governed and controlled by this LPAFA.

#### **16. State Auditor**

The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

#### **17. Insurance**

If this agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

#### **18. Signatory Warranty**

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

**THIS AGREEMENT IS EXECUTED** by the State and the Local Government in duplicate.

#### **THE LOCAL GOVERNMENT – CITY OF CARROLLTON**

By: \_\_\_\_\_

Leonard Martin  
City Manager

Date: \_\_\_\_\_

#### **THE STATE OF TEXAS**

By: \_\_\_\_\_

James K. Selman, P.E.  
Dallas District Engineer  
Texas Department of Transportation

Date: \_\_\_\_\_

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## **ATTACHMENT A** **PAYMENT PROVISION AND WORK RESPONSIBILITIES**

The Local Government will provide a fixed contribution of \$525,560 towards the cost to construct a culvert at the Northbound Frontage Road and Vandergriff Street on IH 35E at Belt Line Road in the City of Carrollton. The Local Government's fixed contribution for this improvement includes construction items.

<b>Description</b>	<b>Total Estimate Cost</b>	<b>Federal Participation</b>		<b>State Participation</b>		<b>Local Participation (Fixed)</b>	
		<b>%</b>	<b>Cost</b>	<b>%</b>	<b>Cost</b>	<b>%</b>	<b>Cost</b>
Construction (by State)	\$525,560	0%	\$0	0%	\$0	Fixed	\$525,560
Direct State Cost @ 9.19%	\$48,299	0%	\$0	100%	\$48,299	0%	\$0
Indirect State Cost @ 5.74%	\$30,167	0%	\$0	100%	\$30,167	0%	\$0
<b>TOTAL</b>	<b>\$604,026</b>		<b>\$0</b>		<b>\$78,466</b>	<b>(Fixed)</b>	<b>\$525,560</b>

Total Local Government Participation = \$525,560 (fixed)

Total Payment by the Local Government to the State on full execution of this Agreement = \$525,560 (fixed)