

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 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 grade separation of frontage roads with Dallas Area Rapid Transit (DART) railroad on IH 35E at Belt Line Road in Denton County.

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 temporary tie-in to the existing roadway facility under the parking lot at Northbound Frontage Road Sta.735+00 and extend the limits of the new 9 feet by 4 feet box culvert to the pavement reconstruction limit on Vandergriff Street 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." The check or warrant shall be deposited by the State and managed by the State. The funds may only be applied by the State to the Project. If after final Project accounting excess funds remain, 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 requirement applies whether the local entity creates the documents with its own forces or by

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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 in Attachment A, Payment Provision and Work Responsibilities of this agreement.

10. Maintenance

Project maintenance will be under the conditions as provided in Attachment A, Payment Provision and Work Responsibilities of this agreement.

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.

Local Government:	State:
City Manager City of Carrollton 1945 East Jackson Road Carrollton, Texas 75011-0535	Director of Contract Services Texas Department of Transportation 125 E. 11 th 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: _____
Erin Rinehart
City Manager

THE STATE OF TEXAS

By: _____
Kenneth Stewart
Director of Contract Services
Texas Department of Transportation

Date: _____

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Attachment A

PAYMENT PROVISION AND WORK RESPONSIBILITIES

Costs will be allocated based on the Local Government's fixed contribution in the amount of **\$441,873.25** to the State for the State to construct a temporary tie-in to the existing roadway facility under the parking lot at Northbound Frontage Road Sta.735+00 and extend the limits of the new 9 feet by 4 feet box culvert to the pavement reconstruction limit on Vandergriff Street in the City of Carrollton. The State will then be responsible for the cost overruns for the Project.

The Project cost is to be as follows:

DESCRIPTION	TOTAL ESTIMATED COST	FEDERAL PARTICIPATION		STATE PARTICIPATION		LOCAL PARTICIPATION	
Construction (by State)	\$386,050.37	0%	\$0	0%	\$0	Fixed	\$386,050.37
Direct State Cost – CST @ 9.19%	\$35,478.03	0%	\$0	0%	\$0	Fixed	\$35,478.03
Indirect State Cost @ 5.27%	\$20,344.85	0%	\$0	0%	\$0	Fixed	\$20,344.85
TOTAL	\$441,873.25		\$0		\$0	(fixed)	\$441,873.25

Total Local Government participation = **\$441,873.25 (fixed)**

Payment by the Local Government to the State upon full execution of this agreement: **\$441,873.25 (fixed)**

Total payment by the Local Government to the State: **\$441,873.25 (fixed)**

The total amount of Local Government participation shall not exceed the amount appearing above.

Project Maintenance by the Local Government

Upon completion of the Project by the State, the Local Government will assume responsibility for the cost and overruns associated with the maintenance of the Project to include the repair, replacement, repainting and/or other required or needed maintenance work to include the temporary tie-in to the existing roadway facility under the parking lot at Northbound Frontage Road Sta.735+00 and extend the limits of the new 9 feet by 4 feet box culvert to the pavement reconstruction limit on Vandergriff Street in the City of Carrollton.

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.

Increase Cost

The total amount of Local Government participation, including the State's direct and indirect costs, for the State to construct a temporary tie-in to the existing roadway facility under the parking lot at Northbound Frontage Road Sta.735+00 and extend the limits of the new 9 feet by 4 feet box culvert to the pavement reconstruction limit on Vandergriff Street in the City of Carrollton shall not exceed the Local Government fixed contribution. The State will be responsible for the Project cost overruns.

Construction

The State is responsible to ensure that all construction items of work for the Project are completed in accordance with the approved plans and specifications.