

INTERLOCAL AGREEMENT

Between the City of Keller and the City of Southlake

This Interlocal Agreement (hereinafter the “Agreement”) regarding funding an intersection improvement project is made and entered into by and between the **CITY OF KELLER** (hereinafter “Keller”) and the **CITY OF SOUTHLAKE** (hereinafter “Southlake”), which are both home rule municipal corporations and political subdivisions of the State of Texas. Keller and Southlake are referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, this Agreement is made pursuant to Chapter 791 of the Texas Government Code; and

WHEREAS, to the extent necessary the Parties will use current revenues to pay obligations in this Agreement; and

WHEREAS, the project serves a public purpose; and

WHEREAS, Keller and Southlake each have the legal authority to perform its obligations in this Agreement; and

WHEREAS, the division of costs provided in this Agreement constitutes adequate consideration to each party; and

WHEREAS, the Parties acknowledge they are each a “governmental entity” and not a “business entity” as those terms are defined in Tex. Gov’t. Code sect. 2252.908, and therefore, no disclosure of interested parties is required; and

WHEREAS, it is mutually advantageous to both parties to enter into this Agreement:

AGREEMENTS, TERMS AND CONDITIONS

NOW, THEREFORE, for and in consideration of the mutual covenants, terms and conditions set forth herein, and the mutual benefits to each party, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby contract, covenant, warrant and agree as follows:

I. ADOPTION OF RECITALS

All of the matters stated in the Recitals stated above are agreed to be true and correct and are hereby incorporated into the body of the Agreement by reference as though fully set forth in their entirety herein.

II. PROJECT DESCRIPTION

This Project will include improvements at the intersection at FM 1709 and Pearson Lane to help alleviate traffic backups during peak hours. (hereinafter the "Project").

III. RESPONSIBILITIES OF THE PARTIES; COST APPORTIONMENT

3.1 Keller shall be responsible for the following:

- (a) Reimbursing Southlake for twenty-five percent (25%) of all remaining Project design and construction costs plus any additional costs incurred by Southlake. Remaining Project costs include all costs incurred less reimbursements to be paid through the 2021 Tarrant County Bond Election.
- (b) TxDOT's construction standards will apply to the Project, including those portions of the Project that extend into Southlake's City Limits
- (c) Keller will appoint a representative that will be responsible for timely reviewing the design and approving location and placement of equipment within its right of way.

3.2 Southlake shall be responsible for the following:

- (a) Seventy-five percent (75%) of all remaining Project design and construction costs plus any additional costs incurred by Southlake. Remaining Project costs are all Project costs less the requested funding to be paid through the 2021 Tarrant County Bond Election.
- (b) TxDOT's construction standards will apply to the Project, including those portions of the Project that extend into Keller's City Limits
- (c) Southlake will appoint a representative that will be responsible for timely reviewing the design and approving location and placement of equipment within its right of way.

3.3 Fiscal Agent. Southlake shall serve as the fiscal agent of the Parties for purposes of the Project. Southlake will review, approve, and pay the bills incurred for the Project and will then bill Keller for its

respective share. Keller is entitled to request a copy of any bill for review, prior to or following Southlake's payment of the same, provided that Keller may not unreasonably delay timely payment of any bill approved for payment by Southlake. Unless otherwise provided in this Agreement, Keller will remit payment to Southlake within thirty (30) days of receipt of any and all invoices.

3.4 Rights-of-way. The Parties agree to provide necessary access to their respective rights-of-way for the Project. The Parties will designate a single point of contact for managing rights-of-way issues.

IV. COST

Cost participation is contingent upon project approval through the 2021 Tarrant County Bond Election. Keller agrees to fund the actual costs of the Project by reimbursing Southlake. Payment to Southlake shall be in accordance with the funding schedule set forth in Attachment A, which is attached hereto and hereby made a part of this Agreement for all purposes. The Parties agree Keller has no obligation to provide payments during schedule delays. The Parties further agree Keller's payments for the Project are contingent upon approval of additional funding from the 2021 Tarrant County Bond Election, and the Southlake's and Keller's reasonable determination that the work for which reimbursement is sought has been successfully completed, which shall not be unreasonably withheld.

Prior to the final payment, Southlake agrees to provide certification signed by the City Manager or other authorized official that the work has been completed and that the funds being requested have been expended. The Parties acknowledge that the funding contained herein is designated for the costs of the Project, as defined in Section I.

V. AGENCY-INDEPENDENT CONTRACTOR

Neither Keller nor any employee thereof is an agent of Southlake and neither Southlake nor any employee thereof is an agent of Keller. Each party shall supervise the performance of its own personnel and shall not be entitled to control the manner and means by which its work and services are to be performed, subject to the terms of this Agreement. It is understood and agreed by and between the Parties that each, in satisfying the conditions of this Agreement, is acting independently, and that neither assumes responsibility or liability to any third party in connection with their performance of this Agreement. This Agreement 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. Southlake agrees that the Keller will have no right to control the manner or means of construction of the Project.

VI. ASSIGNMENT

Neither Party may assign, in whole or in part, any interest it may have in this Agreement without the prior written consent of the other Party.

VII. THIRD-PARTY BENEFICIARY EXCLUDED

No person other than a party to this Agreement may bring a cause of action pursuant to this Agreement as a third-party beneficiary.

VIII. AUDIT OF RECORDS

Southlake's records regarding this Project shall be subject to audit by Keller during the term of this Agreement and for two years after the completion of the project.

IX. ENTIRE AGREEMENT

This Agreement represents the entire understanding of and between the Parties and supersedes all prior representations. This Agreement may not be varied orally, but must be amended by written document of subsequent date duly executed by these Parties. This Agreement shall be governed by the laws of the State of Texas and venue for any action under this Agreement shall be in the district courts of Tarrant County, Texas.

X. NO WAIVER

This Agreement may not be interpreted to waive the sovereign or governmental immunity of any Party to this Agreement to the extent such Party enjoys immunity under Texas law.

XI. NOTICE

Any notice or other writing required by this Agreement shall be deemed given when personally delivered or mailed by certified or registered United States mail, return-receipt, postage prepaid, address as follows:

KELLER:

SOUTHLAKE:

City Manager

Re: FM 1709 & Pearson

City of Keller

1100 Bear Creek Parkway

Keller, Texas 76248

City Manager

Re: FM1709 & Pearson

City of Southlake

1400 Main Street

Southlake, Texas 76092

XII. SEVERABILITY

If, in case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

XIII. AUTHORITY

Each person signing this Agreement warrants that person has received authority from the governing body of the party for which it is signing this Agreement to enter into this Agreement.

Signature page to follow

EXECUTED hereto on the date(s) shown below.

City of Southlake, Texas

By: _____
John Huffman, Mayor

Attest:

Amy Shelley
Southlake City Secretary

APPROVED AS TO FORM:

Allen Taylor Jr.
City Attorney

City of Keller, Texas

By: _____
Armin Mizani, Mayor

Attest:

Kelly Ballard
Keller City Secretary

APPROVED AS TO FORM:

Stanton Lowry
City Attorney

ATTACHMENT A

Project Information

City: City of Southlake

Project Name: FM 1709 & Pearson Lane Intersection Improvements

Proposed Project Schedule

Phase	Start Date	Duration (mos)	End Date *
Design:	In progress	12	December 2022
ROW Acquisition:	In Progress	4	May 2022
Utility Relocation:	December 2022	4	April 2023
Construction:	May 2023	9	February 2024

* Keller agrees to fund 25% of the actual costs of the Project incurred by Southlake, up to the amount of \$375,000 by reimbursing Southlake for work completed. Keller's payments to Southlake for the Project are contingent upon the Southlake's and Keller's reasonable determination that the work for which reimbursement is expected is successfully completed, which shall not be unreasonably withheld.

Keller retains control over the Keller funding disbursement schedule identified herein. Keller agrees to notify Southlake of any changes to the disbursement schedule 30 days in advance in accordance with Section X of this Agreement.

Proposed Payment Estimates by Phase

Phase	Tarrant County Funding	Southlake Payments	Keller Payments	Total
Design:	\$ 200,000	\$ 150,000	\$ 50,000	\$ 400,000
ROW Acquisition:	\$ 150,000	\$ 112,500	\$ 37,500	\$ 300,000
Utility Relocation:	\$ 200,000	\$ 150,000	\$ 50,000	\$ 400,000
Construction:	\$ 950,000	\$ 712,500	\$ 237,500	\$1,900,000
Total:	\$ 1,500,000	\$ 1,125,000	\$ 375,000	\$ 3,000,000