

EXHIBIT "A"

INTERLOCAL AGREEMENT
BETWEEN THE CITY OF KELLER, TEXAS
AND THE CITY OF FORT WORTH, TEXAS

STATE OF TEXAS §
COUNTY OF TARRANT §

THIS AGREEMENT is by and between the CITY OF KELLER, a Texas home-rule municipality with its principle office at 1100 Bear Creek Parkway, Keller, Tarrant County, Texas 76248, (KELLER), and the CITY OF FORT WORTH, a Texas home-rule municipality, with its principal office at 200 Texas Street, City Hall, Fort Worth, Tarrant County, Texas 76102 (FORT WORTH).

WITNESSETH:

WHEREAS, the Texas Legislature has authorized the execution of Interlocal Cooperation Agreements between and among governmental entities pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, as amended; and

WHEREAS, each governing body, in performing governmental functions or in funding the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body finds that the performance of this Agreement is in the common interest of both parties, that the undertaking will benefit the public and that the division of costs fairly compensates the performing party for the services or functions under this Agreement; and

WHEREAS, KELLER has procured and provided design plans for the addition of a right turn lane and 16-inch, 12-inch and 8-inch water line relocations on Mt. Gilead Road at U.S. Hwy 377, within the KELLER city limits as shown on the attached Location Map, ("Mt. Gilead Improvements") to be included with Fort Worth's design plans for its Timberland Boulevard Phase 3 project ("Timberland Phase 3"); and

WHEREAS, KELLER has agreed to pay for 100 percent of the cost for the construction of the Mt. Gilead Improvements, estimated to be \$506,702.00, plus \$20,268.00 for inspection and material testing, for a total of \$526,970.00, by providing said funds to FORT WORTH; and

WHEREAS, FORT WORTH has agreed to incorporate the Mt. Gilead Improvements into its construction plans for the Timberland Phase 3 project;

NOW THEREFORE, in consideration of the above recitals and the premises and agreements, covenants and promises herein set forth, it is agreed as follows:

Section 1. OBLIGATIONS OF KELLER

- A. KELLER is responsible for and will provide to FORT WORTH the final design and technical specifications for the Mt. Gilead Improvements;

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- B. KELLER, and KELLER'S City Engineer, Chad Bartee, will conduct a final review of the Mt. Gilead Improvements for conformance with the design and general compliance with construction practices;
- C. Upon request for payment KELLER will provide to FORT WORTH a lump sum amount of \$526,970.00. KELLER agrees and understands that final project costs will be adjusted for actual cost increases or decreases. The costs include, but are not limited to costs identified in the final bids and approved change orders;
- D. Upon completion and acceptance of the Mt. Gilead Improvements by KELLER, KELLER shall be responsible for maintenance and operation of the Mt. Gilead Improvements.

Section 2. OBLIGATIONS OF FORT WORTH

- A. FORT WORTH will ensure that the City's contractor constructs the Mt. Gilead Improvements according to the plans and specifications;
- B. FORT WORTH shall obtain or cause to be obtained, all material, labor and equipment necessary for the construction of the Mt. Gilead Improvements;
- C. FORT WORTH shall arrange for all materials testing and inspection for the Mt. Gilead Improvements. Nothing herein shall prohibit or prevent KELLER from performing its own inspection or review of materials testing.

Section 3. TERMS OF AGREEMENT

- A. TERM. This AGREEMENT shall be effective upon full execution hereof, as indicated by the dates subscribed by the signatories, and shall continue in force and effect until the Mt. Gilead Improvements are accepted by KELLER;
- B. NOTICES. All notices or communications provided for herein shall be delivered to KELLER and FORT WORTH or, if mailed, shall be sent to KELLER and FORT WORTH at their respective addresses. For the purposes of notice, the addresses of the parties, until changed by written notice, are as set forth in the recitals, with Notice to be directed to:

CITY OF KELLER,
Attention: Chad Bartee, P.E.
City Engineer

FORT WORTH:

Attention: Leon Wilson, Jr., P.E.
Senior Professional Engineer, Transportation and Public Works
Department

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C. IMMUNITY. It is expressly understood and agreed that, in the execution of this AGREEMENT, no party waives, nor shall be deemed hereby to waive, any privilege, immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions.

D. SEVERABILITY. If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants or conditions of this AGREEMENT are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions in this AGREEMENT shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

E. GOVERNING LAW. The validity of the AGREEMENT and of any of its terms or provisions, as well as the rights and duties hereunder, shall be governed by the laws of the State of Texas.

F. PLACE OF PERFORMANCE. All actions to be taken or amounts due under this AGREEMENT shall be performed in Tarrant County, Texas. In the event that any legal proceeding is brought to enforce this AGREEMENT or any provision hereof, the same shall be brought in Tarrant County, Texas.

G. ENTIRE AGREEMENT. This AGREEMENT contains all the terms, commitments and covenants of the parties. Any verbal or written commitment not contained in this AGREEMENT or expressly referred to in this AGREEMENT and incorporated by reference shall have no force or effect.

H. CURRENT REVENUES. The parties hereto shall make payments called for hereunder only from current revenues legally available to each party.

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IN WITNESS WHEREOF, the parties acting under authority of their respective governing bodies have caused this AGREEMENT to be duly executed in several counterparts, each of which is deemed to be an original, as of the date first written above.

CITY OF FORT WORTH

By: _____
Jesus J. Chapa
Assistant City Manager

Date: _____

ATTEST:

By: _____
Mary J. Kayser
City Secretary

(CITY'S SEAL)

CITY OF KELLER

By: _____
Mark Hafner
City Manager

Date: _____

ATTEST:

By: _____
Kelly Ballard
City Secretary

(AUTHORITY'S SEAL)

Contract Compliance Manager:

By signing, I acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements.

Name: Leon Wilson
Title: Senior Professional Engineer

APPROVED AS TO FORM and Legality

Approved as to Form and Legality

Douglas W Black
Sr. Assistant City Attorney

L. Stanton Lowry
City Attorney