

October 24, 2012

Cynthia Long
County Commissioner, Precinct 2
350 Discovery Blvd., Suite 201
Cedar Park, TX 78613

RE: Amended Interlocal Agreement

Dear Commissioner Long:

Enclosed are two partially executed copies of the Amended Interlocal Agreement between the City of Cedar Park and Williamson County for the construction of various transportation projects within the City. If you have any questions or need any additional information, please do not hesitate to give me a call at (512) 401-5352.

Sincerely:



Alan Green
Senior Engineering Associate
Engineering Department



FIRST AMENDMENT TO INTERLOCAL AGREEMENT

THIS FIRST AMENDMENT TO INTERLOCAL AGREEMENT amends an Interlocal Agreement, attached hereto (“Original Interlocal Agreement”), by and between WILLIAMSON COUNTY (the “County”) and the CITY OF CEDAR PARK, TEXAS (the “City”), political subdivisions of the State of Texas and are sometimes collectively referred to as “the Parties”; and

THIS FIRST AMENDMENT TO INTERLOCAL AGREEMENT is made and entered into effect this _____ day of _____, 2012.

WITNESSETH:

WHEREAS, V.T.C.A., Government Code, Chapter 791, the Texas Interlocal Cooperation Act, provides that any one or more public agencies may contract with each other for the performance of governmental functions and for the joint use of facilities or services for the promotion and protection of the health and welfare of the inhabitants of this State and the mutual benefit of the parties; and

WHEREAS, the County and City previously entered into the Original Interlocal Agreement in August of 2008 for the purpose of cooperating in the cost sharing on various roadway projects in Cedar Park; and

WHEREAS, the extension of BMC Drive from its current terminus to Brushy Creek Loop (“BMC Drive Project”), improvements to the intersections of Cypress Creek Road and Lakeline Blvd, (“Cypress Creek/Lakeline Project”) and US 183 and Cypress Creek Road (“US 183/Cypress Creek Project”), overlay of CR 272 (“CR 272 Project”), traffic signal upgrades at the Anderson Mill Road and Zeppelin Drive intersection (“AMR / Zeppelin Signal”), the modification of the east bound Brushy Creek Road right turn lane to south bound Parmer Lane (“BCR Right Turn Lane Project”), and the overlay of Brushy Creek Road from Arrowhead Trail to City Limits (“Brushy Creek East Project”) are collectively referred to as “Amended Cedar Park Road Projects”; and

WHEREAS, the turn lane improvements at the RM 1431 and Parmer Lane intersection is hereby referred to as (“RM 1431/Parmer CFI Project”); and

WHEREAS, traffic volumes on all the Amended Cedar Park Road Projects have increased significantly and are expected to continue to increase over the foreseeable future; and

WHEREAS, the City and the County now desire to cooperate in the cost sharing of the funding of improvements to the Amended Cedar Park Road Projects and the RM 1431/Parmer CFI Project; and

WHEREAS, the total estimated cost of the Amended Cedar Park Road Projects and RM 1431 / Parmer CFI Project, including engineering, surveying, geotechnical, environmental, right-of-way acquisition, construction, construction inspection and construction testing is estimated to be \$6,270,000; and

WHEREAS, the total cost difference between traditional intersection improvements at the RM 1431/Parmer Lane intersection and the RM 1431/Parmer CFI Project, including engineering, surveying, geotechnical, environmental, right-of-way acquisition, construction, construction inspection and construction testing is estimated to be \$1,500,000; and

WHEREAS, the County has previously committed to providing funding towards roadway improvements in Cedar Park for the Brushy Creek Road (Parmer Lane to Arrowhead Trail) project, the RM 1431 (183A to Cottonwood Creek trail) project, and the Cottonwood Creek Trail and New Hope Drive project in the amount of \$12,403,884 under the Original Interlocal Agreement; and

WHEREAS, project cost savings on these projects has resulted in a surplus of funds, estimated to be \$4,770,595, that the Parties desire to be applied towards the successful completion of the Amended Cedar Park Road Projects and a portion of the Counties contribution towards the RM 1431 / Parmer CFI Project; and

WHEREAS, the Parties now desire to commit the surplus funds from the Original Interlocal Agreement towards the Amended Cedar Park Road Projects and a portion of the RM 1431 / Parmer CFI Project ; and

WHEREAS, the County has also committed to providing additional funding towards the RM 1431/Parmer CFI project in the amount of \$1,000,000.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties agree as follows:

I.

Terms and Conditions

1. The term “Design” for the purposes of this agreement means engineering, surveying, geotechnical, environmental and any other professional or technical service required to produce bidding documents, plans and specifications for the Cedar Park Road Projects.
2. The term “Right-of-Way Acquisition” means all engineering, surveying, appraisal, legal, title company and other services required to acquire in fee simple the parcels of land necessary to construct the Cedar Park Road Projects.

3. The term "Construction" means the provision of all materials, equipment, labor, surveying, testing and inspection necessary to construct the Amended Cedar Park Road Projects according to the plans and specifications approved by the City and County.
4. The City agrees to serve as Project Manager on behalf of the City and the County and administer all aspects of Design, Right-Of-Way Acquisition and Construction for the Amended Cedar Park Road Projects and the RM 1431/Parmer CFI Project, including consultant selection with approval by County staff, preparation of construction plans, competitive bidding, construction and inspection of the Improvements.
5. The County previously committed a total sum of Twelve Million Four Hundred Three Thousand Eight Hundred Eighty Four and no/100 Dollars (\$12,403,884) for the Brushy Creek Road (Parmer Lane to Arrowhead Trail) project, the RM 1431 (183A to Cottonwood Creek trail) and the Cottonwood Creek Trail and New Hope Drive projects in the Original Interlocal Agreement. At present, the City has received **\$8,493,109.86** towards this commitment, leaving a balance of Three Million Nine Hundred Ten Thousand Seven Hundred Seventy Four and 14/100 Dollars (\$3,910,774.14). The City has also estimated that the costs savings on the Brushy Creek Road (Parmer Lane to Arrowhead Trail) project contemplated under the Original Interlocal Agreement to be Eight Hundred Fifty Nine Thousand Eight Hundred Twenty One Dollars (\$859,821). The total sum of surplus funds that may be applied to the Amended Cedar Park Road Projects and a portion of the RM 1431 / Parmer CFI project is (\$4,770,595.14) The County and City commits the surplus funds of \$4,770,595.14 for the completion of the Amended Cedar Park Road Projects and a portion of the RM 1431 / Parmer CFI Project. A summary of the allocation of these surplus funds towards the Amended Cedar Park Road projects and a portion of the RM 1431 / Parmer CFI project may be found in Exhibit "A". A portion of the \$8,493,109.86 already received by the City currently remains in the "Construction Fund" contemplated in the Original Interlocal Agreement for the completion of the Cottonwood Creek Trail/New Hope Drive reconstruction project. The County commits any funds contributed by the County remaining in the "Construction Fund" for the Cottonwood Creek Trail / New Hope Drive Reconstruction Project at the completion of the project towards the completion of the Amended Cedar Park Projects. The City agrees that the surplus funds in the amount of \$4,770,595.14 and any remaining County funds in the "Construction Fund" for the Cottonwood Creek Trail / New Hope Drive Reconstruction Project at the completion of this project are to be utilized solely for the Amended Cedar Park Road Projects. The City agrees to make available to the County any and all documentation required by the County to verify that said sum has been utilized solely for the projects listed in the Original Interlocal Agreement and amended Interlocal Agreement.
6. The City commits additional funding in the amount of Five Hundred Thousand and no/100 Dollars (\$500,000) from for the BMC Drive project. The City agrees that the above sum is to be utilized solely for the BMC Drive Project.
7. The County commits additional funding in the amount of One Million and no/100 Dollars (\$1,000,000) for the RM 1431/Parmer CFI Project. Five Hundred Thousand and no/100 Dollars (\$500,000) of the surplus funds from the Original Interlocal Agreement will also be applied to this project, for a total sum of One Million Five Hundred Thousand and no/100's (\$1,500,000) The City agrees that the above sum is to be utilized solely for the

RM 1431/Parmer CFI Project. The City agrees to make available to the County any and all documentation required by the County to verify that said sum has been utilized solely for the RM 1431/Parmer CFI Project.

8. All professional and other services for the Amended Cedar Park Road Projects and the RM 1431/Parmer CFI Project shall be procured in accordance with all applicable State laws.
9. The County shall be included in the City's process for selection of all professional services and shall have the right of final approval of all professional services prior to contract execution.
10. The City shall schedule periodic progress meetings with the County of not less than one per month, unless otherwise agreed by both Parties, and the County shall on an administrative basis have the right to review and approve all construction documents prior to finalization by the consultant.
11. Within thirty (30) calendar days of execution of this Interlocal Agreement, the County shall deposit \$1,500,000 into a fund to be established and administered by the City (the "Design Fund") for the Amended Cedar Park Road Projects.

In the event that there are remaining funds within the Design Fund, then the City shall apply these remaining funds to the Construction Fund of the Amended Cedar Park Road Projects. All interest that accumulates within the Design Fund shall remain within such fund for payment of Construction Costs.

12. Within thirty (30) calendar days of execution of this Interlocal Agreement, the County shall deposit \$500,000 into a fund to be established and administered by the City (the "Design Fund") for the RM 1431/Parmer CFI Project.

In the event that there are remaining funds within the Design Fund, then the City shall apply these remaining funds to the Construction Fund of the RM 1431/Parmer CFI Project. All interest that accumulates within the Design Fund shall remain within such fund for payment of Construction Costs.

13. Within thirty (30) calendar days of the award of a contract for any of the Amended Cedar Park Road Projects, the County shall deposit \$1,910,774.14 (\$3,910,774.14 - \$1,500,000 (Design Fund Deposit)-\$500,000 (RM1431 / Parmer Design Fund) into a fund to be established and administered by the City (the "Construction Fund") for the Amended Cedar Park Road Projects. The City shall also deposit the additional funding of \$500,000 for the BMC Extension Project into the "Construction Fund".

The surplus funds currently estimated as \$859,821 from the Brushy Creek Road (Parmer Lane to Arrowhead Trail) project in the "Construction Fund" under the Original Interlocal Agreement currently held by the City shall also be applied to the "Construction Fund" for the Amended Cedar Park Road Projects.

In the event that the costs incurred by the City for Design and Construction of the Amended Cedar Park Road Projects and a portion of the RM 1431 / Parmer CFI project exceed \$4,770,595.14 plus any County funds remaining in the "Construction Fund" for

the Cottonwood Creek Trail / New Hope Drive reconstruction project under the Original Interlocal Agreement, then the City shall bear sole responsibility for completing these Projects.

In the event that there are remaining funds within the Construction Fund upon final completion and acceptance by the City of all Amended Cedar Park Road Projects, then the City shall return these funds to the County.

14. Within sixty (60) calendar days prior to the date set for the receipt of bids for the RM 1431/Parmer CFI Project, the County shall deposit \$1,000,000 into a fund to be established and administered by the City (the "Construction Fund") for the RM 1431/Parmer CFI Project.
15. In the event that the costs for Design and Construction of the RM 1431/Parmer CFI Project exceed \$1,500,000 over the costs of a traditional intersection, then the County shall bear sole responsibility for providing the necessary funds to complete this project.
16. The County is not liable for and it shall be the City's sole responsibility, at its own cost and expense from its share of the project funding, to pay for the design, installation, construction, repair, replacement, removal, upgrade, maintenance and planting of all sidewalks, street lights, irrigation and landscaping, including but not limited to, plantings of grass and bushes, and the installation of water features, if any, that are related to any of the Amended Cedar Park Road Projects and RM 1431/Parmer CFI Project.

II.

Miscellaneous

1. The parties agree that in the event any provision of this Agreement is held by a court of competent jurisdiction to be in contradiction of any laws of the State or the United states, the parties will immediately rectify the offending portions of this Agreement. The remainder of the Agreement shall be in full force and effect.
2. This Agreement constitutes the entire agreement between the parties hereto, and supersedes all their oral and written negotiations, agreements and understandings of every kind. The parties understand, agree and declare that no promise, warranty, statement or representation of any kind whatsoever, which is not expressly stated in this Agreement, has been made by any party hereto or its officers, employees or other agents to induce execution of this Agreement.
3. This Agreement shall be performable in Williamson County, Texas.

Dan A. Gattis
County Judge
Williamson County, Texas

ATTEST:

Nancy Rister, County Clerk

Matthew Powell
Matthew Powell, Mayor
City of Cedar Park, Texas

ATTEST:

LeAnn Quinn
LeAnn Quinn, City Secretary

APPROVED AS TO FORM
AND CONTENT:

Charles W. Rowland
Charles W. Rowland, City Attorney

EXHIBIT “A”

\$12,403,884 – County Commitment in Original Interlocal Agreement

\$8,493,109.86 – Funds Received by City From County Under Original Interlocal Agreement

\$3,910,774.14 – Funds Remaining to be Distributed Under Original Interlocal Agreement

\$651,336 – County Savings from Brushy Creek Road (Parmer Lane to Arrowhead Trail)

\$208,485 – City Savings from Brushy Creek Road (Parmer Lane to Arrowhead Trail)

\$4,770,595.14 – Funds Available (\$3,910,774.14 + \$651,335 + \$208,485) for Amended Cedar Park Road Projects

<u>Amended Cedar Park Road Projects</u>	<u>Project Total</u>	<u>Reallocation of Available Funds</u>
BMC Drive Project	\$1,000,000	\$500,000*
US 183 / Cypress Creek	\$1,050,000	\$1,050,000
Cypress Creek / Lakeline	\$1,800,000	\$1,800,000
CR 272 Overlay	\$265,000	\$265,000
Anderson Mill / Zeppelin Signal	\$15,000	\$15,000
Brushy Creek West Right Turn Lane	\$350,000	\$350,000
Brushy Creek East Overlay	\$290,000	\$290,000
RM 1431 / Parmer CFI*	\$1,500,000	\$500,000**
	\$6,270,000	\$4,770,000

*The City commits an additional \$500,000 from other funding sources for this project above the available funds for the Amended Cedar Park Projects for a total funding amount of \$1,000,000.

**The County also commits an additional contribution of \$1,000,000 from other funding sources for the RM 1431 / Parmer CFI Project for a total funding amount of \$1,500,000.