



## INTERLOCAL AGREEMENT

**THIS INTERLOCAL AGREEMENT** (“Agreement”) is made and entered into effect this \_\_\_\_\_ day of \_\_\_\_\_, 2015, 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”.

### RECITALS:

**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 City and the County desire to cooperate in the cost sharing of the funding of improvements to a roadway project in Cedar Park; and

**WHEREAS**, the road project contemplated in this Interlocal Agreement is shown in Exhibit A and includes RM 1431 from Cottonwood Creek Trail to Market Street, (“1431 Gap Project”), ; and

**WHEREAS**, the 1431 Gap Project is on the City, County and Capital Area Metropolitan Planning Organization (“CAMPO”) long range roadway plans and is needed to convey the existing and future traffic volumes in this fast growing region; and

**WHEREAS**, the total estimated cost of the 1431 Gap Project is \$12,900,000 and includes engineering, surveying, geotechnical, environmental, right-of-way acquisition, construction, construction inspection and construction testing (“Projects Costs”); and

**WHEREAS**, the County has committed to providing funding towards the 1431 Gap Project in the amount of 50% of the Project Costs, but in no event more than \$1,140,000, and the City has committed to funding the balance of the Project; and

**WHEREAS**, the above funding amounts are based upon an expectation of an additional \$9,140,000 to be provided by CAMPO and an estimated \$1,470,000 in design funds provided by Texas Department of Transportation (“TxDOT”) for the 1431 Gap project; and

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

**I.**  
**General**

All of the references in the Recitals above are hereby adopted in full.

**II.**  
**Terms and Conditions**

1. The term “Design” for the purposes of this Agreement means engineering, surveying, geotechnical, environmental and any other professional or technical services required to produce bidding documents, plans and specifications for the 1431 Gap Project.
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 1431 Gap Project
3. The term “Construction” means the provision of all materials, equipment, labor, surveying, testing and inspection necessary to construct the 1431 Gap Project 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 1431 Gap Project, unless TxDOT provides same for 1431 Gap Project, including consultant selection with approval by County staff, preparation of construction plans, competitive bidding, construction and inspection of the Improvements.
5. Upon the City’s approval of each invoice for Projects Costs, the City will transmit a copy of the invoice to the County. Each invoice shall identify all Projects Costs incurred by the City relating to the Project. Each invoice submitted by the City for reimbursement will clearly describe the work done for which reimbursement is sought, will not seek reimbursement or payment for any costs or expenses other than Projects Costs. Upon request of the County, the City agrees to make available documentation in reasonable detail evidencing all Projects Costs for which reimbursement is sought. Upon timely receipt, proper documentation and approval of each invoice, County shall make a good faith effort to pay the amount which is due and payable within thirty (30) days of the County Auditor’s receipt. Payment not mailed within 30 calendar days of receipt by the County Auditor will accrue interest at the rate set forth in Government Code Section 2251.025(b).
6. The City agrees that the funds provided pursuant to this Agreement are to be utilized solely for the 1431 Gap 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 1431 Gap Project.
7. The Parties acknowledge and agree that Cedar Park will be responsible for construction cost overruns up to 5 percent of the engineer’s final cost estimate prior to bid opening for the 1431 Gap Project and that funding requirements in this Agreement assume a \$9,140,000 contribution by CAMPO and an approximate \$1,470,000 contribution from TxDOT for design of the 1431 Gap Project. If the lowest responsible bid for any project exceeds the engineer’s final estimate by more than 5 percent, or if the CAMPO or

TxDOT funding amounts change, it may be necessary to amend this Agreement to add or re-allocate funding of individual projects by mutual Agreement of both Parties.

8. All professional and other services for the 1431 Gap 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. 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 and maintenance of all 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 1431 Gap Project, provided however, TxDOT will maintain the 1431 Gap Project and CAMPO funds may be used for above purposes.
12. The Parties each agree to hold harmless, defend, and indemnify the other Party, its officers, agents, directors, servants, representatives and employees, from and against any and all suits, actions, legal proceedings, demands, costs, expenses, losses, damages, fines, penalties, liabilities and claims of any character, type or description, including but not limited to any and all expenses of litigation, court costs, attorneys fees and all other costs and fees incident to any work done as a result of the Design and Construction of the 1431 Gap Project, except to the extent arising from the Party's gross negligence or intentional action. In no event shall either Party be liable to the other for special or consequential damages, statutory or otherwise. Nothing herein shall be construed to waive or limit either Party's legal or equitable defenses or immunities.

## **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.

4. This Agreement is not intended to create, nor should it be construed as creating, a partnership, association, joint venture, or trust.

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Dan A. Gattis  
County Judge  
Williamson County, Texas

ATTEST:

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Nancy Rister, County Clerk

*Brenda Eivens* <sup>JPL  
SPR</sup>  
Brenda Eivens, City Manager  
City of Cedar Park, Texas

ATTEST:

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LeAnn Quinn, City Secretary

EXHIBIT A

