

**INTERLOCAL AGREEMENT
REGARDING THE CITY/COUNTY PARTICIPATION IN THE RIGHT OF WAY
ACQUISITION COSTS RELATED TO RM 2243 (HERO WAY) PROJECT**

THE STATE OF TEXAS	§	
	§	KNOW ALL BY THESE PRESENTS:
COUNTY OF WILLIAMSON	§	

THIS INTERLOCAL AGREEMENT (“**Agreement**”) is entered into between the City of Leander, Texas, a Texas municipal corporation (the “**City**”) and Williamson County, a political subdivision of the State of Texas (the “**County**”). In this Agreement, the City and the County are sometimes individually referred to as “**a Party**” and collectively referred to as “**the Parties**”.

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 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;

WHEREAS, the County is and has been in the process of designing and preparing an environmental assessment for the future construction of a controlled access facility, RM 2243 (Hero Way), from 183A to the Southwest Bypass, a length of approximately eight (8) miles, as shown on **Exhibit “A-1”**, attached hereto (the “**County Project**”); and

WHEREAS, the City desires to cooperate with the County to facilitate the right-of-way acquisition and construction of the first frontage road for the portions of the County Project within City limits, a length of approximately three (3) miles, as shown on Exhibit “A-2” (“**Leander Segment**”); and

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements of the Parties contained in this Agreement, the Parties agree as follows:

**I.
PURPOSE**

1.01 General. The purpose of this Agreement is to provide for the City’s participation in the right-of-way acquisition for the portion of the County Project within the City limits.

**II.
COUNTY OBLIGATIONS**

2.01 County Obligations. The County shall be responsible for all costs associated with the preliminary design, final design and construction of the first frontage road, right-of-way and easement acquisitions related to the construction of the County Project, unless otherwise specified herein (“**County Project Costs**”).

2.02 Construction Plans. The County will submit the plans and specifications related to the County Project to the City. Any changes or modifications to the plans will be submitted to the City for comment prior to commencing construction. The County shall schedule periodic progress meetings of not less than one per month, unless otherwise agreed by both Parties.

2.03 Funds. Prior to invoicing City, County will provide written confirmation that the funds necessary to complete the physical construction of the Leander Segment have been appropriated, or otherwise set aside, and of County's intent to retain such sufficient funds until construction of the Leander Segment is complete. The amount set aside will be no less than the design engineer's latest estimate of probable costs.

III.

CITY OBLIGATIONS

3.01 City Reimbursements. After receipt of the notice provided pursuant to Section 2.03 above, the City shall reimburse the County the sum of up to and no more than Thirteen Million Nine Hundred Thousand Dollars (\$13,900,000) (City Participation") as its cost to participate in the County Project, in exchange for the acquisition of easements and rights-of-way. The County will transmit reimbursement requests that clearly describe work done for which reimbursement is sought, including copies of settlement statements for all acquired easements and right-of-way. Reimbursement requests, when totaled, will not exceed the City Participation amount, and will be sent pursuant the following payment schedule: 25% upon execution of this Agreement, 25% upon contract award, 50% when construction is 50% complete (as determined by the value of the work completed to date against the contract amount). The City shall make a good faith effort to pay the invoice within thirty (30) days after receipt of said payment request from the County.

3.02 Permission to Acquire ROW. The City agrees to allow the County to acquire easements and right-of-way for the County Project, through condemnation or otherwise, within the City's boundaries. The City further agrees to provide the right-of-way footprint to potential developers and acquire the right-of-way through the development process to the extent possible.

IV.

DISPUTES

4.01 Material Breach; Notice and Opportunity to Cure.

(a) In the event that one Party believes that another Party has materially breached one of the provisions of this Agreement, the non-defaulting Party will make written demand to cure and give the defaulting Party up to 30 days to cure such material breach or, if the curative action cannot reasonably be completed within 30 days, the defaulting Party will commence the curative

action within 30 days and thereafter diligently pursue the curative action to completion. Notwithstanding the foregoing, any matters specified in the default notice which may be cured solely by the payment of money must be cured within 10 days after receipt of the notice. This applicable time period must pass before the non-defaulting Party may initiate any remedies available to the non-defaulting party due to such breach.

(b) Any non-defaulting Party will mitigate direct or consequential damage arising from any breach or default to the extent reasonably possible under the circumstances.

(c) The Parties agree that they will negotiate in good faith to resolve any disputes and may engage in non-binding mediation, arbitration or other alternative dispute resolution methods as recommended by the laws of the State of Texas.

4.02 Equitable Relief. In recognition that failure in the performance of the Parties' respective obligations could not be adequately compensated in money damages alone, the Parties agrees that after providing notice and an opportunity to cure in accordance with Section 4.01 above, the Parties shall have the right to request any court, agency or other governmental authority of appropriate jurisdiction to grant any and all remedies which are appropriate to assure conformance to the provisions of this Agreement. The defaulting Party shall be liable to the other for all costs actually incurred in pursuing such remedies, including reasonable attorney's fees, and for any penalties or fines as a result of the failure to comply with the terms including, without limitation, the right to obtain a writ of mandamus or an injunction requiring the governing body of the defaulting party to levy and collect rates and charges or other revenues sufficient to pay the amounts owed under this Agreement.

4.03 Agreement's Remedies Not Exclusive. The provisions of this Agreement providing remedies in the event of a Party's breach are not intended to be exclusive remedies. The Parties retain, except to the extent released or waived by the express terms of this Agreement, all rights at law and in equity to enforce the terms of this Agreement.

V. GENERAL PROVISIONS

5.01 Authority. This Agreement is made in part under the authority conferred in Chapter 791, *Texas Government Code*.

5.02 Term. This Agreement shall commence upon execution of this Agreement and shall end upon the completion of the County Project and acceptance of the public improvements by the City.

5.03 Severability. The provisions of this Agreement are severable and, if any provision of this Agreement is held to be invalid for any reason by a court or agency of competent jurisdiction, the remainder of this Agreement will not be affected and this Agreement will be construed as if the invalid portion had never been contained herein.

5.04 Default and Remedies. If City fails to pay for Services under this Agreement, and continues such failure for thirty (30) days after the County provides written notice to cure, City shall be deemed to be in default under this Agreement. In the event that the County defaults under this Agreement, and such default is not cured, City may, in addition to any other remedy at law or in equity, immediately terminate this Agreement or seek specific performance of this Agreement.

5.05 Indemnity. To the extent permitted by law, grantee agrees to hold harmless, defend (on demand) and indemnify the City and all the City's officers, employees, and agents, against any and all causes of action, suits, liabilities, claims, demands, losses, costs or damages, including, but not limited to, personal injuries including death, property damage and attorney's fees, for claims resulting from County's actions in furtherance of the County Project.

5.06 Payments from Current Revenues. Any payments required to be made by a Party under this Agreement will be paid from current revenues or other funds lawfully available to the Party for such purpose.

5.07. Force Majeure. If, by reason of force majeure, any party hereto shall be rendered wholly or partially unable to carry out its obligations under this Agreement, then such party shall give written notice of the full particulars of such force majeure to the other party within ten (10) days after the occurrence thereof. The obligations of the party giving such notice, to the extent effected by the force majeure, shall be suspended during the continuance of the inability claimed, except as hereinafter provided, but for no longer period, and the party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "force majeure" as employed herein shall mean and refer to acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemies, orders of any kind of the government of the United States, the State of Texas or any civil or military authority; insurrections; riots; epidemic; landslides; lightning, earthquakes; fires, hurricanes; storms, floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines, or canals; or other causes not reasonably within the control of the party claiming such inability.

5.08 Cooperation. The Parties agree to cooperate at all times in good faith to effectuate the purposes and intent of this Agreement.

5.09 Entire Agreement. This Agreement contains the entire agreement of the Parties regarding the subject matter hereof and supersedes all prior or contemporaneous understandings or representations, whether oral or written, regarding the subject matter and only relates to those portions of the County Project shown in the plans attached hereto as Exhibit "A."

5.10 Amendments. Any amendment of this Agreement must be in writing and will be effective if signed by the authorized representatives of the Parties.

5.11 Applicable Law; Venue. This Agreement will be construed in accordance with Texas law. Venue for any action arising hereunder will be in Williamson County, Texas.

5.12 Notices. Any notices given under this Agreement will be effective if (i) forwarded to a Party by hand-delivery; (ii) transmitted to a Party by confirmed telecopy; or (iii) deposited with the U.S. Postal Service, postage prepaid, certified, to the address of the Party indicated below.

CITY: City of Leander
PO Box 319
Leander, TX 78643
Attn: City Manager
Telephone: (512) 930-3652

COUNTY: 710 S. Main Street,
City, Texas 78626
Attn: William Gravell, Jr.
Telephone: (512) 943-1550
Facsimile: (512) 943-1662

5.13 Counterparts; Effect of Partial Execution. This Agreement may be executed simultaneously in multiple counterparts, each of which will be deemed an original, but all of which will constitute the same instrument.

5.14 Authority. Each Party represents and warrants that it has the full right, power and authority to execute this Agreement.

5.15 Effective Date. This Agreement is executed to be effective on the date the last Party signs this Agreement.

5.16 No Joint Venture. The County Project is a sole project of the County and is not a joint venture or other partnership with the City.

(SIGNATURES ON FOLLOWING PAGE)

CITY OF LEANDER, TEXAS

By: C. Sederquist
Christine Sederquist, Mayor

ATTEST:


By: Dara Crabtree
Dara Crabtree, City Secretary

THE STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

THIS INSTRUMENT was acknowledged before me on this 4th day of November, 2021, by Christine Sederquist as Mayor of the City of Leander, a Texas home-rule city, on behalf of said city.

Deborah Penberg
Notary Public, State of Texas

WILLIAMSON COUNTY, TEXAS

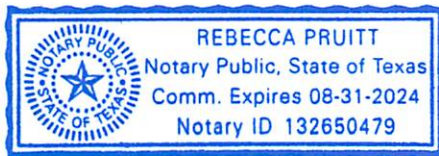
By: 
William Gravell, Jr., County Judge


ATTEST:

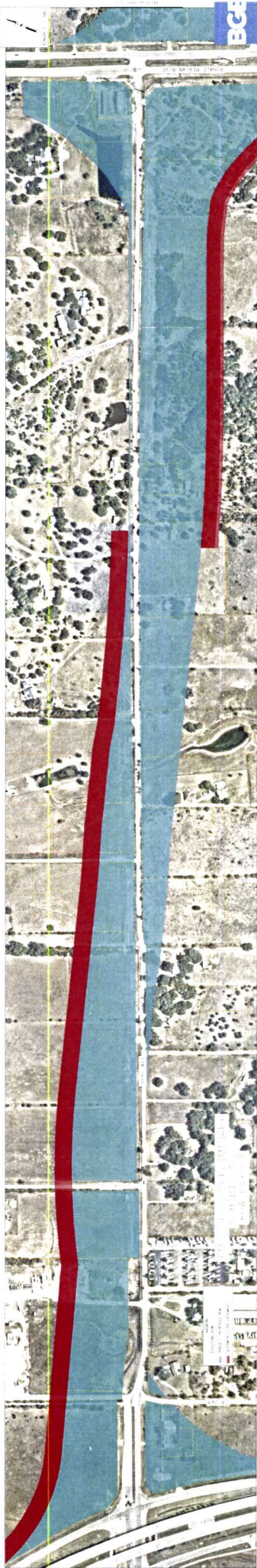
By: 
Nancy Rister, County Clerk

THE STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

THIS INSTRUMENT was acknowledged before me on this 23rd day of November, 2021, by William Gravell, Jr., County Judge of Williamson County, Texas, on behalf of said County.




Notary Public, State of Texas





Williamson County Proposed Bond Project Request Form

Part A. General Project Information

Project Information - Please fill in the following information.

Project Sponsor(s)

CITY OF LEANDER

Project Category

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Roadway/Drainage

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Regional Trail Connection

Project Name

HERO WAY

Project Limits/Location

FROM U.S. HWY. 183-A EASTWARD ALONG HERO WAY TO THE EASTERN CITY LIMITS ALONG RM 2243 AT GARY RANCH PARK

Project Length (in miles)

2.50

Project Description

PURCHASE RIGHT-OF-WAY FOR RM 2243 CONTROLLED ACCESS EXPRESSWAY AS DEFINED IN THE WILLIAMSON COUNTY'S AND TXDOT'S RM 2243 CORRIDOR STUDY AND CONSTRUCT EASTBOUND AND WESTBOUND FRONTAGE ROADS

Who will manage the project? (County, Sponsor, etc)

WILLIAMSON COUNTY/TXDOT

Who will be responsible for maintenance?

TXDOT

Project Justification - Describe at a minimum, the issue(s) the project will address, the proposed solution(s), the desired outcome, and how the project will help implement Williamson County's Long Range Transportation Plan or Comprehensive Parks Master Plan.

View the plans at www.wilco.org/LRTP and www.wilco.org/CPMP (Regional Trail Plan - pg 67).

THIS EXPRESSWAY PROJECT WILL IMPROVE MOBILITY, CAPACITY, AND CONNECTIVITY BETWEEN U.S. HWY. 183-A AND I-35 WHEN COMBINED WITH THE REMAINING PORTION OF THE PROPOSED EXPRESSWAY FROM THE LEANDER'S EASTERN CITY LIMITS TO THE CITY OF GEORGETOWN. PURCHASE OF RIGHT-OF-WAY AND CONSTRUCTION OF FRONTAGE ROADS WILL FACILITATE EFFICIENT DEVELOPMENT IN THIS MAJOR EAST-WEST CORRIDOR WITH THE LEAST COST AND DISRUPTION TO DEVELOPMENT AS COMPARED TO PURCHASING RIGHT-OF-WAY IN THE OUT YEARS.

Project Map - Provide a map of the project in electronic format (pdf or jpg).

Project Information - Provide additional backup information such as cost estimates and planning documents that may be useful in evaluating the project.

Project Priority - Indicate the projects priority if submitting more than one project application for Transportation or Trails.

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Part B. Project Status and Schedule

Project Status - Describe work accomplished to date.

WILLIAMSON COUNTY AND TXDOT HAVE COMPLETED AND FINALIZED A PROPOSED SCHEMATIC AND ALIGNMENT FOR THE PROPOSED RM 2243 EXPRESSWAY PROJECT WITH THE COMPLETION OF THEIR RM2243 CORRIDOR STUDY AS PRESENTED AT THEIR NOVEMBER 29, 2018, OPEN HOUSE IN GEORGETOWN. WILLIAMSON COUNTY AND TXDOT HAVE INITIATED PROCESS TO PROVIDE AN ENVIRONMENTAL ASSESSMENT, WHICH IS EXPECTED TO BE COMPLETED IN APPROXIMATELY TWO YEARS.

Anticipated Project Schedule

	Start Date	Finish Date
Planning/Design/Environmental Clearance	10/19	09/21
Right-of-Way Acquisition	10/21	09/22
Utility Relocation	01/22	06/22
Construction	07/22	06/24

Part C. Local Cost Participation

Local cost participation is strongly encouraged. Projects will be evaluated in part by the percentage of local cost participation.

Estimated Costs

Planning/Design/Environmental Clearance	
Right-of-Way Acquisition	\$ 26,400,000
Utility Relocation	
Construction	\$ 39,050,000
Total Project Cost	\$ 65,450,000
Sponsor's Cash Contribution	\$ 13,460,000
In-kind Contribution - List total amount of in-kind contributions to right. List type (services, ROW, grant, etc) and amount for each below. (Note: Sponsor is assumed to fund relocation of sponsor-owned utilities unless otherwise noted.)	\$ 450,000

EXISTING WATER LINE AND WASTEWATER LINE RELOCATIONS

Total Amount of Funds Committed by Sponsor	\$ 13,910,000
County Funds Requested	\$ 51,540,000
Sponsor Cost Participation Percentage	21.3%

Part D. Applicant Contact Information

Name	Wayne S. Watts, P.E.
Title	City Engineer
Mailing Address	P.O. Box 319, Leander, Texas 78646
Phone	512-528-2766
Email	w.watts@leandertx.gov

Please complete these forms and submit them by April 12, 2019 via email to bdaigh@wilco.org or by mail to:

Williamson County Citizen's Bond Committee
3151 SE Inner Loop, Suite B
Georgetown TX 78626