

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE CITY OF FORNEY, TEXAS, AND
THE FORNEY INDEPENDENT SCHOOL DISTRICT REGARDING
CERTAIN FUNDING AND CONSTRUCTION OBLIGATIONS TO WIDEN RANCH
ROAD**

This Interlocal Cooperation Agreement (“**Agreement**”), is made and entered into by and between the City of Forney, Texas, a home-rule municipality (“**City**”), and the Forney Independent School District, a political subdivision of the State of Texas (“**District**”). The City and the District are sometimes referred to collectively as the “**Parties**” or individually as a “**Party**.”

RECITALS

WHEREAS, the Interlocal Cooperation Act, Chapter 791, Texas Government Code (“**Act**”), authorizes local governments to contract with one or more local governments to perform governmental functions and services under the terms of the Act; and

WHEREAS, the City and the District are both local governments as defined by Section 791.003(4) of the Act engaged in the provision of governmental functions and services to their citizens; and

WHEREAS, these functions and services serve the public health, safety, and welfare, promote efficiency and effectiveness of local governments, and are of mutual concern to the Parties; and

WHEREAS, the City and the District, in expending funds in the performance of the governmental functions or in performing such governmental functions under this Agreement, shall make payments therefor only from current revenues legally available to such Party; and

WHEREAS, it has been determined that a segment of the road named Ranch Road from FM 740 to just north of Innovation Boulevard, as depicted in *Exhibit A*, attached hereto (hereinafter referred to as the “**Project**”) should be widened from a two lane street to a four lane street, all within the City’s right-of-way; and

WHEREAS, the City and the District are cooperating on the Project since the Project involves a road that is an integral part of the City’s road system, and the Project provides traffic improvements for the District; and

WHEREAS, the District will be responsible to construct, or cause to be constructed, the Project; and

WHEREAS, the City will be responsible for all costs associated with the Project; and

WHEREAS, the governing bodies of each Party find that the subject of this Agreement is necessary for the benefit of the public and that each Party has the legal authority to perform and to provide the governmental function or service which is the subject matter of this

Agreement; furthermore, the governing bodies find that the performance of this Agreement is in the common interest of both Parties.

NOW, THEREFORE, the City and the District, for the mutual consideration hereinafter stated, agree and understand as follows:

Section 1. FINDINGS INCORPORATED

The findings set forth above are incorporated into the body of this Agreement as if fully set forth herein.

Section 2. TERM

This Agreement shall continue in force until all obligations of the Parties under the Agreement have been satisfied.

Section 3. OBLIGATIONS OF THE PARTIES.

The City and the District covenant and agree that, while this Agreement is in effect, they shall comply with the following terms and conditions:

A. Project Construction. The District shall be responsible to construct, or cause to be constructed, the Project as set forth in the construction plans and drawings to be prepared by the City's engineer. The City will be responsible for all costs and expenses for the City's engineer.

B. Project Costs. The total Project construction cost, including the fees for the District's construction manager-agent, is to be determined at the time the District puts the Project out for procurement. The City represents and warrants that costs for the Project are within the City's current budget and funds have been set aside for this Project. The City hereby agrees to waive any and all permitting and planning fees for the Project, and if not waived, the City is responsible for reimbursing the District for said costs.

C. City Payments to the District. The City shall pay to the District the total Project cost within thirty (30) days after the District executes a contract for the construction of the Project ("Original Cost"). Upon acceptance of the completed Project by the District and the City, if it is determined that the actual Project cost was greater than the Original Cost, the City shall pay to the District the increased costs within thirty (30) days after the District's and the City's acceptance of the Project. In the event that the actual Project cost was less than the Original Cost, the District shall reimburse to the City the difference between the Original Cost and the actual cost within thirty (30) days after the District's and the City's acceptance of the Project.

D. Maintenance. Upon completion of the Project, the City will be responsible for all future improvements, repairs, and maintenance to said portion of Ranch Road, as it is a City Road.

Section 5. MISCELLANEOUS PROVISIONS

A. Effective Date. The effective date of this Agreement shall be the last day this Agreement is approved by a Party hereto as indicated on the signature blocks below (the “**Effective Date**”).

B. Entire Agreement. This Agreement represents the entire agreement between City and District and supersedes all prior negotiations, representations and/or agreements, either written or oral regarding this subject matter. This Agreement may be amended only by written instrument signed by the governing bodies of both the City and District or those authorized to sign on behalf of those governing bodies.

C. Immunity and Defenses. It is expressly understood and agreed that, in the execution of this Agreement, no Party waives, nor shall be deemed hereby to have waived any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the Parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in parties not signatories hereto.

D. Notice. All notices required by this Agreement shall be addressed to the following, or other such Party or address as either Party designates in writing, by certified mail, postage prepaid, or by hand delivery:

City of Forney:

Attn: Charles W. Daniels
City of Forney
101 Main Street East
Forney, Texas 75129
Telephone: 972-552-6620
E-mail: cdaniels@forneytx.gov

Forney Independent School District:

Attn: Dr. Justin Terry, Superintendent
Forney Independent School District
600 Bois D’Arc Street
Forney, Texas 75126
Telephone: 469-762-4100
E-mail: jwterry@forneyisd.net

E. Severability Clause. The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation have the force and effect of the law, the remaining portions of the Agreement shall be enforced as if the invalid provision had never been included.

F. Successors and Assigns. This Agreement shall be binding upon the Parties hereto, their successors, and assigns. Neither of the Parties will assign nor transfer an interest in this Agreement without the written consent of the other Party.

G. Venue. The laws of the State of Texas shall govern the interpretation, validity, performance, and enforcement of this Agreement. The Parties agree that this Agreement is

performable in Kaufman County, Texas, and that exclusive venue shall lie in Kaufman County, Texas.

H. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute but one and the same Agreement, and facsimile, electronic and pdf signatures shall be just as binding as original signatures.

I. Attorneys' Fees. In the event any Party to this Agreement should bring suit against another Party in respect of any matters provided for herein, the prevailing Party shall be entitled to recover from any non-prevailing Party its costs of court, legal expenses and reasonable attorneys' fees in connection with such suit.

J. Waivers. Any waiver by any Party of any violation of, breach of or default under any provision of this Agreement shall not be construed as, or constitute, a continuing waiver of such provision, or waiver of any other violation of, breach of or default under any other provision of this Agreement.

[Signature Pages Follow]

APPROVED by the City Council of the City of Forney, Texas, in its meeting held on the _____ day of _____, 20____, and executed by its authorized representative.

CITY OF FORNEY, TEXAS

By: _____
Printed Name: Charles W. Daniels
Title: City Manager

ATTEST:

Dorothy Brooks
City Secretary

ACKNOWLEDGMENT

STATE OF TEXAS

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COUNTY OF KAUFMAN

This instrument was acknowledged before me on the ____ day of _____, 20__ by Charles W. Daniels, City Manager of the **CITY OF FORNEY, TEXAS**, a home-rule municipality, on behalf of said municipality.

Notary Public in and for the State of Texas

APPROVED by the Board of Trustees of the Forney Independent School District, in its meeting held on the ____ day of _____, 20____, and executed by its authorized representative.

FORNEY INDEPENDENT SCHOOL DISTRICT

By: _____
Dr. Justin Terry, Superintendent

ACKNOWLEDGMENT

STATE OF TEXAS

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COUNTY OF KAUFMAN

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This instrument was acknowledged before me on the ____ day of _____, 20____ by Dr. Justin Terry, Superintendent of the **FORNEY INDEPENDENT SCHOOL DISTRICT**, a political subdivision of the State of Texas, on behalf of said independent school district.

Notary Public in and for the State of Texas

EXHIBIT A

Depiction of Portion of Ranch Road to be Widened

[to be attached]