

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF KILLEEN AND BELL COUNTY
FOR DESIGN AND CONSTRUCTION OF CHAPARRAL ROAD**

THIS INTERLOCAL AGREEMENT, regarding the design and construction of Chapparal Road, ("Agreement") is made by and between the City of Killeen, Texas, a municipal corporation situated in Bell County, Texas (this "City") and Bell County, Texas (the "County"), each a Party and collectively referred to as the "Parties."

RECITALS

WHEREAS, this Agreement is authorized by Chapter 791 of the Texas Government Code, the "Interlocal Cooperation Act;"

WHEREAS, Chaparral Road (the "Road") is a roadway within the jurisdiction of the County and City, and the City of Harker Heights and is approximately 6.64 miles long; extending from SH 195 to FM 3481.

WHEREAS, The City of Killeen, the City of Harker Heights, and Bell County have previously executed an Interlocal Agreement ("ILA") regarding the design and construction of Chaparral Road; and

WHEREAS, the Parties desire to work together to facilitate the construction of two temporary traffic signals, with one at the intersections of Chaparral Road and Featherline and one at the intersection at Chaparral Road and the Killeen Independent School District (KISD) Chaparral High School (the "Project"), in accordance with the general terms and conditions outlined below.

AGREEMENT

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

Section 1. Purpose. The purpose of this Agreement is to establish the scope of the Project and responsibilities of each of the parties as it relates to the Project. It is understood that the overall scope of the Project may change depending on the availability of funding.

Section 2. General Scope of the Project. The Project will include the construction of two temporary traffic signals, one at the intersections of Chaparral Road and Featherline and one at the intersection of Chaparral Road and KISD Chaparral High School as detailed in the attached Exhibit "A".

Section 3. Project Phasing. The Project will proceed based upon the following phases:

- a. The County will contract with a consultant ("Engineer") to perform professional design services.
- b. The City will perform all bidding related functions for the Project, with bids reviewed by Engineer.

- c. Construction will commence on the Project once the Parties approve and award a construction contact in accordance with Texas State Law and as recommended by the Engineer.

Section 4. Development and Financing of the Project.

- a. The County will pay for the engineering design services.
- b. Construction related charges will be as follows:
 - i. Utility Relocation
 - a. Engineer will determine the utilities in need of relocation through the plans and specifications referenced above.
 - b. The Parties understand and agree that any franchise utility relocation costs will be covered by the County.
 - c. The City will relocate any City-owned utilities impacted by the Project at its sole expense.
 - ii. Signal Construction
 - a. The County will provide the necessary funding for the construction of the Project.
 - b. City will provide project management and construction inspection services for the Project at their own cost.
 - c. Upon reasonable advance notice, the County shall make any property available to City to facilitate the performance of City's obligations hereunder.
 - iii. The Project Costs
 - a. All costs are estimated at this time according to the table in Exhibit "B".
 - b. Costs are estimated based in the Engineer's "Estimate of Construction" for the Project.
 - c. Cost overruns or underruns will be the responsibility of the County.

Section 5. Maintenance upon Completion. Upon completion of the Project, the City will accept responsibility and ownership of the constructed traffic signals. All power utility costs will be the responsibility of City.

Section 6. Joint Obligations. The Parties agree:

- a. To meet upon request of either Party throughout the course of the Project to review the status, discuss any concerns, and coordinate any decisions materially affecting this Agreement.
- b. Not to unreasonably interfere with or delay the Project.
- c. Not to unreasonably withhold, condition, or delay any requested approval or consent made by the other Party.
- d. To cooperate in defending any legal action instituted by a third party challenging (i) the validity of one or more provisions of this Agreement; (ii) the state and local legislation

authorizing the Parties to enter into this Agreement; or (iii) any discretionary action and approvals of either Party regarding permits or other entitlements issued pursuant to this Agreement.

Section 8. Term. The term of this Agreement will commence on the execution date hereof and shall terminate upon the earliest to occur of: (a) thirty days following written notice by any Party prior to expenditure of funds or provision of in-kind services; (b) termination pursuant to Section 10 of this Agreement; (c) the completion of the Project; or (d) after 12 months if no work, including design, has begun on said Project.

Section 9. Relationship of Parties. The Parties shall not be deemed in a relationship of partners or joint venturers by virtue of this Agreement, nor shall either Party be an agent, representative, trustee or fiduciary of the other. No Party shall have any authority to bind the other to any agreement. This Agreement is not assignable or transferable by either Party without the other Party's written consent.

Section 10. Default and Remedies.

- a. Each of the following constitutes a material breach of this Agreement and an Event of Default: (i) failing to fully and timely perform any covenant under this Agreement; and (ii) making any representation found to be materially false, misleading, or erroneous in connection with the Project.
- b. If any Party should commit an Event of Default, the Party alleging such default shall give the other Party not less than ten (10) days' notice specifying the nature of the alleged breach and, when appropriate, the manner in which the alleged breach may be satisfactorily cured. Notwithstanding the preceding sentence, if the nature of the alleged failure is such that the giving of ten (10) days' written notice is impractical due to a threat of harm to life or property, then the Party alleging the failure shall give the other Party such notice as may be reasonable under the circumstances.
- c. In the event of an Event of Default that is not timely cured, the non-defaulting Party may (but shall not be obligated to), without prejudice to any other available right or remedy: (i) terminate this Agreement; (ii) seek recovery of any damage suffered; (iii) cure the default and receive reimbursement from the defaulting Party for all reasonable expenses incurred in doing so; (iv) discontinue payment or performance under this Agreement until the default is cured; (v) exercise any other remedy granted by this Agreement or by applicable law; or (vi) any combination of the foregoing.
- d. Each Party waives all special, incidental, consequential, or punitive damages.
- e. It is not a waiver of default if the non-defaulting Party fails to declare immediately a default or delays taking any action with respect to the default.
- f. If any legal action is necessary to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which that party may be entitled.

Section 11. Notice. All notices under this Agreement shall be in writing, and (a) delivered personally to the person to whom the notice is to be given, (b) given by certified or registered mail, return receipt requested, or (c) given by e-mail or facsimile transmission. Notice given by mail shall be effective three (3) days (exclusive of Saturdays, Sundays and postal holidays) after

the same is deposited in the United States Postal Service, properly post-paid and certified and addressed to the Party to be notified. Notice given by e-mail or facsimile transmission shall only be deemed received if the transmission thereof is confirmed and such notice is followed by written notice as provided in subparts (a) or (b) within three (3) business days following the e-mail or facsimile notice. Notice given in any other manner shall be effective only if and when actually delivered to the Party to be notified or at such Party's address for purposes of notice as set forth herein. A change in the notice address of any Party may be affected by serving written notice of such change and of such new address upon the other Party in the manner provided herein. Initially, notices shall be addressed as follows:

If to City:

If to County:

Section 12. Miscellaneous.

- a. **Assignment of Contract.** Parties may not assign this Agreement or any rights under the Agreement without the prior written consent of the other Party, and any attempted or purported assignment in the absence of such consent shall be void. However, nothing herein shall be construed to prevent Killeen from subcontracting as provided herein.
- b. **Binding Effect.** Subject to the provisions regarding assignment, this Agreement shall be binding on the Parties and their respective representatives, successors and permitted assigns.
- c. **No Third-Party Beneficiaries.** There are no third-party beneficiaries of this Agreement. Nothing herein shall be construed to waive or limit any defense or immunity available to either Party in response to any third-party claim.
- d. **Governing Law; Venue.** The Parties agree that this Agreement has been made in Texas and that it shall be governed by and construed pursuant to the laws of the State of Texas, without regard to choice of law rules of any other jurisdiction. Venue for any action to construe or enforce this Agreement shall be in Bell County, Texas.
- e. **Severability.** The provisions of this Agreement are severable. If a court or government agency of competent jurisdiction finds that any provision of this Agreement is unenforceable, the unenforceable provision shall be replaced, to the extent possible, with a legal, enforceable, and valid provision that is as similar in tenor to the unenforceable provision as is legally possible, and the Agreement as so-modified shall be enforced to the greatest extent permitted by law, except when such construction would operate as an undue hardship on a Party, or constitute a substantial deviation from the general intent and purpose of such parties as reflected in this Agreement.
- f. **Interpretation.** Each Party has carefully read this entire Agreement, understands the meaning and effect of each and every provision contained herein, and acknowledges that

it has relied on its own judgment in entering into this Agreement. Each Party executes this Agreement only after first having obtained, or having had the opportunity to obtain, competent legal advice. The use of the masculine or neuter genders herein shall include the masculine, feminine and neuter genders. The singular form shall include the plural when the context requires. Headings used throughout this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, restrict, modify, amplify, or aid in the interpretation or construction of the meaning of the provisions of this Agreement. The terms "hereof," "hereunder" and "herein" shall refer to this Agreement as a whole, inclusive of all exhibits, except as otherwise expressly provided. This Agreement represents the result of extensive discussion between the parties, and thus should not be construed strictly for or against either party.

- g. **Amendment.** The Parties agree that they may amend this Agreement only by a written agreement duly executed by persons authorized to execute agreements on behalf of the Parties.
- h. **Multiple Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
- i. **Entire Agreement.** This Agreement is the complete and exclusive statement of the mutual understanding of the Parties. This Agreement supersedes and cancels all previous written and oral agreements, Memorandum of Understanding (MOU), and communications between the Parties relating to the subject matter of this Agreement.

[signature page follows]

IN WITNESS THEREOF, the Parties have caused this Agreement to be signed and
EFFECTIVE on this _____ day of _____ 20__.

CITY OF KILLEEN

BY: _____
City Manager
Kent Cagle

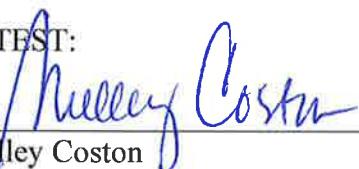
ATTEST:

City Secretary
Laura Calcote

BELL COUNTY

BY: 
David Blackburn
County Judge

ATTEST:



Shelley Coston
County Clerk

EXHIBIT 'A'



EXHIBIT 'B'



Innovative approaches
Practical results
Outstanding service

OPINION OF PROBABLE CONSTRUCTION COST

PROJECT NAME	Chaparral Road Turn Lanes	DATE	11/14/2023			
CLIENT	Jeff County	GROUP	1140			
INSUBMITTER	100%	PM	Charlie Fisher			
ESTIMATED BY	OC CHECKED BY	THE PROJECT NUMBER				
Roberto Aguirre	Cotton Felt	BC125270				
ITEM	DESCRIPTION	QUANTITY	UNIT	THEOT SPEC SECTION NO.	UNIT PRICE	TOTAL

GENERAL

1-1	160-7002 FLRN & PLATE 10PSD(14")	300	SV	160	\$ 6.00	\$ 1,800.00
1-2	162-7002 BLOCK SODDINS	300	SV	162	\$ 10.00	\$ 3,000.00
1-3	800-2001 MODULATIONS(10%)	2	LS	500	\$ 49,100.00	\$ 98,200.00
1-4	502-7001 BARRICADES, SIGNS AND TRAFFIC HANDLING	3	MO	502	\$ 10,000.00	\$ 30,000.00
					GENERAL SUBTOTAL	\$ 43,800.00

TRAFFIC SIGNAL

1-5	416-7042 DRILL SHAFT (TRP 510 POLE)(24IN)	12	LF	416	\$ 210.00	\$ 2,520.00
1-6	416-7044 DRILL SHAFT (TRP 510 POLE)(36IN)	112	LF	416	\$ 450.00	\$ 50,400.00
1-7	618-7054 CONOT (PVC) (25CH 80)(17")	10	LF	618	\$ 15.00	\$ 150.00
1-8	618-7066 CONOT (PVC) (25CH 80)(17") (SORE)	120	LF	618	\$ 15.00	\$ 1,800.00
1-9	618-7061 CONOT (PVC) (25CH 80)(17") (SORE)	420	LF	618	\$ 55.00	\$ 23,100.00
1-10	620-7008 ELEC COND(IND) (INSULATED)	1,800	LF	620	\$ 4.00	\$ 7,200.00
1-11	620-7009 ELEC COND(IND) (G) (BARE)	690	LF	620	\$ 4.00	\$ 2,760.00
1-12	620-7010 ELEC COND(IND) (INSULATED)	200	LF	620	\$ 5.00	\$ 1,000.00
1-13	624-7008 GROUND BOLT (1/4X252MM) (APRON)	9	EA	624	\$ 2,500.00	\$ 22,500.00
1-14	625-2001 ANG. COAT SVL ANGLE STAND (2/14")	100	LF	625	\$ 5.00	\$ 500.00
1-15	625-7001 2ANG. COAT SVL ANGLE STAND (2/14")	1,100	LF	625	\$ 6.00	\$ 6,600.00
1-16	628-7100 ELEC SHV TVD 210/240/2070(V) (SUS) (2PH)	2	EA	628	\$ 12,000.00	\$ 24,000.00
1-17	636-7001 ALUMINUM SIGNS (7X3)	130	SF	636	\$ 30.00	\$ 3,900.00
1-18	640-7071 TELECOM SVL (10 SN 5-PAIR)	6	EA	644	\$ 200.00	\$ 1,200.00
1-19	640-7002 INSTALL HVY ELEC SVL (INSULATED)	2	EA	640	\$ 50,000.00	\$ 100,000.00
1-20	642-7002 VEH SVL SEC (12") (LED) (ARM)	10	EA	642	\$ 300.00	\$ 3,000.00
1-21	642-7003 VEH SVL SEC (12") (LED) (ARM)	6	EA	642	\$ 300.00	\$ 1,800.00
1-22	642-7001 VEH SVL SEC (12") (LED) (ARM)	10	EA	642	\$ 300.00	\$ 3,000.00
1-23	642-7004 VEH SVL SEC (12") (LED) (ARM)	10	EA	642	\$ 300.00	\$ 3,000.00
1-24	642-7004 VEH SVL SEC (12") (LED) (ARM)	2	EA	642	\$ 300.00	\$ 600.00
1-25	644-7013 TRV SVL (1X1.4 ANG)(7") (COND)	2,120	LF	644	\$ 6.00	\$ 13,200.00
1-26	646-7007 TRV SVL (1X1.4 ANG)(5STR)(7") (B)	1	EA	646	\$ 6,500.00	\$ 6,500.00
1-27	646-7003 TRV SVL (1X1.4 ANG)(5STR)(7") (B)	2	EA	646	\$ 9,500.00	\$ 19,000.00
1-28	647-7001 ELEC POLE ASSEMBLY	2	EA	647	\$ 6,500.00	\$ 13,000.00
1-29	6005-2001 ITS CBL (SLEEVING)	240	LF	6005	\$ 1.00	\$ 240.00
1-30	6006-7021 VINSYS (PROSYS)	2	EA	6006	\$ 12,000.00	\$ 24,000.00
1-31	6006-7022 VINSYS ENTR. SOFTWARE	2	EA	6006	\$ 500.00	\$ 1,000.00
1-32	6006-7013 VINSYS (AMAZ) SVL (URN AND INSTL)	2	EA	6006	\$ 2,500.00	\$ 5,000.00
1-33	6006-7024 VINSYS (AMAZ) SVL (URN AND INSTL)	890	LF	6006	\$ 1.00	\$ 890.00
1-34	6018-7002 CCTV FIELD EQUIPMENT (DIGITAL)	2	EA	6018	\$ 4,000.00	\$ 8,000.00
1-35	6018-7011 CCTV FIELD ENTR	2	EA	6018	\$ 1,500.00	\$ 3,000.00
1-36	6048-7001 SPREAD SPECTRUM RADIO	2	EA	6048	\$ 8,000.00	\$ 16,000.00
1-37	6048-7002 COAXIAL CABLE	800	LF	6048	\$ 1.00	\$ 800.00
					TRAFFIC SIGNAL SUBTOTAL	\$ 455,950.00
					OVERALL SUBTOTAL	\$ 535,850.00
					MISCELLANEOUS CONSTRUCTION (10%)	\$ 54,000.00
					BASE BID TOTAL	\$ 393,850.00

The engineer has reviewed over the cost of above materials required, or over the contractors methods of delivery, to ensure a competitive bidding environment. The sum of probable cost provided herein is based on the information known to the engineer at the time of preparation of this bid. The engineer is not responsible for any changes in the cost of materials or labor, or any other factor which may affect the cost of the work. The engineer is not responsible for any changes in the cost of materials or labor, or any other factor which may affect the cost of the work.

NOTE:
1. Estimate cost of labor for items was based on 2023 Colorado labor rates.
2. Prices are estimated to be 2023 dollars, subject to inflation.