

RESOLUTION NO. 19-2021

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE THE MASTER AGREEMENT GOVERNING MAJOR CAPITAL IMPROVEMENT PROGRAM WITH DALLAS COUNTY FOR THE PURPOSE OF TRANSPORTATION IMPROVEMENTS ON ROADS INSIDE DALLAS COUNTY THAT ARE IN THE DALLAS COUNTY MOBILITY PLAN.

WHEREAS, the master agreement between the City of Mesquite (“City”) and Dallas County, approving participation in the Transportation Major Capital Improvement Program within the cities and towns inside Dallas County, is due to expire on June 7, 2021; and

WHEREAS, no project specific agreement or other project initiating actions may be taken without a master agreement in place; and

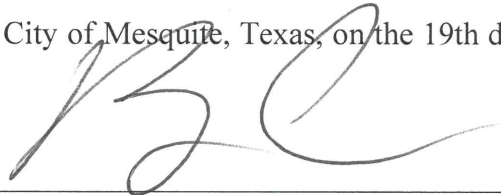
WHEREAS, the City has agreed to participate in the Dallas County Transportation Major Capital Improvement Projects for roadways within the City in the amount of 50 percent of the total project cost; and

WHEREAS, the Interlocal Cooperation Act, V.T.C.A., Texas Government Code, Chapter 791, provides for any local government to contract with one or more local governments to perform governmental functions and services under the terms of the Act.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

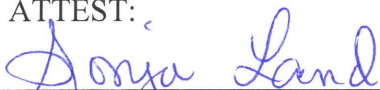
SECTION 1. That the Mayor is hereby authorized to execute the Master Agreement Governing Major Capital Improvement Program, attached hereto as Exhibit 1, between the City of Mesquite and Dallas County providing for the construction of transportation improvements on roads inside Dallas County within the City of Mesquite that are in the Dallas County Mobility Plan.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 19th day of April 2021.



Bruce Archer
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

APPROVED BY CITY COUNCIL

DATE 4.19.2021

AGENDA ITEM NO. 6

MASTER AGREEMENT GOVERNING
MAJOR CAPITAL IMPROVEMENT PROGRAM

THIS MASTER AGREEMENT is made by and between the City/Town of Mesquite, Texas, hereinafter ("City") or ("Town"), and Dallas County, hereinafter ("County"), acting by and through its duly authorized officials, which desire to enter into an Interlocal Agreement, hereinafter ("Master Agreement") for the purpose of transportation improvements on roads inside Dallas County that are in the Dallas County Mobility Plan, hereinafter ("Mobility Plan").

WITNESSETH

WHEREAS, pursuant to Court Order 2021-0697, dated JULY 6, 2021, County Commissioners Court approved participation in Transportation Major Capital Improvement Program ("MCIP") within the cities and towns inside Dallas County; and

WHEREAS, the approved MCIP project lists and MCIP funding commitment amounts may be modified, updated or approved by the Commissioners Court on a periodic, as-needed basis; and

WHEREAS, Chapter 791 of the Texas Government Code, as amended, provides authorization for local governments to enter into interlocal agreements; and

NOW THEREFORE, THIS AGREEMENT is hereby made and entered into by City/Town and County for the mutual consideration stated herein:

ARTICLE I. DEFINITIONS

The following definitions are incorporated into this agreement for all purposes.

- A. AMENDMENT shall mean a written document executed by all parties detailing changes, additions or deletions in the Master Agreement.
- B. AMENITY shall mean Project features not included in the Standard Basic Project Design including but not limited to street pavers, colored concrete, planters, irrigation, decorative lighting, special signage, or any other feature above and beyond the Standard Basic Project Design or any increase in capacity in excess of County determined requirements based on anticipated future traffic flow.
- C. CITY/TOWN shall mean the City/Town of Mesquite, Dallas County, Texas.
- D. CONTEXT SENSITIVE SOLUTIONS ("CSS") is a collaborative, interdisciplinary approach that involves all stakeholders to develop a transportation facility that fits its physical setting and preserves scenic, aesthetic, historic and environmental resources, while maintaining safety and mobility. CSS is an approach that considers the total context within which a transportation improvement project will exist. CSS principles include the employment of early, continuous and meaningful involvement of the public and all stakeholders throughout the project development process. It is the intent of the Dallas County Public Works Department to

use the essential elements of CSS in all approaches to deliver the project. Some projects will dictate a very intense use of CSS, while others will only use a few of the elements, but the County will always consider CSS.

- E. **COUNTY** shall mean County of Dallas, State of Texas.
- F. **DIRECT PROJECT and PROGRAM COSTS** shall mean those costs that can be identified specifically with a particular project or program cost objective. These costs generally include compensation of employees for the time devoted and identified specifically to the performance of the project or program; cost of materials acquired, consumed or expended specifically for the purpose of the project or program; equipment changes; damage claims and other approved capital expenditures; change orders; travel expenses incurred specifically to carry out the project including, but not limited to, design, right-of-way, road or street drainage, utility relocation and adjustment, and construction. Direct Cost does not include the City/Town or the County's general overhead.
- G. **EFFECTIVE DATE** shall mean the date of the signature of the last person necessary for this Master Agreement to become effective.
- H. **FIVE PHASE PROJECT DELIVERY SYSTEM** shall mean the process for delivering a project from conception to completion as detailed in Attachment A, Project Management Practices Manual ("Practices Manual" or "Attachment A"), which is attached hereto and incorporated herein by reference, as well as any amendments, updates, additions, or supplements thereto, which are also incorporated herein by reference. This Master Agreement references the most current edition of the Practices Manual. Amendments, updates, additions, or supplements may be issued by the Dallas County Public Works Department to the Practices Manual, which may be provided to the city/town on an as-needed basis during the term of this Master Agreement. The five phases of the project delivery system are planning, design, right-of-way, utility clearance, and construction.
- I. **FUNDING AGREEMENT ("FA")** shall mean the agreement between the County and a City/Town to establish a preliminary proposed budget for a project, including the required funding match from the City/Town in an amount equal to or greater than County MCIP funding commitment. As design is completed and the engineering estimate is refined, the Funding Agreement ("FA") shall be incorporated into the Project Specific Agreement ("PSA"). A FA and/or PSA is necessary before beginning engineering design.
- J. **INDIRECT COSTS** shall mean those costs that benefit more than one project and cannot be readily identified with a particular final project or program cost objective. Their precise benefits to a specific project are often difficult or impossible to trace.
- K. **IN-HOUSE PROJECT DELIVERY COSTS ("IHPD")** shall mean all costs associated with the development of the Major Capital Improvement Program (MCIP) "Call for Projects", selection of projects, scoping of projects, project design, property acquisition and construction of projects. Cost Accounting shall include but is not limited to employee time reimbursement, materials, equipment, and other expenditures necessary for the management and continuation of the MCIP.
- L. **INTERLOCAL AGREEMENTS** shall mean contracts or agreements entered into between City/Town and County in accordance with the Texas Government Code, Chapter 791.
- M. **LEAD AGENCY** shall mean that entity responsible for project management, including, but not limited to planning, design, right-of-way acquisition, approved utility relocation or adjustment and construction unless otherwise designated.

- N. **MASTER AGREEMENT ("MA")** shall mean this document including all incorporated documents, attachments, and exhibits.
- O. **MEMORANDUM OF AGREEMENT ("MOA")** shall mean a written document that includes, but is not limited to a MOA, MOU, FA, and/or PSA, which incorporates the results of the Preliminary Design Charrette.
- P. **MEMORANDUM OF UNDERSTANDING ("MOU")** shall mean a written document that includes, but is not limited to a MOA, MOU, FA, and/or PSA, which incorporates the results of the Preliminary Design Charrette.
- Q. **MULTI-MODAL CONNECTIVITY IMPROVEMENTS** shall mean projects which comply with the concepts in the Moving Ahead for Progress in the 21st Century Act ("MAP-21"), any supplements and/or amendments thereto, or any future federal transportation acts which increase safety, accessibility, flexibility, efficiency, and enhance the integration and connectivity of the transportation system, across and between modes throughout the County for motorized and non-motorized users.
- R. **ORPHAN ROADS** shall mean all or part of a street or road right-of-way, which are outside the incorporated limits of a municipality (or municipalities) and the incorporated area of the municipality (or municipalities) abuts or extends into the right-of-way. These roadway segments have, in effect, been "orphaned" by the abutting City/Town (or cities) that they serve in that they have been left unincorporated. Thus, the County has primary responsibility for maintenance, operation, enforcement, police and/or emergency services within these unincorporated rights of way.
- S. **PARCEL OR PARCELS** shall mean those portions or part of land and improvements located either wholly or partially thereon, identified by County, City/Town or other stakeholder as required for right-of-way requirements of the Project. Such right-of-way shall include the existing street, road, drainage or other City/Town or County real property ownership and all additional real property to be utilized for the Project.
- T. **PRELIMINARY CONCEPT CHARRETTE ("PCC")** shall have the same meanings and purposes as the Preliminary Design Charrette, but be conducted very early in the design start, before substantial design is underway. The conditions for which a PCC is appropriate will be determined by the lead agency. Use of CSS will usually mean that a PCC will be conducted, since its use fits perfectly into CSS concepts. Other conditions encountered may dictate the use of a PCC, such as poor soils, presence of unconsolidated solid waste dumps, innovative integration of master planning with project delivery, unusual right-of-way ("ROW") challenges, budgetary constraints (thus calling for significant Value Engineering efforts), etc. The results of properly using a PCC will be that early consensus will be achieved on a basic approach to the project design and construction, thus avoiding wasted design funding and loss of momentum for project delivery.
- U. **PRELIMINARY DESIGN CHARRETTE ("PDC")** shall mean meetings of representatives of independent engineers and stakeholders of the contracting parties of the project for the purpose of discussing feasible design alternatives, forging consensus for the selected alternative, and includes entering into a MOA, MOU, FA, and/or a PSA for the overall estimate, alignment, and scope of the project. The PDC will be scheduled when the preliminary design is complete or near completion. This means horizontal and vertical alignment alternatives have been designed, ROW requirements are at least approximately known for each alternative, and the design is 40% to 60% complete. The result of a PDC that is conducted with all the stakeholders present is that it may help assure the project is able to

overcome any challenges with design completion, ROW acquisition, utility design and relocation, and finally, road construction.

- V. **PROJECT MANAGER** shall mean the person appointed by the Lead Agency who is assigned the primary duty for assuring Project Participant coordination and timely project delivery. There will be only one Project Manager assigned to a Project.
- W. **PROJECT PARTICIPANTS/TEAM** shall mean independent representatives from the County, City/Town, and other stakeholders of the contracting parties as may be mutually agreed upon by the County, City/Town, and stakeholders or otherwise with responsibility for delivering the completed Project.
- X. **PROJECT(S)** shall mean the proposed thoroughfare and multi-modal connectivity improvements approved by the Commissioners Court for inclusion in the Transportation MCIP and approved by the City/Town.
- Y. **PROJECT DURATION** shall mean the active life of the Project. Project shall commence with the application for a Project by the City/Town and approval by the Dallas County Commissioners Court. The Project shall be considered complete when construction has been fully completed and the maintenance period has expired or the Project has been terminated in accordance with Article IV of this Master Agreement.
- Z. **PROJECT SPECIFIC AGREEMENT (“PSA”)** shall mean a written agreement subsequent to this Master Agreement, which is entered into to establish the contractual rights and responsibilities of the City/Town and County as it relates to a particular Project. A PSA supersedes a MOA, MOU or FA.
- AA. **RIGHT - OF WAY- (“ROW”)** is a strip of land that is granted, through a ROW deed, an easement or other mechanism, for the Project. ROW shall mean that real property or property interest identified by the County or the City/Town, as necessary for the construction of the Project which shall include the existing street, road, drainage or other City/Town or County real property ownership and all additional real property to be utilized for the Project.
- BB. **SCOPING SHEETS** will be attached to PSA’s involving construction. Scoping sheets may be attached to PSA’s involving a study or design. These sheets will set forth the design criteria to be used for the Project, including the alignment, appropriate specifications, typical section and other parameters of the Project. As project goals and needs are more clearly defined, the Scoping Sheets shall be updated and revised by the Project Manager to reflect current construction goals.
- CC. **SMALL WATERSHED DAM** shall mean floodwater retarding structures that were constructed by the United States Department of Agriculture (“USDA”) Natural Resources Conservation Service (“NRCS”), formerly named the Soil Conservation Service (“SCS”), in watersheds less than 250,000 acres under the authority of the Flood Control Act of 1944 and the Watershed Protection and Flood Prevention Act of 1954. These structures typically have earthen embankments with principal and auxiliary spillways.
- DD. **STANDARD BASIC PROJECT DESIGN** shall mean the standard County-approved City/Town criteria for paving, bridges, drainage and appurtenances, traffic control items including pavement marking, warranted uniform signals, street light foundations, pull boxes, conduit, sidewalks, medians, storage/turn lanes, access, required structural retaining walls and standard driveways excluding road or street amenities, or such design criteria as may be agreed upon by the contracting parties and listed in a Project’s Scoping Sheets.

- EE. **TxDOT** shall mean the Texas Department of Transportation.
- FF. **UTILITIES** shall mean each City/Town utility, public utility, common carrier, governmental or quasi-governmental facility, fiber optic facility, or other facility located within the limits of the Project by virtue of Texas or federal law or agreement between the entity and the City/Town, County, or State of Texas.
- GG. **UTILITY, CITY/TOWN**, also known as **CITY/TOWN UTILITY** shall mean those utilities that are owned or operated by the City/Town, which requires relocation or adjustment for the purpose of the construction of the Project as identified by Project plans.
- HH. **UTILITY IN PUBLIC RIGHT-OF-WAY** shall mean all Utilities located within the limits of any governmental entity.
- II. **UTILITY IN PRIVATELY OWNED RIGHT-OF-WAY** shall mean all Utilities, excluding City/Town Utilities, whose facilities are located within a private easement.
- JJ. **UTILITY BETTERMENT** shall mean any increase in the capacity of any Utility's Facility adjusted or relocated as a part of the Project as compared to the existing Facility, or any upgrading of the Utility's Facility above the standard practices, devices or materials, specified by the Utility and customarily used by the City/Town or Utility on Projects solely financed by the City/Town or Utility. Provided, however, that any adjustments necessary to successfully accomplish the Project shall not be considered a Betterment, and further, that any increase in the capacity of the Utility Facility resulting solely from the replacement of devices or materials no longer regularly manufactured, processed or installed shall not be considered a Betterment, provided that such replacement shall be only to the standard devices or materials currently used on other projects financed solely by the City/Town or Utility. This meaning shall apply to utilities that are part of the Project as well as the standard basic street components (See "STANDARD BASIC PROJECT DESIGN").

ARTICLE II. PERIOD OF THE AGREEMENT

This Master Agreement becomes effective when signed by the last party whose signing makes the respective agreement fully executed (The "Effective Date"). This Master Agreement shall expire ten (10) years from the Effective Date unless terminated in accordance with Article IV of this Maser Agreement.

ARTICLE III. AMENDMENTS

This Master Agreement may be amended with the mutual consent of the City/Town and County. Any amendment must be in writing and approved by the parties' respective governing bodies through either a Court Order from Commissioners Court or a City/Town Council Resolution.

ARTICLE IV. TERMINATION, DEFAULT, TIME OF THE ESSENCE AND FORCE MAJEURE

A. TERMINATION

- a. This Master Agreement may be terminated by any of the following conditions:
 - 1. By expiration of the term of the agreement.

2. By either party, by providing written notice of termination pursuant to Article XIX, Paragraph I. of this Master Agreement establishing the effective date of termination to the other party as consequence of the party being in default of the provisions of this Master Agreement and/or any original, supplemental and/or any amended MOA, MOU, FA, and/or PSA or the failure to timely provide funding, with proper allowances being made for circumstances beyond the control of the defaulting party.
 3. By either party for any reason with ninety (90) days written notice to the other party pursuant to Article XIX, Paragraph I. of this Master Agreement.
- b. Should either party terminate this Master Agreement as herein provided, all existing, fully executed original and/or supplemental and/or amended MOA, MOU, FA, and/or PSA made under this Master Agreement shall not be terminated and shall automatically incorporate all the provisions of this Master Agreement.
 - c. In the event that any original and/or supplemental and/or amended MOA, MOU, FA, and/or PSA is terminated prior to completion of the Project, no additional Costs shall be incurred other than Costs due and payable at the time of termination for services actually performed or that shall become due and payable due to such termination. The Lead Agency, to the extent permitted, may terminate all Project contracts, unless written notice is given by either party to the other of its intent to complete the Project, and prepare a final accounting for the Project.
 - d. If the Project is terminated by the City/Town prior to the award of any construction contract and the Project is located within the City/Town limits, City/Town shall pay to the County the full amount expended by the County on the Project and the County shall transfer to the City/Town its rights and all deliverables that it may be entitled to receive under the existing professional services or other project contracts or agreements. Such amount shall be included in the final accounting for the Project. Such amount shall be due and payable in full ninety (90) days subsequent to the termination, or thirty days subsequent to delivery of final accounting.
 - e. Once the construction contract has been awarded by the governing body of the Lead Agency, the PSA for that Project cannot be terminated until completion of the construction.
 - f. In the event that a Project is terminated prior to the award of the construction contract, either party may, upon written notice pursuant to Article XIX, Paragraph I. of this Master Agreement, take over the Project and prosecute the work to completion by contract or otherwise at its sole cost and expense. In the event that the party completing the work is not the Lead Agency, it is agreed that the Project Manager will furnish to the Completing Party a listing of current records pertaining to any outstanding obligations or other records or information required by any project contract, including any Work Order, or requested in writing by Completing Party in either printed or electronic format or both. The Lead Agency agrees to cooperate with the Completing Party. The Lead Agency will use its best efforts to transfer to the Completing Party all contracts. Obligations under such contracts shall become the sole obligation of the Completing Party upon transfer. Completing party agrees to timely pay all future obligations under such contract as they become due and payable. Completing Party hereby releases the Lead Agency from any and all liability under such assigned contracts subsequent to date of transfer, effective upon the transfer date. Lead Agency shall exercise its best efforts to ensure a transition of services without interruption.

Either party shall have the right to retain copies of all data, information, engineering, studies, or other items produced to the date of termination.

- g. In the event that no FA is approved within five (5) years of Commissioners Court approval of County MCIP funding commitment, then the County in its sole discretion, can reallocate the County MCIP funding commitment.
- h. In the event the Project is being completed in phases and more than five (5) years has transpired after a completed phase without any activity on subsequent approved phases, then the County in its sole discretion, can terminate the Project and reallocate the remaining County MCIP funding.
- i. In the event that the City/Town enters into a PSA with the County, if the Project has not been completed within ten (10) years from the date of Commissioners Court approval of the original PSA, then the County in its sole discretion, can terminate the Project and reallocate the remaining County MCIP funding.
- j. Provisions b through j of this Article IV, Section A shall survive the termination of this Master Agreement and any MOA, MOU, FA, and/or PSA and shall be a continuing obligation until the transition of services, all payments made and the Projects are complete. All items listed or required in this provision shall be furnished by Lead Agency to Completing Party without additional cost or expense to completing party.

B. FORCE MAJEURE:

Neither County nor City/Town shall be in default or responsible for delays or failures in performance resulting from causes reasonably beyond its control and not attributable to its neglect. Such acts include but are not limited to acts of God, fire, storm, pandemic, epidemic, flood, earthquake, natural disaster, nuclear accident, strike, air traffic disruption, invasion, insurrection, lockout, stoppage of labor, riot, freight embargo, public regulated utility, or governmental statutes, orders, or regulations superimposed after the fact. Any party delayed by force majeure shall as soon as reasonably possible give the other party written notice of the delay. If reasonably practical, the party claiming the suspension shall give notice of such impediment or delay in performance to the other party within ten (10) days of the knowledge of such occurrence. The party delayed shall use reasonable diligence to correct the cause of the delay, if correctable, and if the condition that caused the delay is corrected, the party delayed shall immediately give the other party written notice thereof and shall resume performance under this Master Agreement as soon as practicable. In the event of such an occurrence, the time for performance of such obligations or duty shall be suspended until such time that such inability to perform, shall be removed. Each party shall make all reasonable efforts to mitigate the effects of any suspension. The provisions of this Article IV, Section B shall survive the termination of this Master Agreement.

ARTICLE V. IMMUNITY AND LIABILITY FOR ACT AND OMISSIONS

County and City/Town agree that no provision of this Master Agreement is in any way intended to constitute a waiver of any immunities from suit or liability, or a waiver of any tort limitation, that the parties have by operation of law, or otherwise. County and City/Town agree that both County and City/Town shall each be responsible for their own negligent acts or omissions or other tortious conduct in the course of performance of this Master Agreement without waiving any sovereign or governmental immunity available to either County or City/Town or their respective officials, officers, employees, or agents under Texas or other law and without waiving any available defenses under Texas or other law. In the event of joint and concurrent negligence of the parties to this Master Agreement, responsibility, if any, shall be apportioned

comparatively in accordance with the laws of the State of Texas, without waiving any defenses, including sovereign or governmental immunity, or other defenses available to the parties under federal or Texas law. Nothing in this paragraph shall be construed to create or grant any rights, contractual or otherwise, in or to any third persons or entities. The provisions of this Article V shall survive the termination, expiration, or cancellation of this Master Agreement, or any determination that this Master Agreement or any portion hereof is void, voidable, invalid, or unenforceable.

ARTICLE VI. LEAD AGENCY

- A. Lead Agency shall be that entity which is responsible for the Project from conception through to completion of construction. City/Town and County may choose for the County to manage the Project through design and construction and for the City/Town to acquire ROW.
- B. In the event that the City/Town is the Lead Agency the City/Town shall:
- a. Provide project management and leadership from Project selection to construction completion following the 5 Phase Project Delivery System as detailed in Attachment A to this Master Agreement, which is attached hereto and incorporated herein by reference, as well as any amendments, updates, additions, or supplements thereto, which are also incorporated herein by reference. Amendments, updates, additions, or supplements may be issued by the Dallas County Public Works Department to the Practices Manual, which may be provided to the city/town on an as-needed basis during the term of this Master Agreement;
 - b. Lead Agency shall be responsible for hosting the Preliminary Concept Charrettes and or Preliminary Design Charrettes and Neighborhood Public Workshops;
 - c. Acquire ROW necessary for the Project;
 - d. Enter into or obtain whatever agreements or permits necessary for Project completion;
 - e. Provide County with the opportunity for significant input in plan development and periodic progress reviews; and
 - f. Provide records for periodic auditing for either financial accounting or engineering accounting or both.
- C. For City/Town-led projects in which the City/Town is considering to specify transportation infrastructure elements exceeding the Standard Basic Project Design criteria, County funding will only be eligible to the Standard Basic Project Design criteria unless the City/Town and County have arrived at a mutual agreement through involvement of the County during the initial design phases, including the Design Kick-off Meeting and as necessary, the Preliminary Concept Charrette and Preliminary Design Charrette meetings.

ARTICLE VII. CITY/TOWN AGREES AS FOLLOWS:

- A. To execute, within five (5) years of Commissioners Court approval of funding commitment, the necessary agreements with the County for the implementation of design and construction of the Projects mutually agreed upon and incorporated herein by reference with a PSA. Without at least a FA within five (5) years of Commissioners Court approval of the funding commitment, the County in its sole discretion can reallocate the funding commitment.

- B. City/Town agrees not to allow more than five (5) years to transpire after a completed phase without any activity on subsequent approved phases, in the event that the Project is being completed in phases. If more than five (5) years transpire after a completed phase without any activity on subsequent approved phases, the County in its sole discretion, can reallocate the remaining County MCIP funding.
- C. City/Town agrees to complete the Project within ten (10) years from the date of Commissioners Court approval of the PSA. If more than ten (10) years transpire, the County in its sole discretion can reallocate the remaining County MCIP funding.
- D. To provide City/Town Council Resolution adopting approved preferred alignment, proposed estimated budget, and commitment to meet MCIP Project funding for each milestone as specified herein in the Master Agreement or in the FA and/or PSA.
- E. The County in its sole discretion can require the City/Town to provide a plan to address outstanding issues before entering into necessary agreements for the Project to proceed.
- F. City/Town agrees to share the funding of each Project with County on an equal share basis of 50%/50% or an otherwise agreed cost sharing arrangement as specified in a FA and/or PSA with the following exclusions:
 - a. City/Town shall bear the entire cost of:
 - 1. City/Town owned utilities relocation or adjustment such as water and sanitary sewer facilities, except utility adjustments directly attributable to storm sewer improvement conflicts;
 - 2. Amenities including but not limited to street pavers, colored concrete, planters, decorative lighting, special signage, or any other feature over the Standard Basic Project Design;
 - 3. Utility Betterments;
 - 4. Direct costs of City/Town which is fulfilling the role of Lead Agency, shall be totally funded by City/Town unless supported by a detailed hourly accounting system equal to County's accounting system; and
 - 5. City/Town Indirect Costs.
- G. After the City/Town and County enter into a MOA, MOU, FA and/or PSA, regarding the Project's concepts, design elements and limits by the County and City/Town at the PDC, the City/Town agrees to acquire ROW required for designated projects by voluntary dedication, the subdivision platting process and/or other legal means, to the maximum extent possible, and to ensure through the building permitting process that setback requirements are imposed to limit encroachment upon the required ROW. City/Town agrees to fund ROW not acquired, but reasonably expected to be acquired. City/Town also agrees to fund the removal of improvements that are encroachments within existing or proposed ROW areas.
- H. In the event of any proposed use of the Project ROW that will conflict with the proposed Project and City/Town is unable to obtain such ROW as described above, City/Town shall notify County of such conflict. County and City/Town shall determine if the acquisition of the conflicting parcel would be in the best interest of the Project. In the event that agreement is reached and the parcel is acquired such cost shall be included in the pro rated cost of the project in the agreed upon proportions.

- I. City/Town hereby grants the County authority to enter into eminent domain proceedings within the City/Town limits on each specific ROW alignment and/or project as approved by the City/Town and County.
- J. To require all Utilities located within or using the present public ROW on all designated transportation projects within City's/Town's municipal limits to adjust and/or relocate said Utilities as required by the proposed improvement of the designated transportation project. City/Town Utilities shall be relocated or adjusted at no cost to County except as may be specifically set forth in this Master Agreement.
- K. City/Town agrees to be cooperative on issues relating to billboards, advertising signs, non-conforming uses, zoning and similar restrictions and to exercise its best efforts to provide variances when possible to minimize costs and minimize delays of the Project. Additional Project costs caused or contributed to by the City/Town ordinance, zoning, non-conforming use determination or other requirement shall be paid in full by the City/Town.
- L. City/Town shall require the adjustment and/or relocation of Utilities to be accomplished and finalized, as expeditiously as possible after approval of final plans to prevent Project schedule delays. Notwithstanding anything contained herein to the contrary, all Utilities shall be adjusted or relocated and the ROW clear for construction not later than thirty (30) days prior to the award of the construction contract. City/Town will notify the County and other stakeholders when utility conflicts would impact progress of the Project's completion. County and City/Town agree to work with all stakeholders to solve the problem; which includes engaging elected officials in the problem's resolution to prevent delays in the commencement or prosecution of construction on the Project.
- M. Where planned roadway improvements (including, but not limited to storm drainage,) are in conflict with City/Town owned water and sanitary sewer systems, that could otherwise remain in place, the actual costs of the necessary adjustment of City/Town water and sewer utilities shall be pro rated at the overall percentage agreed to by City/Town and County for cost sharing. City/Town shall be responsible for funding one hundred percent (100%) of any Betterment; as well as 100% of any relocation that is caused by City/Town installation during the Project Duration. Except as provided herein, all costs for adjustment and/or relocation of utilities in the public ROW shall be the responsibility of the Utility Owner or of the City/Town Utility. Any Project delay or other damages caused by City/Town or the Utility's failure to timely relocate or adjust the facility shall be at the entire cost of City/Town.
- N. To provide for continuing surveillance and control of ROW to prevent the construction, placement, storage or encroachment of any signs, personal property or other appurtenances in the existing or proposed ROW. In the event that the aforementioned features are allowed by City/Town to encroach on necessary ROW during the duration of the project, City/Town shall bear the entire cost of removal or relocation of said encroachment.
- O. To provide to County for County's or County's designee's use, at no cost, adequate copies of all construction standards, codes, (specifically including zoning and development codes), plats, specifications, guidelines, standards or any other pertinent information as determined by County to be required for the completion of the Project. Additionally, City/Town shall furnish County, at no cost, such documents as necessary to keep all items previously furnished to County current.
- P. To actively participate and provide authorized representation with decision-making power at the PCC and/or the PDC, preconstruction meeting, and project meetings, which are necessary to Project development and completion.

- Q. City/Town agrees to provide timely review of interim submittals. "Timely review" will be agreed upon during the PCC and/or PDC as a part of the Project schedule. City/Town further agree that if no review notes are submitted by the City/Town in writing to the County in a timely basis, plans are approved as submitted.
- R. When City/Town is Lead Agency, City/Town agrees to allow forty-five (45) days for County review of submittals and that any of the County's comments shall be incorporated into the final document.
- S. City/Town agrees that it will pay all additional Project cost for any City/Town requested discretionary change, including, but not limited to Amenities and Utility Betterments, in or in addition to the design or construction of the Project subsequent to the City/Town's opportunity to review the sixty five percent (65%) design plans.
- T. Provide at City's/Town's cost for the continuing maintenance of all the Project ROW, such as mowing, drainage, trash removal, etc., during the period between acquisition and construction.
- U. During the construction of the Project and after completion of the Project, City/Town will be responsible for the control, operation, police enforcement and/or emergency services, without cost or contribution from the County.
- V. After the completion of a Project and the maintenance period, the City/Town will be responsible for all future maintenance without cost or contribution from the County.
- W. City/Town shall bear the entire cost of design, construction and administration for landscaping, streetscaping, streetlighting, as such items are not included in the Standard Basic Project Design and other amenities specified or requested by the City/Town in excess of the Standard Basic Project Design.
- X. It is the intent of this Master Agreement that the County will be the Lead Agency. In the event that the City/Town and County agree in writing that the City/Town will manage and administer one or more projects, the City/Town and the County will enter into a FA and/or PSA as to that project(s). In such instance, the City/Town agrees to assume all Lead Agency responsibilities except as may be determined by mutual agreement and set forth in the FA and/or PSA.

ARTICLE VIII. UTILITY IMPACTS.

- A. In cases where a Utility is located in a Privately Owned ROW, and it is necessary to relocate the facility or make adjustments by reason of the widening or improvement of the designated Project, the County (or City/Town if acting as the Lead Agency) will, after submission by the utility company of ROW documentation and cost estimates acceptable to the City/Town, County and other stakeholders, assign the actual costs for the relocation and/or adjustment of said utility to the Project.
- B. In cases where a Utility in Public ROW, excluding City/Town Utilities, occupies any portion of the Project ROW by Texas or federal law or by agreement with the City/Town that allows or permits the City/Town to cause the relocation of the utility for the construction of the Project, the City/Town shall timely require and enforce the relocation or adjustment requirement at no cost to the Project. In the event that the City/Town has no legal or contractual right to cause the relocation, the relocation or adjustment shall be relocated or adjusted and all cost shall be a Project Cost. City/Town shall take all steps necessary to ensure that such relocation or adjustment shall not conflict with or delay the Project schedule.

ARTICLE IX. COUNTY AGREES AS FOLLOWS:

- A. To provide, as a Project Cost, preliminary engineering which will define project details, e.g., location, scope of work and specific right-of-way alignment for each improvement. Such preliminary engineering shall be submitted to the City/Town for approval, prior to proceeding with the final design and any right-of-way acquisition.
- B. To provide, as a Project Cost, for the construction of transportation improvements based upon design criteria conforming to Standard Basic Project Design in conformity with applicable City ordinances and standards, to the extent of Commissioners Court approved program funding. Scope of work shall include the agreed upon design standards as the basis for improvement criteria. Deviations from mutually agreed upon application of City/Town standards and/or design criteria shall require prior approval of the City/Town. Where City/Town standards do not exist, TxDOT standards as of the Effective Date of this Master Agreement shall be utilized unless otherwise mutually agreed to by the parties in the FA and/or PSA.
- C. To actively participate and provide authorized representation at the PCC and/or the PDC, preconstruction meetings, and Project meetings, which are necessary to project development through project completion.
- D. To provide project management of each Project where the County is Lead Agency from commencement to completion of construction. City and County may agree to redefine project management roles as beneficial to the Project as defined in the MOA, MOU, FA, and/or PSA, and/or supplemental and/or amended agreements.
- E. Upon receipt of written request detailing the information requested, to provide information related to the Project to the City/Town or the City /Town's designee at no cost to the City/Town.
- F. County agrees to provide review of interim submittals within forty-five (45) days of receipt, and hereby agrees that if no review notes are submitted by the County (if City/Town is filling the role as Project Manager) in writing to the City/Town within that time period, plans are to be approved as submitted.
- G. To submit final engineering plans for review and written approval by the City/Town forty-five (45) days prior to submitting documents to the County Purchasing Department for advertising the project for construction.
- H. To provide for the acquisition, including acquisition by Eminent Domain, of the necessary additional ROW, on designated projects, in accordance with minimum standard requirements and utilizing existing public ROW to the maximum extent possible as a Project cost.
- I. To require all contractors to secure all necessary permits required by the City/Town on said construction projects.
- J. To furnish record drawings of construction plans for the permanent records of the City/Town within twelve (12) months upon completion and acceptance of the transportation improvement Project.
- K. To transfer the real property or property interest acquired by the County and used for the Project to the City/Town.
- L. In the event the County and the City/Town agree in writing that the City/Town will be the Lead Agency for the agreed upon Project, the County will reimburse the City/Town for agreed costs as detailed in Article XII. (Funding) in this Master Agreement in an amount not to exceed the Project cost as approved by Dallas County Commissioners Court and incorporated in the FA and/or PSA.

All County payments shall be in accordance with Texas law and County policies and procedures as may be mutually agreed to by the parties and incorporated by reference in a FA and/or PSA.

**ARTICLE X. PRELIMINARY DESIGN CHARRETTE (PDC), PRELIMINARY
CONCEPT CHARRETTE (PCC)**

- A. City/Town and County, as specified in Articles VII, IX, and X of this Master Agreement, respectively, will designate officials or representatives to participate in a PCC and/or PDC to be conducted on a mutually agreed to date and location. At least part of this meeting will be conducted on the Project site.
- B. Results from the PCC will identify the general project scope, the basic approach and concepts to be taken with the project, the elements of CSS that will be included, and some ideas for alignments alternatives. The Lead agency will already have been determined, as well as the project administration and management roles, which include the Project Manager. Key project participants shall be introduced to stakeholders at the PCC and or PDC. Results from the PDC will identify the preferred alignment of the project, and provide all stakeholders a commitment for project delivery schedules and project budgets.

ARTICLE XI. FISCAL FUNDING

Notwithstanding anything to the contrary herein, this Master Agreement is expressly contingent upon the availability of County funding for each item and obligation contained herein. City/Town shall have no right of action against the County as regards this Master Agreement, specifically including any funding by County of the Project in the event that the County is unable to fulfill its obligations under this Master Agreement as a result of the lack of sufficient funding for any item or obligation from any source utilized to fund this Master Agreement or failure of any funding party to budget or authorize funding for this Master Agreement during the current or future fiscal years. In the event of insufficient funding, or if funds become unavailable in whole or part, the County, at its sole discretion, may provide funds from a separate source or terminate this Master Agreement. In the event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code.

Notwithstanding anything to the contrary herein, this Master Agreement is expressly contingent upon the availability of City/Town funding for each item and obligation contained herein. County shall have no right of action against the City/Town as regards this Master Agreement, specifically including any funding by City/Town of the Project in the event that the City/Town is unable to fulfill its obligations under this Master Agreement as a result of the lack of sufficient funding for any item or obligation from any source utilized to fund this Master Agreement or failure of any funding party to budget or authorize funding for this Master Agreement during the current or future fiscal years. In the event of insufficient funding, or if funds become unavailable in whole or part, the City/Town, at its sole discretion, may provide funds from a separate source or terminate this Master Agreement. In the event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code.

ARTICLE XII. FUNDING

- A. City/Town and County mutually agree to proportionately fund the Direct Project and Program costs as agreed by the parties in a FA and/or PSA. Unless otherwise specified in the FA and/or PSA, the County shall bear fifty percent (50%) of the total Direct Project and Program costs

excluding the Amenities, relocation or adjustment of City/Town Utilities, Utility Betterment, Indirect Cost, Direct Cost not supported by detailed hourly accounting system and other items as specified in this Master Agreement, FA, and/or PSA. County shall not be responsible for any amount of funding in excess of the Project not-to-exceed amount as shown in the FA and/or PSA. Unless otherwise specified in the FA and/or PSA, the City/Town shall bear fifty percent (50%) of all Direct Project and Program costs. In addition, the City/Town agrees to fund all other City/Town cost as provided herein, including, but not limited to, Amenities, relocation or adjustment of City/Town Utilities, Utility Betterment, Indirect Cost, Direct Cost not supported by detailed hourly accounting system, and other items as specified in this Master Agreement, FA, and/or PSA.

- B. Unless otherwise stated in a FA and/or PSA, the milestones for each project shall be (1) preliminary and primary design (2) ROW acquisition and utility relocation or adjustment and (3) construction. The Lead Agency shall prepare an estimated cost for each milestone. Upon approval of the cost by the other party, each party shall fund its share of the respective milestones by placing that amount of money in an escrow account or otherwise encumber the funds to ensure that the Lead Agency will have sufficient funding available from current revenue for the timely payment of Project milestone costs. The Lead Agency may bill the other party for periodic payments for the actual amount of work completed toward the completion of the milestone. Upon completion of the milestone, the non-management party will be furnished a notice that such work has been completed and the amount of funding that may be utilized to pay subsequent milestone Project cost. Notwithstanding any other term or condition contained herein in this Master Agreement or in any FA and/or PSA, neither party will be required to award any contract until written certification has been received that funding has been placed in escrow or encumbered for the payment of the non-awarding party's portion of the Project cost.
- C. In the event that the cost of the Project shall exceed the not-to-exceed amount, City/Town and County agree to either reduce the scope of construction or seek additional funding to complete the Project at the agreed upon cost share percentages. At the termination of the Project, the Lead Agency will do a final cost accounting of the Project. In the event that the amount paid by either party exceeds its portion of the actual cost, the difference will be remitted to such party. In the event that additional funds are due, the Lead Agency will bill the other party who agrees to pay such funds within thirty (30) days of receipt of such billing.
- D. If the City/Town elects to manage the Project, the County will reimburse the City/Town based on invoices for actual costs expended as supported by documentation approved by the County Auditor. Any and all supporting documentation required by the County Auditor shall be included with the invoice from the City/Town.
- E. After approval by the County's Commissioners Court and the City/Town's City/Town Council, and after the execution of an FA and/or PSA, the City/Town shall escrow an amount adequate for estimated Project costs, which the County may use to pay for professional services, which include, but are not limited to scoping, preliminary design, and primary design.
- F. City/Town and County shall enter into a FA to establish funding commitments for both parties as required for each project within at least five (5) years of project selection unless the County and City decide to enter directly into a PSA. If the City/Town agree the Project is to be completed in phases, no more than five (5) years may transpire after a completed phase without any activity on subsequent approved phases.

G. If the City/Town and County agree to enter into a PSA without first entering into a FA, the City/Town shall enter into a PSA with the County and complete the Project within ten (10) years or less.

H. Suggested timeframes for FA's, PSA's, and/or any supplements and/or amendments thereto are:

- a. As soon as the project is accepted by Commissioners Court and as a result of the Kick-off meeting, a FA to establish the Lead Agency for preliminary engineering and general funding responsibilities and procedures for reimbursement by the Participating Agency; or
- b. For a PSA, when the preliminary engineering plans are at sixty percent (60%) complete, providing specific details on project scope to enter into a PSA; or
- c. After construction bids are opened, amend the PSA as needed.

ARTICLE XIII. NO THIRD PARTY BENEFICIARY ENFORCEMENT

It is expressly understood and agreed that enforcement of the terms and conditions of this Master Agreement and all rights of action relating to such enforcement shall be strictly reserved to the City/Town and the County. Nothing contained in this Master Agreement shall give or allow any claim or right of action whatsoever to any other person or entity. The terms and provisions of this Master Agreement are for the benefit of the parties hereto and not for the benefit of any third party. It is the express intention of the City/Town and the County that any entity or person other than the City/Town or the County receiving services or benefits under this Master Agreement shall be deemed an incidental beneficiary only. This Master Agreement is intended only to set forth the contractual right and responsibilities of the parties hereto.

ARTICLE XIV. RIGHT OF ENTRY

The City/Town agrees that the County shall have the right to enter upon the Project area for the time period necessary for the completion of the Project. The City/Town agrees to furnish such police or other City/Town personnel as requested by the County for traffic control or other public safety matters at no cost to the Project or the County.

ARTICLE XV. LIST OF PROJECTS

City/Town agrees that it has been furnished with a list of the potential Projects as approved by the Dallas County Commissioners Court, subject to the agreement between the parties in a MOA, MOU, FA and/or PSA. City/Town stipulates and agrees that the Commissioners Court Order approving the projects identifies the potential project location and describes the type of project in sufficient detail that the City/Town is fully aware of the location and type of projects being considered.

ARTICLE XVI. REALLOCATION OF COUNTY MCIP FUNDING

The County in its sole discretion has the ability to reallocate County MCIP funding away from the City/Town's Project if the City/Town has not entered into a FA confirming the City/Town funding match within five (5) years from Commissioners Court approval of the funding commitment. The County in its sole discretion has the ability to reallocate the remaining County MCIP funding in the event the Project is being completed in phases and more than five (5) years has transpired after a completed phase without any activity on subsequent approved phases. The County, in its sole discretion, also has the ability to reallocate the remaining County MCIP funding away from the

City/Town's Project if the City/Town has not completed the Regional Transportation milestone within ten (10) years.

ARTICLE XVII. ORPHAN ROAD POLICY

- A. The County encourages all cities adjacent to orphan roads in the county to develop, commit to and submit a plan to the County for completing the annexation of the orphan road segments and assuming full responsibility for these roadways. In instances where two cities abut the same orphan road segment, the County encourages the two cities to jointly develop a plan for the annexation of that segment. The County offers its assistance to the cities in developing such plans.
- B. The County, at the discretion of the Commissioners Court, may give additional selection value to projects in cities that have submitted a specific plan for the annexation of orphan roads when the County selects, approves, and schedules projects for funding in the County's Major Capital Improvement Program ("MCIP"). Such preference may also be given in approving projects for road and bridge district participation (Type "B" work).
- C. The County, at the discretion of the Commissioners Court, may also refuse to participate in discretionary projects, such as road and bridge district projects or MCIP projects, in a City that elects not to pursue the annexation of orphan road segments that abut its boundaries. Failure to notify the County of the City's intent to annex and/or failure to submit a plan for annexation in a timely manner shall be construed by the County as the City's election not to pursue annexation.
- D. The County, at the discretion of the Commissioners Court, may select specific orphan road segments for improvement when a City commits to annexation of the segment upon completion of the project. However, the specific plan for annexation of orphan roads submitted by the City will not be limited to annexation upon completion of improvements by the County. The County improvements may be made as road and bridge projects or as MCIP Projects (subject to other MCIP criteria, including but not limited to regional thoroughfare plan designation and City cost participation).
- E. This policy application is prospective and projects selected by the County and approved by the Commissioners Court prior to the date of the adoption of this policy shall not be impacted by this policy.
- F. The County shall provide written notification of the adoption of, and future revisions of, this policy to the cities abutting orphan road segments.
- G. The County Director of Public Works shall maintain a listing of orphan roads and the city or cities they abut and shall provide updates to the Commissioners Court and to the cities as changes occur. The listing and changes to the listing shall be based on municipal boundary and annexation information provided to the County's Public Works by the cities as required by Texas Local Government Code, Section 242.001(e).
- H. The provisions of this Article XVII of this Master Agreement shall survive the termination of this Master Agreement.

(Dallas County Code, Chapter 102, Article IV, Sec. 102-131 - 102-133, 6-27-2006, 8-10-2020).

ARTICLE XVIII. SMALL WATERSHED DAMS

The County encourages all cities/towns adjacent to small watershed dams maintained by the County to develop, commit to and submit a plan to the County for assuming full responsibility for the operations and maintenance of these dams. In instances where more than one city/town abuts a small watershed dam, the County encourages the cities/towns to develop a plan for operation and maintenance of the dam. The County offers its assistance to the cities/towns in developing such plans.

- A. The County, at the discretion of the Commissioners Court, may refuse to participate in MCIP projects in a City/Town that elects not to pursue accepting full responsibility for the operations and maintenance of small watershed dams within their jurisdiction. Failure to notify the County of the City/Town's intent to submit a plan for operations and maintenance of small watershed dams in a timely manner shall be construed by the County as the City/Town's election not to pursue operations and maintenance of these dams.
- B. Projects selected by the County and approved by the Commissioners Court prior to the Effective Date of the adoption of this policy, shall not be impacted by this policy.
- C. The County shall provide written notification of the adoption of, and future revisions of, this policy to the cities abutting small watershed dams.
- D. The provisions of this Article XVIII shall survive the termination of this Master Agreement.

ARTICLE XIX. MISCELLANEOUS GENERAL PROVISIONS

A. **Applicable Law/Venue.** This Master Agreement and all matters pertinent thereto shall be governed by and enforced in accordance with the laws and case decisions of the State of Texas. Exclusive venue for any legal action regarding this Master Agreement and all matters pertinent thereto filed by either the County or the City/Town shall be in Dallas County, Texas. Notwithstanding anything herein to the contrary, this Master Agreement is expressly made subject to the County's and the City/Town's sovereign and/or governmental immunity, pursuant to Title 5 of the Texas Civil Practice and Remedies Code, and all applicable State of Texas and federal laws.

B. **Entire Agreement.** This Master Agreement constitutes the entire agreement between the parties respecting the subject matter contained herein, supersedes all prior and contemporaneous understandings and agreements, whether oral or in writing, between the parties respecting same, and may not be modified except by an instrument in writing executed by the parties hereto as herein provided.

C. **Severability.** If one or more of the provisions in this Master Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not cause this Master Agreement to be invalid, illegal or unenforceable, but this Master Agreement shall be construed as if such provision had never been contained herein, and shall not affect the remaining provisions of this Master Agreement, which shall remain in full force and effect.

D. Default/Waiver/Mitigation. It is not a waiver of default if the non-defaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this Master Agreement does not preclude pursuit of other remedies in this Master Agreement or as provided by law.

E. Federal or State of Texas Funding. In the event that any work or part thereof is funded by State of Texas or U. S. Government funding and any statute, rule, regulation, grant, contract provision or other State of Texas or U. S. Government law, rule, regulation or other provision imposes additional or greater requirement(s) than stated herein, the City/Town agrees to timely comply therewith without additional cost or expense to the County.

F. Headings. The headings and titles, which are used following the roman numeral of each paragraph are only for convenience in locating various provisions of this Master Agreement and shall not be deemed to affect the interpretation or construction of such provisions.

G. Number and Gender. Words of any gender used in this Master Agreement shall be held and construed to include any other gender, and words in the singular shall include the plural and vice versa, unless the text clearly requires otherwise.

H. Counterparts. This Master Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

I. Notice. Any notice provided for in this Master Agreement to be given by either party to the other, shall be required to be in writing and shall be deemed given when personally delivered, or three (3) business days after being deposited in the United States Mail, postage prepaid, via certified mail, return receipt requested, or via registered mail, and addressed as follows:

County: County of Dallas
Director of Public Works
Dallas County
Administration Building
411 Elm Street, Fourth Floor
Dallas, Texas 75202-3389

To City: City of Mesquite
Cliff Keheley
City Manager
1515 N. Galloway Avenue
Mesquite, Texas 75149

Either party may change its address for notice by giving the other party written notice thereof.

J. Assignment. This Master Agreement may not be assigned or transferred by either party without the prior written consent of the other party and formal approval by the governing body of each party.

K. **Binding Agreement, Parties Bound.** When this Master Agreement has been duly executed and delivered by both parties, this Master Agreement shall constitute a legal, valid, and binding obligation of the parties, their successors, and permitted assigns.

L. **Amendment.** This Master Agreement may not be amended except in a written instrument specifically referring to this Master Agreement and signed by the parties hereto.

M. **Effective Date.** This Master Agreement shall commence on the Effective Date. The Effective Date of this Master Agreement shall be the date it is executed by the last of the parties. Reference to the date of execution shall mean the Effective Date.

N. **Contingent.** This Master Agreement is expressly subject to and contingent upon formal approval by the Dallas County Commissioners Court and by resolution of the City/Town Council.

O. **No Joint Enterprise/Venture.** City/Town and County agree that neither party is an agent, servant, or employee of the other party. The parties, including their agents, servants, or employees, are independent contractors, and not an agent, servant, joint enterprise/venture, or employee of any other party, and are responsible for their own acts, forbearance, negligence, and deeds, and for those of their agents, servants, or employees in conjunction with this Master Agreement. No joint enterprise/venture exists between the City/Town and County.

The City of Mesquite, State of Texas, has executed this Master Agreement pursuant to duly authorized City Council Resolution 19-2021, Minutes _____ dated the 19th day of April, 2021.

The County of Dallas, State of Texas, has executed this Master Agreement pursuant to Commissioners Court Order Number 2021-0697 and passed on the 6th day of July, 2021.

(the remainder of this page intentionally left blank)

(signatures appear on the following page)

CITY OF MESQUITE

BY Cliff Keheley
Cliff Keheley

TITLE City Manager

DATE 6.16.2021

ATTEST Sonia Laird
CITY SECRETARY ATTORNEY

COUNTY OF DALLAS

BY Clay Lewis Jenkins
Clay Lewis Jenkins, County Judge

DATE 7-06-2021

APPROVED AS TO FORM*:
JOHN CREUZOT
DISTRICT ATTORNEY

BY /s/ Jana Prigmore Ferguson
Jana Prigmore Ferguson
Assistant District Attorney

Digitally signed by /s/ Jana Prigmore Ferguson
DN: cn=/s/ Jana Prigmore Ferguson, o=District
Attorney's Office, Dallas County, Texas,
ou=Assistant District Attorney,
email=jana.ferguson@dallascounty.org, c=US
Date: 2021.06.21 14:56:02 -0500

*By law, the District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).

ATTACHMENT A



DEPARTMENT OF PUBLIC WORKS
411 ELM ST 4TH FLOOR
DALLAS TEXAS 75202

PROJECT MANAGEMENT PRACTICES MANUAL

5 PHASE
PROJECT DELIVERY SYSTEM

2021

PREAMBLE

City/Town and County agree that neither party is an agent, servant, or employee of the other party. The parties, including their agents, servants, or employees, are independent contractors, and not an agent, servant, joint enterprise/venture, or employee of any other party, and are responsible for their own acts, forbearance, negligence, and deeds, and for those of their agents, servants, or employees in conjunction with this Master Agreement. No joint enterprise/venture exists between the City/Town and County.

Nothing in this manual creates a joint enterprise/venture between the County and the City/Town. This manual is being included so that it could help encourage these protocols to be followed because it will assist in the efficiencies and thereby possibly help reduce monetary obligations and duration of the projects. These guidelines are strongly recommended to be followed in order to avoid potential cost-related and/or time delay issues.

INTRODUCTION

The purpose of this Dallas County Public Works Project Management Practices Manual ("Practices Manual") is primarily to provide a standard practice guide on project management practices within the Dallas County Public Works ("DCPW") department. It is meant to ensure that a standard approach is used by all Project Managers ("PMs") and other project members in the delivery of County Major Capital Improvement Program ("MCIP") funded transportation projects. The guidelines are meant to meet the requirements and intent of the American Public Works Association's ("APWA") publication entitled "The Public Works Management Practices Manual" ("the APWA Manual"). The APWA Manual contains recommended practice statements that describe the critical elements necessary for a full-service public works agency to accomplish its mission. The practice statements in the APWA Manual "call for the development and implementation of a policy or procedure in the form of a rule, regulation, written directive, or for the execution of an activity, report, procedure or other action."

The resulting Practices Manual is intended to list a number of applicable recommended practice statements. Our basic methodology is a strong matrix approach, so that our PMs are assigned from the time a planning initiative becomes an approved project, to completion of the total project. We use the terminology found in the Project Management Institute's "A Guide to the Project Management Body of Knowledge" ("PMBOK"). This includes the definition of a "Matrix Organization." The definition is "any organization structure in which the project manager shares responsibility with the functional managers for assigning priorities and for directing the work of individuals assigned to the project."

When we speak of a project participants/team, we are referring to a group led by an appointed DCPW Project Manager ("PM") who has team members from throughout the four functional divisions of DCPW. These four divisions in DCPW are Transportation & Planning, Property Management & Utility Coordination, Engineering & Construction, and Program & Engineering Management. The PMs manage projects from cradle to completion without switching between functional divisions.

The intent of this Practices Manual is to provide an overview guide to project delivery practices, not an exhaustive "how to" manual. Greater detail on these and other Public Works practices can be found in the APWA Manual for more detailed instructions on the specific elements of project delivery. Our experience is that really thick manuals are not used as much as shorter guidelines that provide the boundaries of good practice and a standard approach on the essentials, with empowerment to individual PMs on the details of how they work to deliver their individual projects.

This Practices Manual can also serve as a guideline for the city/town to follow when the city/town is leading an MCIP project. Dallas County can provide input on the consultant selection process used by the city/town and the bidding process.

PHASE 1 -- PLANNING & PRELIMINARY DESIGN

STEP ONE, PROJECT DEFINITION

1. Dallas County Public Works, in conjunction with other Dallas County departments and with approval from Dallas County Commissioners Court ("Commissioners Court"), initiates a "Call for Projects". The Dallas County Public Works Transportation & Planning Division will adjust the project selection criteria based on the Dallas County Mobility Plan developed from input provided from the cities and/or towns, criteria that the North Central Texas Council of Governments ("NCTCOG") is using, and guidance from the County Commissioners. The final criteria and Call for Projects process will be briefed and approved by the Commissioners Court and a 5-signature letter will be used to invite the cities to participate in the MCIP Call for Projects.
2. The MCIP Call for Projects is a process that involves Dallas County, requesting a nomination of projects from all cities/towns in Dallas County, which can also involve stakeholders such as NCTCOG, Texas Department of Transportation ("TxDOT"), Dallas Area Rapid Transit ("DART") and/or others. The nomination period is open for four to six months to allow cities/towns to submit projects to the County for review. Soon after sending out notification about the MCIP Call for Projects, Dallas County Public Works will host a workshop on the

MCIP and the application process. Various aspects of this Call for Projects Workshop and process will be adjusted based on prior input from the cities/towns in Dallas County. The amount of time and submittal deadline for the cities and/or towns to nominate projects will be adjusted based on feedback from the cities/towns. This is to ensure that the cities/towns have enough time to brief their elected officials, plan for inclusion of projects in city bond elections, etc.

3. DCPW's Transportation & Planning Division helps ensure that all of the information has been submitted correctly by cities/towns. If necessary, assistance may be provided to some of the smaller city/town staffs with preparation of their project submissions. A matrix team that consists of DCPW employees begins with field evaluations of the projects for conducting a feasibility review that precedes developing recommendations for selection of projects by Commissioners Court to be included in the County's MCIP. The DCPW team, with staff participation from each of the four DCPW divisions involved, provides assistance with risk assessments from various perspectives, which include cost estimates, scope definition, political aspects, funding, technical issues, utilities, safety, environmental, and traffic factors, etc. The DCPW Property Division team members examine Right-of-Way ("ROW"), utilities involvement, railroad involvement, relocations, etc.
4. Every project selected for MCIP funding commitments is then placed into a Program Year (PY) (year slated for construction start) in a spreadsheet called the "MCIP Transportation Funding Commitments" that is presented in Briefing format in a public forum to the Commissioners Court for their formal approval.
5. The MCIP has been formulated on the premise that legal agreements should reflect the nature and character of the program. Equal funding, Project Management (groups of independent stakeholders and cities/towns) methods of project delivery, and principles applied in every phase of project delivery are the essential elements of the MCIP. The time it takes for getting interlocal agreements approved should never be on the critical path of project delivery. Therefore, much effort was expended between the Civil Division of the Dallas County District Attorney's staff and DCPW staff to formulate a Master Agreement Governing Transportation Major Capital Improvement Projects ("Master Agreement"). This MCIP Master Agreement has been signed by all the cities/towns with approved projects and serves as the legal basis for future agreements between the various cities/towns and Dallas County, including but not limited to a Memorandum of Agreement ("MOA") and Memorandum of Understanding ("MOU"). Later, during project design, enough information will be known to forge a Funding Agreement ("FA") or a Project Specific Agreement ("PSA") that details the specifics of that particular project. None of the basic elements of a city-county legal agreement have to be repeated in the FA and/or the PSA, thus simplifying the process and time involved.
6. A project management planning meeting is held next with each City or Town, which has projects selected. This meeting is to initially review the selected projects and determine the basic parameters for each of the projects, such as cash flow requirements, for each participant of the project, who the lead agency for project delivery will be, agreed upon technical criteria, known risks, roles for each stakeholder, etc., all focused on assuring timely project delivery and moving the project into construction during the selected PY. If there is a great deal of uncertainty associated with the project (e.g. part of some economic development such as transit oriented development, or part of brown field development, or other significant environmental challenges, or a very significant change in planned use of an area in the future

such as industrial area converted to mixed use, etc), then the lead agency may conduct a Planning Charrette.

The purpose of the Planning Charrette meeting, with all significant participants and stakeholders, is to determine the beginning scope and the realm of possible approaches. Serious design cannot begin until there is an agreement on a relatively reasonable set of alternatives, which bear some relationship to the scope of funding currently available. Relationships will also be established at the Planning Charrette meeting involving the city/town, stakeholders, utilities and other participants of the project, which may be sustained throughout the life of the project.

7. DCPW commits to using Principles of Trust, Commitment, and Shared Vision in addition to Best Practices of Project Management Principles throughout the life of the project. Each city/town is invited to use the same principles to deliver the selected projects. This type of approach is also an integral part of Context Sensitive Solutions ("CSS"), which is a design methodology that involves early and continuous involvement of all participants and stakeholders of a project. The Planning Charrette meeting is a form of CSS. The Dallas County Mobility Plan should also be considered as part of applying CSS for project delivery.
8. For every project that the city and/or town and county stakeholders agree to assign Dallas County as the Lead Agent, a PM will be assigned by DCPW. In addition, the DCPW Assistant Director ("AD"), in consultation with the PM and other AD's or designated DCPW business unit leaders, will identify their own matrix team members for the project. Any available Project Management tools will be used to optimal effect during the life of the project.
9. An initial Project Funding & Execution Status ("PFES") and Program Management & Planning Status ("PMAPS") form will be developed by the PM for each project in coordination with the ADs (or designees) from the DCPW divisions including Program & Engineering Management Division ("PEMD"), the Engineering & Construction division and Transportation & Planning Division. Each AD or designated DCPW business unit leader will review PFES and PMAPS in order to provide an adequate workforce for each project, and ensure that their own employees' assignments are balanced.
10. A decision on the use of Subsurface Utility Engineering ("SUE") will be made before initiating design. In the analysis of candidate projects, utility relocation risks will have been identified. When these risks are high (the usual situation), then funding will be planned in the design for SUE efforts. Dallas County Public Works ("DCPW") will have in place an Indefinite Delivery, Indefinite Quantity ("IDIQ") contract for quick implementation of SUE consultant efforts. Initiatives for joint efforts of utilities are anticipated between independent participants and stakeholders wherever feasible. This information will be critical for designers to use as they launch the design. Total integration of the SUE methodology will help ensure that all utility impacts are considered in every phase of project delivery.

STEP TWO, PRELIMINARY DESIGN

1. A systematic decision process as part of the DCPW Business Operating Plans ("PWBOP") updating is done to determine which design efforts will be completed with in-house designers and which will be done by consultants. For consultant selection, a rigorous and systematic process will be used to select the best qualified consultants for each project. An initial contract will be signed with a best qualified consultant to perform the entire preliminary design, or participate as a Preliminary Design liaison, trainer, or expert to advise an in-house design force for the project. As much as possible, an Indefinite Delivery, Indefinite Quantity ("IDIQ") methodology will be used to help ensure that inordinate amounts of time are not used in the best qualified selection process required by state law. Cities and/or towns who participate in the process are welcome to provide input to the County in the consultant selection process.
2. The DCPW's team of in-house design staff, a city/town, or a selected consultant firm will begin the initial design efforts under the leadership of the PM. One initial objective is to resolve alignment issues early in the design process with the participation of all stakeholders. In some circumstances, a feasibility study may be required to compare and contrast different alternatives before real design can begin. Estimated ROW takes, utility impacts, and environmental effects for each alternative may need to be reported before stakeholders decide on a preferred alternative for preliminary design.
3. CSS methodology will continue to be used, stressing total stakeholder involvement, throughout the project delivery process. Task Force meetings will be scheduled. Dallas County Public Works employees' matrix team meetings will also be scheduled.
4. When a consultant is used as the design agent, a contract will be negotiated for the preliminary design only, unless the project is relatively simple and the final solutions are not in question. The goal is to avoid protracted negotiations on the total scope and fee at the very beginning of the project, when many of the factors influencing final design consideration are not yet known. The decision to issue a new work order for completion of the Primary Design will be made after an interim evaluation on the Preliminary Design is completed using the County's consultant evaluation system.
5. A Preliminary Design Charrette ("PDC") will be planned by the PM who will lead the execution with all stakeholders (cities/towns, utilities, county, any private parties or other decision-makers/stakeholders). The scope of invitees to the PDC will be dependent upon the project's complexity and number of unknowns. The goal of the PDC is to build support behind the project and the alignment alternative that is selected. Many projects have been derailed by a lack of support by the project's independent representatives from the county, city/town, and other stakeholders. A great effort will be made to ensure attendance of all of the independent key players.
6. This consensus building effort is an integral part of any CSS approach to design. The DCPW Director and/or AD's will be personally involved and the PM will make special efforts to notify political leaders of meetings, so that the political leaders can have the meetings on

their calendars and may plan to attend. In addition, individual contacts will have to be made to ensure that utility company representatives attend meetings, since key alignment decisions will be made that can affect, or be affected by, probable utility locations. If applicable, the PDC will include an orientation walk-thru of the project site, which includes right-of-way assessment. The PM will highlight specific city/town zoning and other ROW requirements, or ask the city to highlight these.

7. As part of the CSS approach, a public involvement strategy will be forged under the leadership of the PM, and the advisement of the DCPW Transportation & Planning Division ("T&P"). Staff of DCPW's T&P will advise PMs on various public involvement techniques and methods to use to best involve the public and other stakeholders. DCPW will use innovative methods, such as workshop/small group formats. City/town methods and approaches will be respected and adhered to in this area.
8. Phase 1 ends with approval of the Preliminary Design Report, Preliminary Alignment/Profile and Preliminary Sizing of bridges and drainage structures along with SUE determination, Preliminary Survey Report, and Preliminary Utility Investigation Report.
9. The design firm or DCPW in-house design team will have begun necessary permitting and environmental assessments. Basically, the level of effort will approximate that required of the Preliminary Schematic and Environmental Assessment Phase that currently is required on TxDOT projects.
10. Project plans are estimated to be 60-65% complete at the end of Preliminary Design. A risk assessment may occur before proceeding into Primary Design to identify key aspects that may need to be resolved before or during the Primary Design.

PHASE 2 -- PRIMARY DESIGN

1. The initial task is the assignment of either a DCPW In-house design team or the negotiation of a new work order with the consultant, specifically for completing the Primary Design. A new work order for completion of the Primary Design can be negotiated after Preliminary Design is nearing completion when the unknowns should be relatively few.
2. Scope of Work is now well defined by all Phase 1 effort and includes geotechnical investigations, utility analysis (including an appropriate level of SUE), constructability review, environmental analysis, traffic analysis, ROW parcels (based on Preliminary Design), and integration of context sensitive solution elements. Other aspects in Phase 1 that may be included but not limited to are: neighborhood public workshops, key stakeholder meetings and initial coordination with utilities, as necessary. With the scope defined a PSA can be executed with attached scoping sheets defining the critical parameters for the project.
3. Part of negotiations, both with DCPW In-house design teams and consultants, includes definitive delivery dates for various deliverables, phases, and reviews. In paying submitted invoices for progress during the design period, earned value analysis concepts will be used to

track cost and schedule progress. DCPW generally does not make "cost plus" assumptions about a consultant's work efforts. Greater clarity on scope definition can be achieved with the typical multi-phase design approach of issuing separate work orders for Preliminary Design and Primary Design avoiding or minimizing the instances of misunderstanding on the true project scope.

4. The consultant or DCPW in-house design team works with all stakeholders, including utilities, under the guidance and direction of the County PM. The lead designer is the Technical Manager at this point in the process, and is always under the leadership of the PM. When an IDIQ consultant is hired to perform a survey, miscellaneous design, SUE, or materials testing, the PM is closely monitoring the progress. Also, the design firm for water and/or wastewater services will be integrated, and whenever possible, we will attempt to ensure that the design consultant for the transportation or infrastructure project is also selected by the city/town to design the municipal utility improvements. We anticipate and expect our consultants to become familiar with our 5 Phase Project Delivery System's processes and deliverables.
5. Traffic and utilities data will be considered in design, with data from the city/town, County, NCTCOG, and/or consultant. An agreed upon level of SUE will be key to input into the design details, and including utility companies involvement throughout all phases of the project.
6. Environmental assessment will be completed during this phase. Significant issues should be addressed without wasting time on clearly unimportant areas. An environmental impact analysis will be completed if the assessment shows that this analysis is required. The goal is to execute environmentally sustainable solutions that improve the overall quality of life of the transportation users and citizens of Dallas County and the city/town.
7. Right-of-Way (ROW) documents will be finalized, with quality control by the consultant or DCPW's in-house design team. The quality assurance ("QA") function will be completed by both the PM and DCPW's Property Management & Utility Coordination Division ("PMUC") in a smooth manner, using pre-coordinated checklists. At the appropriate time, the documents will be delivered to PMUC, but the PM still retains overall responsibility for timely project delivery. Early involvement on ROW issues, including utility relocation aspects such as getting possible Rights of Entry ("ROE") can be critical for obtaining vital information to ensure successful utility relocations. Early provision of final and accurate ROW documents will be a critical milestone of the design contract.
8. The Design Consultant or the DCPW In-house design team completes the work on a provided schedule. Consultants and/or DCPW's In-house design team are expected to ensure that they accomplish "muddy boots" design with true "eyes-on" on the total project site. These actions will avoid lengthy rounds of passing designs back and forth, in favor of "over-the-shoulder" reviews, as required to meet design completion timelines. These will include city/town, utilities and other interested stakeholders under the orchestration of the PM.
9. The PM completes the interim evaluation of the consultant. Special note will be taken of the consultant's system for assuring quality control ("QC") of all design efforts, including ROW documents.
10. After construction is complete, the PM performs a final consultant evaluation, using the standard evaluation system. The Consultant is given an opportunity to evaluate DCPW's project management process.

PHASE 3 – DESIGN COMPLETION & RIGHT-OF-WAY INITIATION

1. This phase begins with the delivery of the initial, unsealed ROW documents to the County by the consultant. Consultants will first bring a few ROW documents for initial review by the PM and DCPW Property Division team members, to ensure that they fully understand the details and level of Quality Control that the County expects in their submittals. Standards and scheduling will be clearly spelled out in writing within the Consultant's contract. Deliverables will include ROW maps and deed records.
2. Consultant is required by contract to submit property owner deeds along with right-of-way maps, which have received an internal quality control process. The PM ensures utility representatives are informed of the project and all known utilities are shown on the plans. Diligent efforts must be made to ensure that all private or public utility easements are identified on the maps and plans as required in Consultant Contract. All the SUE efforts should be included in the design documents.
3. Consultants or In-house Design Team are to avoid taking ROW that is not necessary to the construction of the project. The PM works with the project participants to minimize the ROW takings and ensures the appropriate leadership is used so that project delivery dates are met.
4. The PM ensures that the county or the city/town's ROW Functional Manager works towards the efficient execution of ROW planning, appraisal and acquisition services. The DCPW's Property Division will manage the ROW Acquisition Services IDIQ contract, if this delivery tool is used. Before writing a Work Order for the ROW Acquisition Services IDIQ, the DCPW Property Division Manager may meet with the DCPW Engineering & Construction Manager or DCPW Transportation & Planning Manager, DCPW Program Engineering Manager and the PM, to ensure that an adequate project budget is available for the added cost of procuring ROW services.
5. The county or city/town PM monitors and tracks progress on ROW acquisition. The County or the city/town's PM resolves issues as they develop, keeping all stakeholders, including utilities, informed.
6. DCPW may have further final discussions with city/town, utilities and stakeholders, early enough to preclude re-work by the prime consultant. The goal is to achieve this prior to completing the final design documents.
7. Consultant will make minor design changes as directed by the PM resulting from property owner requests or other changes that arise naturally in ROW negotiations.
8. As required, the PM will be prepared to present expert testimony at any Eminent Domain hearings and any related litigation.
9. ROW is complete when all parcels necessary for construction have been acquired.

PHASE 4 – ROW Completion & Utility Adjustment

1. ROW acquisition is carried to completion under the active project management and leadership of the PM, with proactive activity of the ROW acquisition group. If the city/town or other governmental entity such as TxDOT, is the ROW acquisition agency, the PM will still track the progress and proactively keep progress on schedule.
2. The PM will inform project participants about results of the SUE to ensure utility adjustments are accomplished in time to keep scheduled project advertisement and contract award dates. The relevant APWA practices will be used as the guide.
3. The County or City PM tracks and resolves issues and work schedules, to proactively lead efforts to minimize or avoid the obstacles of property acquisition and utilities relocation to ensure project schedule. The use of utilities Rights of Entry (“ROE”) may be explored as a way that could take the utility adjustment time off the project critical path if the utility companies are agreeable. If the utility company is not agreeable to the use of ROE, then the ROW will need to be obtained before the utility company relocates. Road and Bridge (“R&B”) forces may be available to help clear trees from the new ROW.
4. The city/town works with the PM and other project participants to help expedite utility relocations. Many times, franchise utilities have relationships with cities/towns that can be used beneficially to secure better cooperation. Monthly Task Force meetings are initiated during this phase to ensure early and frequent communication of all stakeholders. All project participants are to proactively work with the utilities and facilitate their relocation. DCPW policy is to have Zero Relocation of Relocations (“ORR”).
5. Prior to engaging the Dallas County Purchasing Department (“Purchasing”) for advertising the project for construction bids an “Advertising Risk Assessment” (“ARA”) is completed. Advertising is not issued until all utilities are within a reasonable and confirmable clearance date. A deliberate decision will be made on how many days from bid opening until contract award, and how many days until the Work Order is given. Work Order dates will not be projected to occur before high assurance that all known utilities will have been relocated. A second important function of the ARA is to ascertain all the funding commitments, to update the PFES to include all funds already expended, and to calculate an up-to-date construction estimate. All of the above actions will be coordinated and finalized at a meeting scheduled and run by the PM with the DCPW Director, AD and a city/town’s representative in attendance. This meeting will be scheduled as one of the critical milestones for the project.
6. The PM will ensure designers (in-house or consultant) will be kept on-call for projects if required to complete requested engineering support services during construction, such as shop drawing submittal review and consultation on design intent, assumptions, etc. The intent is to retain the best part of the effort and focus that the consultant or DCPW In-house design team has just expended in designing the project.
7. DCPW will coordinate with Purchasing and any other departments as necessary to facilitate Pre-Project Meetings to notify the nearby community and regional contractor community about the upcoming advertisement of the project for construction bids.

PHASE 5 -- CONSTRUCTION

STEP ONE, CONSTRUCTION

1. The PM works with PEMD to advertise a project in coordination with the Dallas County Purchasing Department for advertisement, pre-bid meetings, bid opening, and award. A one hundred percent (100%) design completion up-to-date construction estimate will be completed by the PM and will be used as the fair-cost government estimate for construction bidding purposes.
2. DCPW leads the drafting of the PSA and any necessary amendments/supplements to the PSA with each city/town giving approval of final funding on a timely basis. An updated PFES will be needed at this time.
3. The PM works with PEMD to help the Dallas County Purchasing Department facilitate the construction contract award. PM works with all cities/towns to ensure a logical and timely notice to proceed is given. This order to begin work and the contract time period will be based on the status of utility relocations, any city requirements, etc.
4. The PM will plan, schedule, and execute the Pre-Construction Meeting involving key stakeholders of the project, including utility companies. The PM will schedule for attendance and participation, the DCPW Director and the AD for Engineering & Construction and/or the AD for Transportation & Planning. Careful pre-planning helps ensure the attendance of the right stakeholders and staff. The PM will normally facilitate their own meetings since they have the expertise and experience to accomplish these tasks without hiring specialized consultants.
5. Construction proceeds on schedule with Construction Management services provided by the County or the city/town. The PM helps ensure that principles of collaboration (Trust, Commitment, and Shared Vision) are maintained throughout the project construction phase by the independent project participants such as contractors, cities, utility companies, transportation agencies and other key stakeholders.
6. The PM ensures constant communication with customers and other project stakeholders. This may include a construction oriented neighborhood meeting, as well as periodic project newsletters, notices of key construction events or phasing, meeting with neighborhood interests (property owners, schools, churches, businesses, etc). We are interested in not only achieving a high quality end-product, but also in delivering the project in a user-friendly manner. This is all part of total Context Sensitive Solutions project delivery.

STEP TWO, PROJECT CLOSE OUT

1. The PM ensures the final pay estimate is paid to Contractor on a timely basis with assistance from the DCPW Program & Engineering Management Division ("PEMD").
2. The PM completes final Evaluation on the Contractor, using interim evaluation results (if one was done), and performance during the entire contract period. Contractor evaluates DCPW (on a voluntary basis).
3. The PM ensures that as-built plans are provided to the ultimate owner of the project, typically the city/town, from marked-up construction plans.
4. The PM works with the PEMD to ensure total project costs are finalized, a final PFES is completed, and Program Management is able to disencumber any remaining funds to be put back into the MCIP fund.
5. The PM ensures the city/town is invoiced for their remaining portion of the Total Project Costs.
6. The PM formally turns the project over to the City by letter citing the date of return to City for maintenance.
7. The PM plans an After Action Review ("AAR") to capture lessons learned and celebrate project completion with all participants involved in project delivery from design to construction completion.
8. The PM conducts the applicable one (1) or two (2) year Maintenance Bond Inspection in conjunction with all applicable stakeholders.
9. The PM completes close out project report, including retaining the key project documents digitally and documenting key lessons learned.

Dallas County Public Works Department's Project Delivery Team's Essential Elements for Utility Relocations

1. Know the utilities' customers and remember that we have the same customers.
2. Make utilities move only if absolutely necessary to achieve the project purpose.
3. Move utilities only once if the move is, in fact, essential.
4. Get involved with actual field reconnaissance early. Include and engage Project representatives or constructability personnel very early.
5. Get the acquiring agency's Right-of-Way personnel involved early.
6. Schedule initial utility meetings early. Make collaboration among independent project participants the theme.
7. Involve and invite utility representatives to neighborhood or public meetings.
8. Distribute roadway plans early to get started with the utility planning.
9. Coordinate with all utilities to ensure that one has no negative impact on another. Coordination should ensure that enough right-of-way is acquired to accommodate all of the facilities.
10. When plans are changed, get them to utility companies promptly. Provide a list of changes for all cities/towns, utilities and stakeholders in a timely manner.
11. Communicate with utilities frequently to ensure knowledge of changing personnel and the appropriate contact person.
12. Review and comment on plans to identify conflicts between utilities and the project plans.
13. If applicable, verify with utility companies their ability to move their utilities before construction needs to begin.
14. Do not begin implementing a project schedule without total feedback from all companies.
15. Identify the precise sequence of utility relocations that need to occur. Many companies are predecessors of other companies' relocations. Communicate this sequence to all utilities and other stakeholders. Ensure that the sequence is streamlined as much as possible.
16. One way of ensuring the streamlining of the utility relocation sequence is web-based notification when each utility company is completed or is scheduled to be completed with relocating their utility lines/facilities. Scheduling is as vital as the actual sequence of relocations.
17. Consider that seasonal shutdown restrictions will have significant and adverse schedule impacts, sometimes up to one (1) year. Also consider that certain times of day are restricted from utility relocation. In addition, develop procedures for emergency situations and learn the appropriate "windows of opportunity" for changeovers, etc.

18. Share accurate information with all companies and try to help ensure that they share information with each other.
19. Communicate the need to follow city town ordinances, particularly those relating to traffic control, backfill and pavement restoration. Traffic control plan must be filed and approved.
20. Ensure that the companies have measures for handling complaints about their work and that they do not inconvenience customers more than is absolutely essential. **Remember, ORR!!**

**GUIDELINES FOR ENSURING SMOOTH RELATIONSHIPS
BETWEEN LOCAL GOVERNMENTS AND THE UNION PACIFIC RAILROAD (UPRR)**

- **Start Early Coordination** – Set up a meeting with UPRR’s local representative to share project selection lists and to ascertain projects with UPRR impacts. Then on impacted projects, share preliminary designs, invite UPRR to early meetings, such as stakeholder preliminary design charrettes, public workshops, etc.
- **Work out precisely the location of railroad project impacts**, before contacting UPRR. This speeds the coordination process greatly. Use MAPSCO location, subdivision, and RR Mile Post wherever possible.
- **Use the UPRR website for a wealth of information, maps, etc.** This can save time in answering questions and can provide much information about UPRR, including points of contact, e-mail and telephone information, instructions, applications, specifications, DOT crossing information, permit requirements, ROW agreements, etc. DCPW in-house or consultant designers need to explore this web-site before launching road design whenever there is going to be a RR crossing. Procedures and responsibilities are clearly laid out, as are design guidelines and specifications. Avoid nasty surprises that can impact project costs if not budgeted.
- **Expect the UPRR owned ROW to contain many other utilities (telecommunications, power, pipelines, etc.), that you will have to pay to relocate.** These are private easements the utilities have paid for and the project will have to bear the costs of relocation. UPRR is a good source of information on the potential conflicts that you will encounter. Budgeting accurately for these costs will avoid nasty surprises later.
- **Check with UPRR before pursuing any changes to their standard agreement or attachments.** UPRR has agreements to work out in 23 states, and their lawyers are very vigilant to watch for precedents that might bind UPRR elsewhere. Work on win-wins in the body of the agreement.
- **Avoid adversarial actions and relationships.** Do not presume upon the UPRR (e.g., impossible requests that are not pursued in a timely manner, making demands they cannot meet, presuming the worst).
- **Look for ways to forge win-wins, for UPRR and the local community.** Understand that the United States Department Of Transportation (“USDOT”) has a policy to reduce at-grade RR crossings. This puts tremendous pressure on railroad companies to accomplish this goal. Are there some rarely used at-grade railroad crossings in the city/town that could possibly be closed? Explore ways to eliminate them and UPRR could be more interested to meet the needs of the project that is needing UPRR assistance.
- **When appropriate, have Dallas County’s attorneys communicate directly with UPRR attorneys.** If we follow the spirit of win-win, then both sides will have better results, even if our attorneys are involved, as they may have to be. The Project Manager should stay involved to ensure that going down “legal rabbit trails” is avoided whenever possible.
- **When you are in doubt and have searched all the readily available information, contact UPRR’s Real Estate Division in Omaha, NE.** Even though UPRR staff have large territories to cover, they are never too busy to help you proactively solve a problem and forge a win-win situation. If you setup a “folder number,” with UPRR this will save them much time in looking up the project file information.