

**INTERLOCAL AGREEMENT
BETWEEN
TRINITY METRO
AND
CITY OF NORTH RICHLAND HILLS, TEXAS**

This Interlocal Agreement (this “Agreement”) is made and entered into as of the ___ day of _____, 20__, by and between TRINITY METRO, a regional transportation authority pursuant to the provisions of Chapter 452, Texas Transportation Code (“TM”), and the CITY OF NORTH RICHLAND HILLS, TEXAS, a municipality under the laws of the State of Texas (“City”).

RECITALS

1. This Interlocal Agreement is made under the authority of Chapter 791, Texas Government Code.
2. TM is designing, constructing and implementing the operation of a commuter rail facility known as the TEX Rail Project (“TEX Rail”), and
3. The TEX Rail line will be located, in part, upon an existing right-of-way (“ROW”) and rail line within the limits of City, and
4. TM and City desire to enter into this Interlocal Agreement to provide for mutually agreeable terms concerning the respective obligations of TM and City with respect to the design, construction and implementation of TEX Rail.

NOW, THEREFORE, in consideration of the mutual benefits and promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, TM and City do hereby agree as follows:

- I. Best Efforts.** Subject to the terms and provisions of this Interlocal Agreement, TM and City will use their best efforts, respectively, to timely carry out and perform the obligations set forth herein below.
- II. References.** Tex Rail T&P Station to DFW Airport IFB Plans dated 01/04/16 and modifications are attached hereto, incorporated herein as Exhibit A, and mutually agreed to by both parties (the “Plans”).
- III. Definitions.** (Intentionally Blank)

- IV. Obligations of TM** – TM will manage and oversee the design, construction and implementation of the TEX Rail Project in the City by undertaking the following:
- A. Facilities** – TM will design and construct the facilities identified in (Plans).
 - B. Design Standards** – TM will design roadway, drainage and utility facilities in accordance to City standards. TM will design structures, stations, and track facilities to TEX Rail standards.
 - C. Design Review** – TM will provide a set of plans to City for each design submittal for street modifications, public utility relocations, drainage modifications, and the planned improvements within North Richland Hills city limits. TM will address all City comments and provide written responses to City. Any plan modifications during construction will be provided to the City for concurrence.
 - D. Construction Acceptance** – TM will provide a construction schedule and phasing to the City prior to construction activities. TM will coordinate schedule with City inspectors. Regularly scheduled meetings will be set during the duration of construction. Special attention will be paid to the times around the festivals and other events. TM will be responsible for final acceptance on the facilities TM will maintain. Prior to final acceptance TM will contact the City for concurrence. TM will provide a single point of contact to relay inspection comments by the public works inspector, historic preservation officer or building inspectors. TM inspector will coordinate workflow with the contractor and relevant sub-contractors
 - E. Street Modifications** – TM will design and construct street civil modification including paving, drainage, and sidewalks in accordance with the City standards. TM will be responsible for maintenance of track, railroad crossing equipment, crossing panels, and sidewalks and paving to the outside edge of the crossing panels at grade crossings.
 - F. Utility Modifications** – TM will design and construct utility relocations for public utilities owned by City and determined to be in conflict with TEX Rail facilities. Utility relocation will be performed per the Plans. TM will pay tap fees required for meter installations necessary for TEX Rail operations. TM will coordinate electrical transformer locations with City. Transformers and easements will be coordinated with future building designs as much as possible, however under no circumstances will this delay the project.
 - G. Drainage** – TM will design and construct drainage facilities that require replacement or relocation. Replacement of drainage facilities will be per the Plans. TM will assume all responsibilities for the maintenance of drainage

facilities located within the rail right of way. TM will provide one copy of the storm water pollution prevention plan (SWPPP) to the City for our records. TM will be responsible for compliance with the SWPPP for all phases of the project in and out of Rail right of way.

- H. Traffic Signals** – TM will design new traffic and pedestrian signals where necessary based on City standards and AREMA Guidelines, to comply with State and Federal regulations. TM will provide and maintain a preemption circuit with adjacent traffic signals. TM will operate and maintain all Railroad signal appurtenances within the rail right of way.
- I. Preemption Circuits** – TM will extend preemption circuits from the TEX Rail signal cabinets to the City Traffic Signal Cabinets. The circuit shall consist of conduit and wiring to a point just outside of the City Traffic Signal Cabinets with a conduit sweep and sufficient excess wire for connection to and extension into the City cabinets by City staff.
- J. Traffic Signs** – TM will design traffic signs to conform to TMUTCD standards. TM will be responsible for providing and maintaining the Park and Ride signage. Location of the Park and Ride signage will be mutually agreed with North Richland Hills Public Works prior to installation. TM will be responsible for the initial installation of signs and striping related to crossings. TM will be responsible for the maintenance of all TEX Rail related signs within the railroad right of way.
- K. Roadway Illumination** – TM will replace in-kind any roadway illumination determined to be negatively impacted by the TEX Rail Project.
- L. Hike and Bike Trail** – TM will design and construct any required modifications due to TEX Rail's construction to the existing Hike and Bike Trail in accordance with City and ADA/TDLR standards.
- M. Sidewalk Connection to Smithfield Station** – TM will design and construct a 6' wide sidewalk connection from the end of Snider Street to the north Smithfield Station platform in accordance with City and ADA / TDLR standards. An exhibit depicting the proposed alignment and design is attached to this agreement.
- N. Guideway** – TM will be responsible for maintenance of the Railroad right-of-way except where the City has an adjacent trail located within the Railroad right of way. TEX Rail Maintenance items include rail, ties, ballast, crossing panels, railroad signals, gates and drainage ways within the Railroad right of way. In areas where the City has a trail within the rail right of way, the City

will maintain the trail pavement and mow the area up to 5' on each side of the trail within the railroad right of way.

- O. Quiet Zones** – TM will design and construct quiet zone crossings to FRA standards. TM will support the City's application for quiet zones. TM will be responsible for maintaining any gates, flashers, arms, and other rail appurtenances within the railroad right of way necessitated by the Quiet Zones.
- P. TEX Rail Station** – TM will design stations as shown in the plans in accordance with City standards.. TM will maintain all facilities within the railroad right of way.
- Q. Zoning** – TM will request City to modify zoning as needed for the TEX Rail facilities.
- R. Tree Ordinance** – Work within the existing railroad right-of-way is exempt from the tree ordinance.
- S. Landscaping**– TM will maintain any landscaping at the TEX Rail Stations.
- T. Permits** – TM will apply for all necessary permits for construction of the TEX Rail facilities. Permits will be issued at no cost to TM.
- U. Right of Entry** – TM will notify City prior to utilizing City property and will restore the City property to existing conditions.

V. Obligations of the City of North Richland Hills

- A. Facilities** – The City will relocate the semaphore within rail right of way adjacent to the existing historic depot.
- B. Design Standards** -- If design exceptions are required due to non-standard existing conditions or other unanticipated constraints, City will work with TM to evaluate and approve exceptions to design. A single point of contact will be provided as a representative of TM and the City to provide clear communication.
- C. Design Review.** City will perform reviews of any required changes to the Plans in a timely manner as to avoid any construction delays. City will focus its reviews on street modifications, public utility relocations, drainage modifications, and the existing planned improvements.

- D. Sidewalk Connection to Smithfield Station.** The City will reimburse TM \$50,000.00 for the cost of the 6' wide sidewalk connection from the end of Snider Street to the north Smithfield Station platform as shown on the attached exhibit.
- E. Construction Acceptance.** City will provide an inspector during normal business hours while under construction to complete inspections and give final acceptance for facilities that City will maintain. City will provide inspection services at no cost to TM. Inspections will include track inspection, building inspection outside of City right of way and public works inspection within City right of way and easements. TM will provide a single point of contact for all inspection requests. City inspectors will provide timely support including approval of the construction schedule and phasing submitted by TM. For day to day communication City will provide two points of contact. – NRH , (Caroline Waggoner, City Engineer at 817-427-6400 and Dave Pendley, Building Official at 817-427-6300)
- F. Street Modifications.** City will be responsible for the maintenance of the street civil modifications (Paving, drainage and sidewalks) outside the crossing panels consistent with **Section IV Paragraph E** of this document.
- G. Utility Modifications.** City will provide available information identifying and describing known public and private utilities and/or above or underground objects that may impact the Project. City will be responsible for the incremental cost of any betterments or improvements to City of North Richland Hills utilities. City will be responsible for the maintenance of City-owned utilities within the Rail Right of Way once construction is accepted by the City.
- H. Drainage.** City will be responsible for the incremental cost of any betterments or improvements to the draining system beyond those called for in the Plans. City will be responsible for the maintenance of street drainage systems beyond the Rail Right of Way.
- I. Traffic Signals.** City will furnish the signal control boxes and will be responsible for the timing and maintenance of City traffic signals. For traffic signals that interface with railroad signals at grade crossings, City will be responsible for connecting, testing and approving preemption operations at said traffic signals. City will make connection to the preemption conduit and wire at the City signal cabinet and extend both as needed into the signal cabinet to connect to the City signal system.

- J. Traffic Signs.** City will be responsible for the maintenance of TMUTCD traffic signs and striping outside of the crossing panels.
- K. Roadway Illumination.** City will be responsible for the incremental cost of any betterments or improvements to roadway illumination and City will be responsible for the maintenance of all roadway illumination.
- L. Hike and Bike Trail.** City will be responsible for the Hike and Bike Trail pavement maintenance and mowing within 10' of the trail edge. City will allow TM to review, and comment on any plans for future Hike and Bike Trails within the rail road right of way. City will work in good faith to address TM concerns.
- M. Guideway.** City will be responsible for maintenance outside the Rail Right-of-Way, and the area adjacent to the Hike and Bike Trail as stated in **Section IV, Paragraph N** of this document.
- N. Quiet Zones.** City will be responsible for preparing and submitting the quiet zone application and will participate in the diagnostic study with TEX Rail. TM will assist City in the preparation of the Notice of Intent and Notice of Establishment to establish the quiet zones.
- O. Zoning.** TM will request City to modify zoning as needed for the TEXRail facilities.
- P. Tree Ordinance.** Work within the existing railroad ROW is exempt from the tree ordinance.
- Q. Permits.** City will provide all necessary permits for construction of the TEX Rail Facilities at no cost to TM.
- R. Right of Entry.** City will provide right of entry onto City property for TM's consultants and contractors.

VI. Additional Provisions

- A. Waiver or Modification.** No officer or agent of City or TM is authorized to waive or modify any provision of this Agreement. No modifications to or rescission of this Agreement may be made except by a written document signed by City's and TM's authorized representatives.
- B. Assignment.** The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the successors, assigns and legal representatives of

the parties hereto. Neither party may assign this Agreement or any of its rights nor obligations hereunder without the prior written consent of the other party which consent of the other party, will not be unreasonably withheld.

C. Entire Agreement. This Agreement constitutes the entire agreement between City and TM and supersedes any prior understanding or oral or written agreements between City and TM respecting the subject matter of this Agreement.

D. Severability. The provisions of this Interlocal Agreement are severable and if, for any reason, anyone or more of the provisions contained in the Agreement shall be held to be invalid, illegal or unenforceable in any respect, the invalidity, illegality or unenforceability shall not affect any other provision of this Agreement and this Agreement shall remain in effect and be construed as if the invalid, illegal or unenforceable provision had never been contained in the Agreement.

E. Good Faith Dealings; Disputes. The parties undertake to act in good faith in relation to the performance and implementation of this Interlocal Agreement and to take such other reasonable measures as may be necessary for the realization of its purposes and objectives. The parties agree to attempt to resolve all disputes arising hereunder promptly, equitably and in a good faith manner through each party's authorized representative. The party's agree to provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any such dispute. If the dispute cannot be resolved within 30 days of notice of the dispute, the parties may submit the dispute to mediation or binding arbitration upon the mutual consent of each party. Each party shall pay its own expenses for mediation or arbitration, including attorney's fees, but shall share the cost equally for the mediator or the arbitrator. The rules of the American Arbitration Association shall govern any dispute. If the dispute cannot be resolved through an alternative dispute resolution process, the parties may pursue any and all remedies available.

F. Relationship of the Parties. This Interlocal Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the parties or to impose any partnership obligation or liability upon either party. Neither party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other party.

G. Notices. Any notice required or permitted to be delivered hereunder may be given by personal delivery to the party entitled thereto, by facsimile or other electronic transmission with electronic confirmation, addressed to City or TM, as the case may be, at the mailing address, facsimile number and email address set forth below:

For City:

City of North Richland Hills
Attn: Caroline Waggoner
City Engineer

4301 City Point Drive
North Richland Hills Texas 76180
Fax: 817-427-6404
clwaggoner@nrhtx.com

For Trinity Metro:

TRINITY METRO
Attention: Paul J Ballard
President/CEO

801 Cherry Street
Suite 850
Fort Worth, TX 76102
Facsimile No. (817) 215-8709
pballard@the-t.com

H. Governing Law. This Interlocal Agreement, and the rights and obligations of the parties under or pursuant to this Agreement, shall be interpreted and construed according to the laws of the State of Texas. This Agreement is subject to all applicable federal, state, and local laws and any applicable ordinances, rules, orders, and regulations of any local, state, or federal governmental authority having jurisdiction.

I. Liability. Both TM and City each agree to be responsible for their own negligent acts, errors or omissions, including any act of an employee, agent, representative, official, or director of TM or City in the performance of this agreement, without waiving any governmental immunity available to either TM or City under Texas law and without waiving any defenses of either party under Texas law. The provisions of this paragraph are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

J. Payment. Each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

IN WITNESS WHEREOF, the parties hereto, acting under the authority of the respective governing bodies, have caused this Agreement to be duly executed in multiple counterparts, each of which shall constitute an original, this the ____ day of _____, 20__.

CITY OF NORTH RICHLAND HILLS

Mark Hindman, City Manager

Date:

ATTEST:

Alicia Richardson, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Maleshia B. McGinnis, City Attorney

TRINITY METRO

By: _____
Paul J. Ballard
President/CEO