

INTERLOCAL COOPERATION AGREEMENT FOR ADMINISTRATION
[COLLIN CARES FOOD CARD ASSISTANCE PROGRAM]

Pursuant to Chapter 791 of the Texas Government Code, this Interlocal Cooperation Agreement (“Agreement”) is entered into by and between the City of McKinney, Texas (“McKinney” or “Subcontractor”) and the City of Frisco, Texas (“Frisco”), the City of Plano, Texas (“Plano”), and the City of Allen, Texas (“Allen”) (each a “City” and collectively the “Cities”) (each a “party” and collectively the “parties”) for McKinney to perform certain administrative services relating to the COLLIN CARES Food Card Assistance Program (the “FCAP”).

1. Program Description. Collin County (the “County”) received federal funding under the Coronavirus Aid, Relief, and Economic Security Act (hereinafter “CARES ACT”) to address and respond to the effects of the COVID-19 public health emergency. The CARES ACT provides funding to state and local governments to provide emergency housing, living assistance and food assistance to persons who have become unemployed or underemployed directly as a result of the COVID-19 public health emergency. The COLLIN CARES Food Card Assistance Program (“FCAP”) serves to provide pre-paid food cards to eligible Collin County residents within certain program areas and in need of food assistance. The FCAP is open to persons residing within both the incorporated and unincorporated areas of the Cities within Collin County, excluding territory within the City of Dallas (the “Program Areas”) who have been approved to participate in the COLLIN CARES Emergency Housing and Living Assistance program (“EHLA”) and are in need of food assistance.

2. Incorporation of Program. On May 11, 2020, the County issued Court Order 2020-400-05-11 (the “Order”) adopting the Collin Cares Recovery Plan approving up to FORTY-FIVE MILLION DOLLARS AND NO CENTS (\$45,000,000) in funding for housing (rent and mortgage) and food assistance. The Order is attached hereto and incorporated herein. McKinney, Frisco, Plano and Allen have each entered into an Interlocal Cooperative Agreement with the County establishing the COLLIN CARES Emergency Housing and Living Assistance program (collectively the “EHLA ILA”) establishing the terms, conditions, processes and criteria for operation, disbursement and use of said housing (rent and mortgage) and food assistance.

3. Administration. McKinney agrees to administer the FCAP on behalf of itself and the Cities for all eligible residents within the EHLA and FCAP Program Areas, more fully described in Appendix A. Each City shall receive an allocation of CARES ACT funding from the County for its respective EHLA Program Area. FCAP funding falls within each City’s EHLA funding. Under the EHLA ILA, each participating City may subcontract with other responsible parties to assist with administering its EHLA funding, provided that the subcontractor agrees to comply with the terms and conditions of this Agreement and the EHLA ILA. McKinney agrees to administer the FCAP on behalf of itself and the Cities and be solely responsible for its performance under this Agreement.

4. Eligible Expenditures. The FCAP only applies to eligible, actual and paid FCAP expenditures. To be eligible for FCAP, the expenditure must have been or be made for the purpose of addressing or responding to the COVID-19 public health emergency and made between March 1, 2020 and 11:59 PM December 30, 2020. All FCAP expenditures must be paid on or before 11:59 PM

December 30, 2020 to be eligible. Any FCAP expenditures obligated, but not yet paid by this time shall not be eligible. Additionally, any FCAP-related expenditures for which a City, as of March 27, 2020, had already budgeted for using other available funds, even if meeting all other FCAP and EHLA requirements, shall not be eligible.

5. Total Funding. The County has approved the disbursement of FORTY-FIVE MILLION DOLLARS AND NO CENTS (\$45,000,000) of CARES ACT funding for housing (rent and mortgage) and food assistance by way of the EHLA program. As part of the EHLA program, the County has budgeted approximately TWO MILLION ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$2,100,000) for the FCAP. The Cities agree to subgrant their respective FCAP funds to McKinney to be distributed to EHLA Committee-approved non-profit organizations that have entered into agreements with one or more Cities (the “Subrecipients”). The Cities acknowledge and authorize McKinney to distribute their respective FCAP funding by way of pre-paid food cards to Subrecipients to distribute to eligible Collin County residents in the Program Areas in need of food assistance. The parties understand and agree that Subrecipients shall track all distributions and use of the pre-paid food cards by food card serial number. The parties further agree that while McKinney is responsible for performance of this Agreement, the parties understand that McKinney shall distribute the aggregate amount of FCAP funding provided by the Cities to eligible residents within all EHLA and FCAP Program Areas, and makes no guarantees that all of a City’s FCAP funds will be solely dedicated to eligible residents within that City’s individual EHLA and FCAP Program Areas.

6. Use of Funds. FCAP funds must predominantly be used for pre-paid food cards to be distributed by Subrecipients to provide food and nutritional assistance to eligible Collin County residents within the EHLA and FCAP Program Areas who have suffered lost income as a result of the COVID-19 public health emergency. McKinney will procure said pre-paid food cards in accordance with the EHLA ILA, the CARES ACT, all U.S. Treasury Department regulations or guidelines thereunder, and all other applicable law. Subrecipients shall distribute the pre-paid food cards to FCAP-eligible EHLA participants. The use of FCAP funds is governed by this Agreement, the EHLA ILA, the CARES ACT, all U.S. Treasury Department regulations or guidelines thereunder, and all other applicable law.

7. Documentation for all Expenditures. McKinney shall document each and every use of FCAP funds. McKinney and the Cities are under the same requirements and restrictions as the County regarding use of CARES ACT funds. McKinney shall keep and maintain all records of the administration and use of FCAP funds for a period of three (3) years beginning on December 30, 2020.

8. Reimbursement and Recapture of Ineligible Expenditures. The Parties understand that food card distribution to eligible residents is an eligible use of EHLA and CARES ACT funds. Only EHLA-eligible residents may also participate in the FCAP program. The Parties agree that each individual City or its Subrecipients are responsible for determining whether residents within their EHLA Program Areas qualify for the EHLA and FCAP programs. The City of McKinney agrees to monitor FCAP expenditures to ensure that residents deemed eligible by a City or its Subrecipients do not receive funds in excess of their FCAP allotment. If the County, the U.S. Department of Treasury, or its designee, in its reasonable discretion, determines that a City’s expenditure of FCAP funds is not an eligible expenditure for any reason other than funding in excess

of a eligible resident's allowed allocation or the pre-paid food cards were used for ineligible items or were improperly procured, then each individual City shall reimburse the County, funds in an amount equal to a pro-rata share of the amount of the ineligible expenditure (as determined by its population-allocated EHLA funding) from a non-FCAP funding source within 30 days after receipt of the County's, the U.S. Department of the Treasury's or their respective designee's determination of an ineligible expenditure to reimburse the ineligible expenditure. If the County, the U.S. Department of Treasury, or its designee, in its reasonable discretion, determines that a City's expenditure of FCAP funds is not an eligible expenditure because it exceeds an eligible resident's allowed allocation, or the pre-paid food cards were used for ineligible items or were improperly procured, then McKinney shall be responsible for such reimbursement to the County.

9. Repayment of Unused Funds. If any City's FCAP funds are not expended as provided herein by 11:59 PM December 30, 2020, McKinney shall return all unspent FCAP funds to the County within 30 days. McKinney shall include all Parties on all communications with the County regarding return of unspent FCAP funds.

10. McKinney's Obligations Relating to Use of Funds. McKinney's administrative services shall include obtaining pre-paid food cards, disbursing pre-paid food cards to Subrecipients, tracking food card distribution and usage by organization, activating food cards as needed by the organizations, and returning any un-activated cards or unused funds to the City on or before December 30, 2020. McKinney, as subcontractor for the Cities agrees to:

- a) only use FCAP funds for eligible expenditures under the CARES ACT and in accordance with this Agreement;
- b) only use FCAP funds for expenditures made between **March 1, 2020 and 11:59 p.m., December 30, 2020;**
- c) return any unused FCAP funds to each respective City within 30 days after December 30, 2020;
- d) document and justify that each FCAP participant is an approved EHLA participant as determined by each City;
- e) provide HELP Desk telephone call center and email support for the Cities' EHLA programs (including FCAP program) through July 1, 2020, unless otherwise extended by the Parties;
- f) provide a self-audit and document all expenditures and distributions made for the FCAP to the County by no later than January 15, 2021, and keep and maintain copies of such documentation for the retention period applicable to the CARES ACT;
- g) acknowledge and recognize that the County is the source of each City's FCAP funds as part of each City's EHLA program funding under the CARES ACT;
- h) impose similar terms and conditions as those contained herein on any sub-recipients of FCAP funds; and
- i) comply the terms and conditions of this Agreement and the EHLA ILA.

The Parties agree to reimburse McKinney for any direct administrative costs incurred as a result of its performance under this Agreement in an amount not to exceed FIFTY THOUSAND DOLLARS AND NO CENTS (\$50,000) in aggregate. Such reimbursement shall be paid on a pro-rata basis by Allen, Frisco and Plano (as determined by the percentage of its population-allocated

EHLA funding). Allen, Frisco and Plano agree to provide such payment to McKinney on a monthly basis, beginning on August 1, 2020.

11. Nature of Funding. McKinney agrees to serve as a sub-recipient of each City's FCAP funding as part of each City's EHLA program funding from the County under the CARES ACT. McKinney acknowledges and understands that its use of FCAP funding is subject to the same terms and conditions as the EHLA ILA and the CARES ACT. Accordingly, McKinney hereby agrees to comply with all terms and conditions relating to use of EHLA funds and the CARES ACT.

12. Hold Harmless and Indemnification. TO THE EXTENT ALLOWED BY LAW, WITHOUT WAIVING GOVERNMENTAL IMMUNITY OR ANY AFFIRMATIVE DEFENSES, MCKINNEY AGREES TO HOLD HARMLESS AND INDEMNIFY THE CITIES AGAINST ANY REPAYMENTS, PENALTIES OR INTEREST INCURRED AS A RESULT OF MCKINNEY'S FAILURE TO COMPLY WITH ALL TERMS AND CONDITIONS RELATING TO THE USE OF CARES ACT FUNDS, PROVIDED THAT SUCH FAILURE IS NOT THE RESULT OF ANY CITY'S NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS.

13. Reports. McKinney agrees to provide periodic reports relating to the use of FCAP funds as requested or required by the County.

14. No Assignment. The parties may not assign this Agreement. The Cities' use of McKinney as a subcontractor to assist with administering its EHLA funds as described herein does not constitute an assignment.

15. Law and Venue. The laws of the State of Texas shall govern this Agreement, except where clearly superseded by federal law. Venue of any dispute shall be in a court of competent jurisdiction in Collin County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

16. Entire Agreement. This Agreement supersedes and constitutes a merger of all prior oral and/or written agreements and understandings of the parties on the subject matter of this Agreement and is binding on the parties and their legal representatives, receivers, executors, successors, agents and assigns.

17. Amendment. Any Amendment of this Agreement must be by written instrument dated and signed by both parties.

18. Waiver. No waiver by any party of any provision of this Agreement shall be effective unless in writing, and such waiver shall not be construed as or implied to be a subsequent waiver of that provision or any other provision.

19. Signature Authority. The signatories hereto have the authority and have been given any approvals necessary to bind by this Agreement the respective parties for which they sign.

20. Notice. Any notice required or permitted to be delivered hereunder shall be deemed received (i) three (3) days after deposit into the United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the address set forth below or (ii) on the day actually received if sent by courier or otherwise hand delivered.

If intended for McKinney:

Paul Grimes
City Manager
City of McKinney, Texas
McKinney City Hall
222 N. Tennessee Street
McKinney, Texas 75069
972.547.7500 - telephone
972.547.2607 - fax

With a copy to:

Mark S. Houser
City Attorney
City of McKinney, Texas
McKinney City Hall
222 N. Tennessee Street
McKinney, Texas 75069
972.547.7500 - telephone
972.547.2607 - fax

If intended for Allen:

Eric Ellwanger
City Manager
City of Allen, Texas
3rd Floor, Allen City Hall
305 Century Parkway
Allen, Texas 75013
214.509.4110 - telephone
214.509.4118 - fax

With a copy to:

Peter G. Smith
City Attorney
City of Allen, Texas
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Ross Tower
500 North Akard Street

Dallas, Texas 75201
214.965.9900 – telephone
214.965.0010 - fax

If intended for Frisco:

George A. Purefoy
City Manager
City of Frisco, Texas
George A. Purefoy Municipal Center
6101 Frisco Square Blvd.
Frisco, Texas 75034
972.292.5000 - telephone

With a copy to:

Richard M. Abernathy
City Attorney
City of Frisco, Texas
Abernathy Roeder Boyd & Hullett, P.C.
1700 N. Redbud Blvd., Suite 300
McKinney, Texas 75069
214.544.4000 - telephone
214.544.4040 - fax

If intended for Plano:

Mark D. Israelson
City Manager
City of Plano, Texas
Plano Municipal Center
1520 Avenue K
Plano, Texas 75034
972.941.7000 - telephone

With a copy to:

Paige Mims
City Attorney
City of Plano, Texas
Plano Municipal Center
1520 Avenue K
Plano, Texas 75034
972.941.7000 - telephone

21. Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

22. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

CITY OF MCKINNEY, TEXAS

By: _____
Mayor or City Manager

Printed Name

Printed Title

Date

Attest:

City Secretary

APPROVED AS TO FORM:

Mark S. Houser, City Attorney

CITY OF PLANO, TEXAS

By: _____
Mayor or City Manager

Printed Name

Printed Title

Date

Attest:

City Secretary

APPROVED AS TO FORM:

Paige Mims, City Attorney

CITY OF FRISCO, TEXAS

By: _____
Mayor or City Manager

Printed Name

Printed Title

Date

Attest:

City Secretary

APPROVED AS TO FORM:

Richard M. Abernathy, City Attorney

CITY OF ALLEN, TEXAS

By: _____
Mayor or City Manager

Printed Name

Printed Title

Date

Attest:

City Secretary

APPROVED AS TO FORM:

Peter G. Smith, City Attorney