

**AMENDED INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF PLANO
CONCERNING THE DESIGN AND CONSTRUCTION OF THE
US 75 RAMP IMPROVEMENT PROJECT**

2003 BOND PROJECT #03-045

WHEREAS, the County of Collin, Texas ("County"), and the City of Plano, Texas ("City"), entered into an Interlocal Agreement for the design of the US 75 Ramp Improvement Project (the "Project") in Plano, Collin County, Texas, dated June 6, 2006 ("Agreement"); and

WHEREAS, the Project design is now complete, and the actual cost for the design increased to a total of \$1,114,767.79; and

WHEREAS, County has agreed to assume their fifty percent (50%) share of the increased Project design cost, bringing their participation to \$557,383.90; and

WHEREAS, the City has entered into an agreement with the Texas Department of Transportation ("TxDOT") for the construction of the US 75 Ramp Improvement Project, and the City has contributed \$1,000,000.00 toward construction costs; and

WHEREAS, the County and City desire to modify the Agreement to account for an increase in design cost and for construction of the US 75 Ramp Improvement Project for a total County participation of \$1,057,383.90; and

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

WHEREAS, the City and County have determined that the improvements may be constructed most economically by implementing this Agreement.

NOW, THEREFORE, this Amended Interlocal Agreement is made and entered into by the County and the City upon and for the mutual consideration stated herein.

WITNESSETH:

ARTICLE I.

The final cost of the project is \$2,114,767.79. The County and City will each pay fifty percent (50%) of this amount, or \$1,057,383.90. The County has already remitted

\$164,251.25 to the City, leaving a balance due of \$893,132.65. County will pay this remaining balance to the City within thirty (30) days following County's receipt of the City's written request for payment.

ARTICLE II.

The County and City agree that there is a total of \$1,057,383.90 committed to the Project out of the \$4,000,000 that was allocated to the Project in the 2003 Collin County Bond Program. County and City agree that the remaining funds, \$2,942,616.10, will be reallocated to a mutually agreed upon project.

ARTICLE III.

The City shall prepare for the County an itemized statement specifying Project costs that have been incurred to date and submit detailed Project costs and progress reports every thirty (30) days until Project completion.

ARTICLE IV.

The City and County agree that the party paying for the performance of governmental functions or services shall make those payments only from current revenues legally available to the paying party.

ARTICLE V.

INDEMNIFICATION. To the extent allowed by law, each party agrees to release, defend, indemnify, and hold harmless the other (and its officers, agents, and employees) from and against all claims or causes of action for injuries (including death), property damages (including loss of use), and any other losses, demands, suits, judgments and costs, including reasonable attorneys' fees and expenses, in any way arising out of, related to, or resulting from its performance under this agreement, or caused by its negligent acts or omissions (or those of its respective officers, agents, employees, or any other third parties for whom it is legally responsible) in connection with performing this agreement.

ARTICLE VI.

VENUE. The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this agreement. The parties agree that this agreement is performable in Collin County, Texas, and that exclusive venue shall lie in Collin County, Texas.

ARTICLE VII.

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

ARTICLE VIII.

ENTIRE AGREEMENT. This agreement embodies the entire agreement between the parties and may only be modified in writing executed by both parties.

ARTICLE IX.

SUCCESSORS AND ASSIGNS. This agreement shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns. Neither party will assign or transfer an interest in this agreement without the written consent of the other party.

ARTICLE X.

IMMUNITY. It is expressly understood and agreed that, in the execution of this agreement, neither party waives, nor shall be deemed hereby to have waived, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this agreement, the parties do not create any obligations, express or implied, other than those set forth herein, and this agreement shall not create any rights in parties not signatories hereto.

ARTICLE XI.

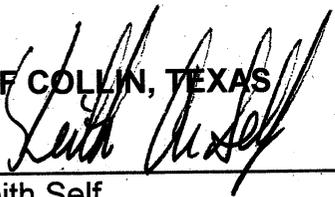
TERM. This agreement shall be effective upon execution by both parties and shall continue in effect annually until final acceptance of the Project. This agreement shall automatically renew annually during this period.

In the event of any conflict or inconsistency between the provisions set forth in this First Amended Interlocal Agreement and the Agreement, this First Amended Interlocal Agreement shall govern and control. For and in consideration of the covenants, duties and obligations contained herein, the parties do mutually agree that except as provided above, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____
Date: _____

COUNTY OF COLLIN, TEXAS

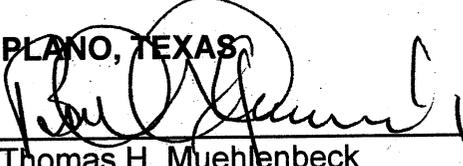
By: 
Name: Keith Self
Title: County Judge
Date: 6/8/09

Executed on this 8th date of June, 2009, by the County of Collin, pursuant to Commissioners' Court Order No. 2009-396-06-08

ATTEST:

By: 
Name: Diane Zucco
Title: City Secretary
Date: 4-16-09

CITY OF PLANO, TEXAS

By: 
Name: Thomas H. Muehlenbeck
Title: City Manager
Date: 04.16.09

Executed on behalf of the City of Plano pursuant to City Council Resolution No. 2009-4-7(R)

APPROVED AS TO FORM:

By: 
Name: Diane Wetherbee
Title: City Attorney
Date: 4.15.09



NOTICE OF CERTIFICATION

Pat Evans
Mayor

Jean Callison
Mayor Pro Tem

Harry LaRosiliere
Deputy Mayor Pro Tem

Pat Miner
Place 1

Scott Johnson
Place 2

Mabrie Jackson
Place 3

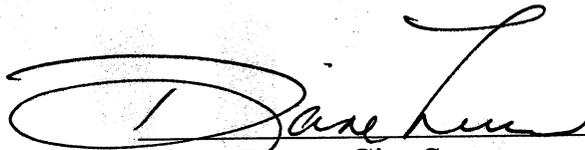
Sally Magnuson
Place 4

Lee Dunlap
Place 8

Thomas H. Muehlenbeck
City Manager

I, Diane Zucco, City Secretary, City of Plano, Texas, do hereby certify that the attached document is a true and correct copy of Resolution No. 2009-4-7(R) duly passed and adopted on April 14, 2009 by the Plano City Council, as the same appears of record and filed among the official records in the Office of the City Secretary, and that I am the official custodian of same.

WITNESS MY HAND AND OFFICIAL SEAL this 15th day of April, 2009.


Diane Zucco, City Secretary

m:rescert.doc

P.O. Box 860358
Plano, Texas 75086-0358
972-941-7000
www.plano.gov

RESOLUTION NO. 2009-4-7(R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF PLANO AND COLLIN COUNTY, TEXAS, PROVIDING FOR THE DESIGN AND CONSTRUCTION OF THE US 75 RAMP IMPROVEMENT PROJECT; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR HIS AUTHORIZED DESIGNEE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes governmental entities to contract with each other to perform government functions and services under the terms thereof; and

WHEREAS, the City Council has been presented a proposed Interlocal Cooperation Agreement by and between the City of Plano, Texas, and Collin County, Texas, providing terms and conditions for the Design and Construction of the US 75 Ramp Improvement Project, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and

WHEREAS, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or his authorized designee should be authorized to execute it on behalf of the City of Plano.

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

Section I. The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interest of the City of Plano and its citizens, are hereby in all things approved.

Section II. The City Manager or his authorized designee is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

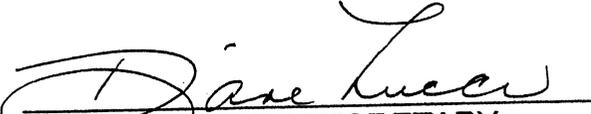
Section III. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED the 14th day of April, 2009.



Pat Evans, MAYOR

ATTEST:



Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:



Diane C. Wetherbee, CITY ATTORNEY

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VENUE. The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this agreement. The parties agree that this agreement is performable in Collin County, Texas, and that exclusive venue shall lie in Collin County, Texas.

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APPROVED AS TO FORM:

COUNTY OF COLLIN, TEXAS

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: Keith Self
Title: County Judge
Date: _____

Executed on this _____ date of _____, 2009, by the County of Collin, pursuant to Commissioners' Court Order No. _____

ATTEST:

CITY OF PLANO, TEXAS

By: _____
Name: Diane Zucco
Title: City Secretary
Date: _____

By: _____
Name: Thomas H. Muehlenbeck
Title: City Manager
Date: _____

Executed on behalf of the City of Plano pursuant to City Council Resolution No. _____

APPROVED AS TO FORM:

By: *Diane Wetherbee*
Name: Diane Wetherbee
Title: City Attorney
Date: _____