

CLERK OF THE CITY OF CELINA
JUN 11 11:11 AM '09

**CITY OF CELINA, TEXAS
RESOLUTION NO. 2009-11R**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS, HEREBY AUTHORIZING THE CITY MANAGER OF THE CITY OF CELINA, TEXAS, TO EXECUTE AN INTERLOCAL AGREEMENT BY AND BETWEEN COLLIN COUNTY AND THE CITY OF CELINA, REGARDING IMPROVEMENTS TO CR5/FRONTIER PARKWAY.

WHEREAS, the County of Collin, Texas and the City of Celina, Texas desire to enter into an agreement concerning the construction of improvements to County Road 5, from the Dallas North Tollway to S. H. 289 in the City of Celina and Town of Prosper, Collin County, Texas.

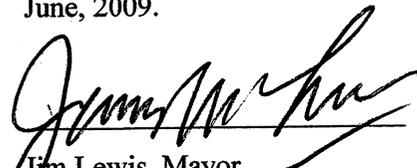
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS:

SECTION 1: The City Manager of the City of Celina, Texas, is hereby authorized to execute, on behalf of the City Council of the City of Celina, Texas, an interlocal agreement by and between Collin County and the City of Celina for construction of improvements to County Road 5/Frontier Parkway, from the Dallas North Tollway to S. H. 289.

SECTION 2: This Resolution shall take effect immediately upon its passage.

IT IS SO RESOLVED.

PASSED AND APPROVED by the City Council of the City of Celina, Texas, this the 8th day of June, 2009.


Jim Lewis, Mayor

ATTEST TO:




CLERK OF COUNTY
7430 S. SH 289
CELINA, TEXAS 75927

**INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF CELINA
CONCERNING THE IMPROVEMENTS OF CR 5
FROM THE DNT EXTENSION TO SH 289 (PRESTON RD)
IMPROVEMENTS
2007 BOND PROJECT # 07-014
2008 FUNDING**

WHEREAS, the County of Collin, Texas (“County”) and the City of Celina, Texas (“City”) desire to enter into an agreement concerning the construction of improvements to County Road 5, from the Dallas North Tollway to S.H. 289 (the “Project”) in the City of Celina and Town of Prosper, Collin County, Texas; 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.

WHEREAS, the city is requesting that the 1999 bond funds for CR 56, project # 99-97, in the amount of \$242,000 and the 2003 bond funds for CR 96, project # 03-121 in the amount of \$235,404 be reallocated to this project.

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

WITNESSETH:

ARTICLE I.

The City shall arrange to construct improvements to County Road 5, hereinafter called the “Project”. The Project shall consist of constructing a Six (6) lane divided thoroughfare, a distance of approximately 10,000 feet. The improvements shall also include construction of underground storm sewers as part of the road improvements. All improvements shall be designed to meet or exceed the current Collin County design standards and shall be constructed in accordance with the plans and specifications approved by the City.

ARTICLE II.

The City shall prepare plans and specifications for the improvements, accept bids and award a contract to construct the improvements and administer the construction contract. In all such activities, the City shall comply with all state statutory requirements. The City shall provide the County with a copy of the executed construction contract(s) for the Project.

ARTICLE III.

The City shall also acquire 27 acres, more or less of real property in the vicinity of the improvements for use as right-of-way.

ARTICLE IV.

The City estimates the total actual cost of the project to be \$11,375,000. The County agrees to fund \$477,404.00 as the 2008 funding. The County shall remit the funds within thirty (30) days after the City issues a Notice to proceed to the lowest responsible bidder and the City requests payment or upon the

availability of bond funds for this Project, whichever occurs later. Following completion of the Project, the City shall provide a final accounting of expenditures for the Project. If the actual cost to construct the Project is less than the estimated amount set forth herein, the City shall remit the County 50 percent of the difference between the estimated cost and the actual cost. The Commissioners Court may revise this payment schedule based on the progress of the Project. The "total cost of the Project" shall include land acquisition, engineering, construction, inspection, testing, street lighting, and construction administration costs including contingencies.

ARTICLE V.

The County's 2008 funding participation in the Project shall not exceed \$477,404.00.

ARTICLE VI.

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

ARTICLE VII.

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 VIII.

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 IX.

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 X.

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 XI.

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

ARTICLE XII.

ARTICLE XII.

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 XIII.

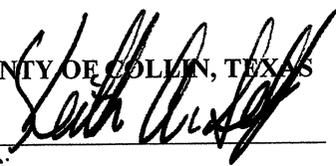
IMMUNITY. It is expressly understood and agreed that, in the execution of this agreement, neither party waives, nor shall be deemed hereby to have waived any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering 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 XIV.

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.

APPROVED AS TO FORM:

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

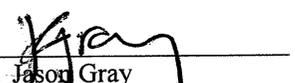
COUNTY OF COLLIN, TEXAS
By: 
Name: _____
Title: County Judge
Date: 7/14/09

Executed on this 13th day of July 2009 by the County of Collin, pursuant to Commissioners' Court Order No. 2009-484-0713

ATTEST:

By: 
Name: _____
Title: City Secretary
Date: 06/22/09

CITY OF CELINA, TEXAS

By: 
Name: Jason Gray
Title: City Manager
Date: 6/22/09

Executed on behalf of the City of Celina pursuant to City Council Resolution No. 2009-11R

APPROVED AS TO FORM:

By: _____
Name: _____
Title: City Attorney
Date: _____