city of plano

Phil Dyer
Mayor

Harry LaRosiliere
Mayor Pro Tem

Lee Dunlap
Deputy Mayor Pro Tem

Pat Miner
Place 1

Ben Harris
Place 2

Mabrie Jackson
Place 3

Lissa Smith
Place 4

Jean Callison
Place 7

Thomas H. Muehlenbeck
City Manager

July 30, 2009

CERTIFIED MAIL
7001 2510 0003 8794 4595

Ms. Tracy Homfeld, EIT
Collin County Engineering Dept.
825 N. McDonald, Suite 160
McKinney, Texas 75069

Re: Interlocal Agreement Between Collin County and the City of Plano Concerning the Design and Right of Way Acquisitions for the Parker Road and U.S. 75 Interchange Project No. 5542

Dear Ms. Homfeld:

On July 27, 2009, City Council approved the enclosed Interlocal Agreement between Collin County and the City of Plano for the referenced project. Enclosed are four (4) signed copies of the agreement, along with certified copies of City of Plano Resolution No. 2009-7-7(R). Please have all copies of the agreement executed on behalf of Collin County and return one fully executed agreement to my attention for our records.

Sincerely,

Alan L. Upchurch, P.E.
Director of Public Works & Engineering

ls

Encs.

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

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ALU4471

city of plano

NOTICE OF CERTIFICATION

Phil Dyer
Mayor

Harry LaRosiliere
Mayor Pro Tem

Lee Dunlap
Deputy Mayor Pro Tem

Pat Miner
Place 1

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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. 2009-7-7(R) duly passed and adopted on July 27, 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 28th day of July, 2009.

Diane Zucco, City Secretary

m:rescert.doc

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Plano, Texas 75086-0358
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RESOLUTION NO. 2009-7-7(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, CONCERNING THE DESIGN AND RIGHT OF WAY ACQUISITIONS FOR THE PARKER ROAD AND US 75 INTERCHANGE AND REPEALING RESOLUTION NO. 2004-9-25(R); 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 of Plano had entered into an Interlocal Cooperation Agreement with Collin County addressing this same project on September 20, 2004 in Resolution No. 2004-9-25(R); 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 concerning the Design and Right of Way Acquisitions for the Parker Road and US 75 Interchange, 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 Resolution No. 2004-9-25(R) should be repealed and the terms and conditions of this Agreement 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. Resolution No. 2004-9-25(R) is repealed in its entirety. 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 27th day of July, 2009.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

INTERLOCAL AGREEMENT BETWEEN COLLIN COUNTY AND THE CITY OF PLANO CONCERNING THE DESIGN AND RIGHT OF WAY ACQUISITIONS FOR THE PARKER ROAD AND U.S. 75 INTERCHANGE

2003 BOND PROJECT # 03-046

WHEREAS, the County of Collin, Texas ("County"), and the City of Plano, Texas ("City"), entered into an agreement concerning the design of the Parker Road and U.S. 75 Interchange (the "Project") in Plano on October 12, 2004, in which the County agreed to provide 50% of the cost of design of the project in the estimated amount of $117,428.00; and

WHEREAS, the City has completed the design of the Parker Road and U.S. 75 Interchange project. The Project shall include an environmental assessment of the Project. All improvements were designed to meet or exceed the current Texas Department of Transportation (TxDOT) design standards; and

WHEREAS, the City acquired 3,972 square feet of real property in the vicinity of the improvements for use as right of way; and

WHEREAS, the City and County have entered into a Local Transportation Project Advance Funding Agreement with the Texas Department of Transportation to provide funding for the project in which the City agreed to provide funding in the amount of $1,700,000.00 for design and right of way, and the County agreed to provided funding in the amount of $2,684,711.00 for construction.

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

WITNESSETH:

ARTICLE I.

The City's actual total cost of the design and right of way is $1,674,195.00. The County agrees to fund one-half of the total cost to design the improvements in an amount not to exceed $837,097.50. The County has previously paid the City $58,714.00, leaving a balance of $778,383.50. The County agrees to pay the City the balance within 30 days of receiving a final notice and accounting of the City's expenditures.

ARTICLE II.

The City and County acknowledge that there is an allocation of $6,000,000.00 from the 2003 Collin County Bond Program. The County has paid TxDOT $2,684,711.00 and agrees to pay Plano $837,097.50 for a total of $3,521,808.50. This leaves a balance of $2,478,191.50 which the City and County agree to reallocate to a mutually agreed upon project.

ARTICLE III.

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 IV.

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 V.

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 VI.

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 VII.

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

ARTICLE VIII.

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 IX.

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 X.

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: Keith Self
Title: County Judge
Date: _____

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

ATTEST:

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

CITY OF PLANO, TEXAS

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 C. Wetherbee
Name: Diane Wetherbee
Title: City Attorney
Date: July 16, 2009