AMENDED INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF PLANO
CONCERNING THE WIDENING AND EXTENSION OF PARKWOOD BOULEVARD
FROM PARK BOULEVARD TO SPRING CREEK PARKWAY

2003 BOND PROJECT #03-062

WHEREAS, the County of Collin, Texas ("County"), and the City of Plano, Texas ("City"), entered into an Interlocal Agreement (Commissioner Court Order No. 2008-442-06-23) for the widening and extension of Parkwood Boulevard from Park Boulevard to Spring Creek Parkway (the "Project"), in Plano, Collin County, Texas, dated June 24, 2008 ("Agreement") with the County's fifty percent (50%) participation limited to $2,200,000.00; and

WHEREAS, the Project is now complete, and the actual cost for the Project increased to a total of $4,604,505.84; and

WHEREAS, the County has agreed to their fifty percent (50%) share of the Project cost, bringing their participation to $2,302,252.92, an increase of $102,252.92; and

WHEREAS, the County and City desire to modify the Agreement to account for an increase in Project cost for the Project, for a total County participation of $2,302,252.92; and

WHEREAS, the US 75 Ramp Improvement Project, 2003 Bond Project #03-045, is completed and has $1,392,616.00 of funding remaining, of which the City proposes to reallocate $102,252.92 to the Parkwood Boulevard Project; and

WHEREAS, the County is in agreement to reallocate $102,252.92 from the US 75 Ramp Improvement Project to the Parkwood Boulevard Project, for a total allocation of $2,302,252.92, leaving an unallocated balance of $1,290,363.08 in the US 75 Ramp Improvement Project to be reallocated to another mutually acceptable project; 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.

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 $4,604,505.84. The County and City will each pay fifty percent (50%) of this amount, or $2,302,252.92. The County will pay this amount 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 $1,290,363.08 remaining in the US 75 Ramp Improvement Project out of the $4,000,000 that was allocated to the Project in the 2003 Collin County Bond Program. The County and City agree that the remaining funds, $1,290,363.08, 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. 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 fifty percent (50%) 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.

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: 7/26/10

Executed on this 26th date of July, 2010, by the County of Collin, pursuant to Commissioners' Court Order No. 2010-490-07-26

ATTEST:

By: _____
Name: Diane Zucco
Title: City Secretary
Date: 6-16-10

CITY OF PLANO, TEXAS

By: _____
Name: Thomas H. Muehlenbeck
Title: City Manager
Date: 6/16/10

Executed on behalf of the City of Plano pursuant to City Council Resolution No. 2010-6-4(R)

APPROVED AS TO FORM:

By: _____
Name: Diane Wetherbee
Title: City Attorney
Date: 6-16-10