

**INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF CELINA
FOR RIGHT-OF-WAY PARTICIPATION ON
SH 289 FROM NORTH OF FM 455 TO NORTH OF BUSINESS SH 289
NEW Bond Project #07-00-09**

WHEREAS, the County of Collin, Texas (“County”) and the City of Celina, Texas (“City”) desire to enter into an agreement concerning Celina’s Right of Way participation with TxDOT for SH 289 from north of FM 455 to North of Business SH 289 (TxDOT ROW CSJ # 0091-03-023); 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 will enter into an agreement with the Texas Department of Transportation (TxDOT) for 10% of the Right of Way costs for SH 289 from North of FM 455 to North of Business SH 289 in the amount of \$160,000 as defined in 43 TAC, §15.55.

WHEREAS, the City and County have determined that the improvements will be expedited by implementing this Agreement.

WHEREAS, the City has requested the County reallocate funds from Bond Project # #07-014, CR 5 (Frontier Parkway) from DNT Extension to SH 289 (Preston Rd) to fund 100% of the City’s Right of Way participation with TxDOT.

WHEREAS, the City and County agree that the County funding for Bond Project #07-014, CR 5 (Frontier Parkway) from DNT Extension to SH 289 (Preston Rd) will be reduced by \$160,000 per this agreement.

NOW, THEREFORE, this Agreement is made and entered into by the County and the City upon and for the mutual consideration stated herein, the receipt and sufficiency of which is hereby acknowledged.

WITNESSETH:

ARTICLE I.

The City shall enter into an “Agreement to Contribute Funds – Local Government” with TxDOT (hereinafter “TxDOT Agreement”) for their 10% share of the Right of Way costs for SH 289 from North of FM 455 to North of Business SH 289. Celina’s participation in the Right of Way costs is \$160,000.

ARTICLE II.

The County shall submit funds in the amount of \$160,000 to the City on the earlier of thirty (30) days from the City executing the TxDOT Agreement or thirty (30) days from the City's written request for the release of funds.

ARTICLE III.

The City shall prepare for the County documentation showing funds have been submitted to TxDOT for their Right of Way participation within thirty (30) days after funds have been submitted to the state.

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 a writing executed by both parties. This Agreement supersedes all prior negotiations, representations and/or agreements, either written or oral.

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.

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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.

APPROVED AS TO FORM:

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

COUNTY OF COLLIN, TEXAS

By: [Signature]
Name: _____
Title: County Judge
Date: 4/25/11

Executed on this 25th day of April,
2011, by the County of Collin,
pursuant to Commissioners' Court
Order No. 2011-261-04-25.

ATTEST:

By: Vicki Faulkner
Name: VICKI Faulkner
Title: City Secretary
Date: 04/12/11

CITY OF CELINA, TEXAS

By: [Signature]
Name: James R. Hogan
Title: Interim City Manager
Date: 4/12/2011

Executed on behalf of the City of
Celina pursuant to City Council
Resolution No. 2011-08R

APPROVED AS TO FORM:

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

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