INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF FRISCO
CONCERNING THE ENGINEERING AND CONSTRUCTION OF COIT ROAD
(MAIN STREET TO NORTH OF ELDORADO PARKWAY)
2007 BOND PROJECT # 07-023
(SEGMENT 1)
2011 FUNDING

WHEREAS, the County of Collin, Texas ("County") and the City of Frisco, Texas ("City") desire to enter into an agreement concerning the engineering and construction of improvements to Coit Road (Main Street to Panther Creek Parkway) (the "Project") in Frisco, Collin County, Texas; and

WHEREAS, at the request of the City and approval of the County, the Project has been divided into two segments, Coit Road (Main Street to north of Eldorado Parkway) ("Segment 1") and Coit Road (north of Eldorado Parkway to Panther Creek Parkway) ("Segment 2"); 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 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 design and construct improvements to Coit Road from Main Street to north of Eldorado Parkway, hereinafter called the "Segment 1". Segment 1 shall consist of reconstructing and widening a two lane rural roadway to a four lane divided urban roadway, a distance of approximately 1.7 miles. 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 Segment 1.

ARTICLE III.

The City shall also acquire 13.5 acres 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 $10,300,000.00. The County agrees to fund $3,000,000.00 from the 2011 Bond Sale. The County shall remit 50 percent of this amount, $1,500,000.00, to the City within thirty (30) days after the City issues a Notice to Proceed to the design engineer and the City requests payment. The County will remit the remaining 50 percent 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 Segment 1, whichever occurs later. Following completion of Segment 1, the City shall provide a final accounting of expenditures for Segment 1. If the actual cost to design and construct Segment 1 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 Segment 1. The "total cost of Segment 1" shall include land acquisition, engineering, construction, inspection, testing, street lighting, and construction administration costs including contingencies.

ARTICLE V.

The County's participation in Segment 1 shall not exceed $3,000,000.00.

ARTICLE VI.

The City shall prepare for the County an itemized statement specifying Segment 1 costs that have been incurred to date and submit detailed Segment 1 cost and progress reports every thirty (30) days until Segment 1 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.

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 that those set forth herein, and this agreement hall 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 Segment 1. This agreement shall automatically renew annually during this period.

APPROVED AS TO FORM:

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

COUNTY OF COLLIN, TEXAS

By: Keith Self
Name:
Title: County Judge
Date: 8/16/11

Executed on this 15th day of August 2011, by the County of Collin, pursuant to Commissioners' Court Order No. 2011-556-08-15.

ATTEST:

By: Jenny Page
Name: Jenny Page
Title: City Secretary
Date: 06/13/11

CITY OF FRISCO, TEXAS

By: George Purefoy
Name: George Purefoy
Title: City Manager
Date: 06/13/11

Executed on behalf of the City of Frisco pursuant to City Council Resolution No. 11-06-103R

APPROVED AS TO FORM:

By: Rebecca Brewer
Name: Rebecca Brewer
Title: City Attorney
Date: 5.23.11