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

NOTICE OF CERTIFICATION

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. 2011-7-1(R) duly passed and adopted on July 25, 2011 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 1st day of August, 2011.

Diane Zucco, City Secretary

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Phil Dyer Mayor | *Pat Miner* Mayor Pro Tem | *Lissa Smith* Deputy Mayor Pro Tem | *Ben Harris* Place 2 | *André Davidson* Place 3 | *Jim Duggan* Place 5 | *Patrick Gallagher* Place 7 | *Lee Dunlap* Place 8 | *Bruce D. Glasscock* City Manager

RESOLUTION NO. 2011-7-1(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, providing terms and conditions for the construction of Communications Parkway from Spring Creek Parkway to Tennyson Parkway; 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 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 for the widening of Communications Parkway from Spring Creek Parkway to Tennyson Parkway, 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 the terms and conditions thereof 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. 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 25th day of July, 2011.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

LS\AGENDA2011:ENGR072511-30 (Communications-SCP-Tennyson)RES

INTERLOCAL AGREEMENT BETWEEN COLLIN COUNTY AND THE CITY OF PLANO CONCERNING THE CONSTRUCTION OF COMMUNICATIONS PARKWAY FROM SPRING CREEK PARKWAY TO TENNYSON PARKWAY

2007 BOND PROJECT #07-062

WHEREAS, the County of Collin, Texas ("County"), and the City of Plano, Texas ("City"), desire to enter into an agreement concerning the construction of Communications Parkway from Spring Creek Parkway to Tennyson Parkway (the "Project"), in Plano, Collin County, Texas; and

WHEREAS, the 2007 Collin County Bond Program includes the construction of Communications Parkway from Spring Creek Parkway to Tennyson Parkway, Project #07-062, with County allocation of $1,250,000.00. The total Project cost is estimated to be $4,200,000.00, and the County's 50% participation is $2,100,000.00; thus $850,000.00 in additional funding is needed as the County's match; and

WHEREAS, the 2003 Collin County Bond Program includes the widening of Shiloh Road from 14th Street to Park Boulevard, Project #03-053, with a County allocation of $850,000.00, which the City proposes to reallocate to the Project; and

WHEREAS, the County agrees with the City's proposal to reallocate the County's allocation of $850,000.00 from Shiloh Road to the original $1,250,000.00 for the Project for a total County participation of $2,100,000.00; 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 construct Communications Parkway from Spring Creek Parkway to Tennyson Parkway. The Project will construct Communications Parkway to a six-lane divided thoroughfare a total distance of approximately 2,060 feet and widen a 320 foot section of Communications from a four lane road to a six lane road. The Project 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 will acquire approximately 3.8 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 $4,200,000.00. The County agrees to fund one half of the total cost to construct the Project in an amount not to exceed $2,100,000.00. The County shall remit 50% of this amount, $1,050,000.00, to the City within thirty (30) days after the City issues a Notice to Proceed to the lowest responsible bidder and the City requests payment. The County will remit the remaining 50% within thirty (30) days after receipt of notice from the City that the Project is 50% complete. 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% 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, landscaping, irrigation and construction administration costs including contingencies.

ARTICLE V.

The County's participation in the Project shall not exceed $2,100,000.00. The County and City agree that any County balance shall be applied to another City/County project to be mutually agreed upon at a later date.

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 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 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: Keith Self
Title: County Judge
Date: _____

Executed on this _____ date of _____, 2011, 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: Bruce D. Glasscock
Title: City Manager
Date: _____

Executed on behalf of the City of Plano pursuant to City Council Resolution No. _____

APPROVED AS TO FORM:

By: _____
Name: Diane C. Wetherbee
Title: City Attorney
Date: _____