

THE STATE OF TEXAS

COUNTY OF COLLIN

Subject: Interlocal Agreement, City of Plano, McDermott Road – Engineering

On February 22, 2010, the Commissioners Court of Collin County, Texas, met in regular session with the following members present and participating, to wit:

Keith Self
Matt Shaheen
Jerry Hoagland
Joe Jaynes
Kathy Ward

County Judge, Presiding
Commissioner, Precinct 1
Commissioner, Precinct 2
Commissioner, Precinct 3
Commissioner, Precinct 4

During such session the court considered approval of an Interlocal Agreement with the City of Plano.

Thereupon, a motion was made, seconded and carried with a majority vote of the court for approval of an Interlocal Agreement with the City of Plano for the widening of McDermott Road from Coit Road to Ohio Drive (2003 Bond Project No. 03-055 and 2007 Bond Project No. 07-074) (County's participation NTE \$800,000) and further authorize the County Judge to finalize and execute same. Same is hereby approved as per the attached documentation.

Keith Self, County Judge

Matt Shaheen, Commissioner, Pct. 1

Jerry Hoagland, Commissioner, Pct. 2

Joe Jaynes, Commissioner, Pct. 3

Kathy Ward, Commissioner, Pct. 4



ATTEST:

Stacey Kemp, Ex-Officio Clerk
Commissioners' Court
Collin County, TEXAS

**INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF PLANO
CONCERNING THE WIDENING OF MCDERMOTT ROAD
FROM COIT ROAD TO OHIO DRIVE**

03-55 and 07-074 BOND PROJECTS

WHEREAS, the County of Collin, Texas ("County"), and the City of Plano, Texas ("City"), desire to enter into an agreement concerning the widening of McDermott Road from Coit Road to Ohio Drive (the "Project"), in Plano, Collin County, Texas; 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 the widening of McDermott Road from Coit Road to Ohio Drive. The project will widen McDermott Road to a six-lane divided thoroughfare from Coit Road to Razor Road, a distance of approximately 7500 feet, and widen to a four-lane divided thoroughfare from Razor Road to Ohio Drive, a distance of 1500 feet. The total distance is approximately 9,000 feet. The improvements shall also include construction of underground storm sewers and a bridge over White Rock Creek 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 no real property for use as right-of-way.

ARTICLE IV.

The City estimates the total actual cost of the project to be \$2,900,000. The Texas Department of Transportation is funding approximately \$2,100,000 toward the project. The County agrees to fund the non TxDOT funding to construct the improvements in an amount not to exceed \$800,000. The County shall remit 50 percent of this amount, \$400,000, 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 percent within thirty (30) days after receipt of notice from the City that the Project is 50 percent 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 deduct the actual TxDOT funding; and if the remainder is less than \$800,000, the difference shall be refunded to the County. 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, and construction administration costs including contingencies.

ARTICLE V.

The County's participation in the Project shall not exceed \$800,000. The County funding includes \$400,000 from 03-55 and \$400,000 from 07-074. The City and County agree that any remaining funds allocated to the Project will be reallocated to a mutually agreed upon project.

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: Keith Self
Name: Keith Self
Title: County Judge
Date: 2/23/10

Executed on this 22nd date of February, 2010, by the County of Collin, pursuant to Commissioners' Court Order No. 2010-161-02-22

ATTEST:

By: Diane Zucco
Name: Diane Zucco
Title: City Secretary
Date: 2-1-10

CITY OF PLANO, TEXAS

By: Thomas H. Muehlenbeck
Name: Thomas H. Muehlenbeck
Title: City Manager
Date: 2/1/10

Executed on behalf of the City of Plano pursuant to City Council Resolution No. 2010-1-12(R)

APPROVED AS TO FORM:

By: Diane Wetherbee
Name: Diane Wetherbee
Title: City Attorney
Date: 1-29-10



NOTICE OF CERTIFICATION

Phil Dyer
Mayor

Harry LaRosliere
Mayor Pro Tem

Lee Dunlap
Deputy Mayor Pro Tem

Pat Miner
Place 1

Ben Harris
Place 2

Vacant
Place 3

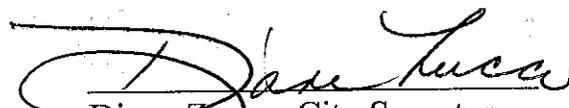
Lissa Smith
Place 4

Jean Callison
Place 7

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. 2010-1-12(R) duly passed and adopted on January 25, 2010, 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 27th day
of January, 2010.


Diane Zucco, City Secretary

m:rescert.doc

RESOLUTION NO. 2010-1-12(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 for the widening of McDermott Road from Coit Road to Ohio Drive; 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 McDermott Road from Coit Road to Ohio Drive, 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:

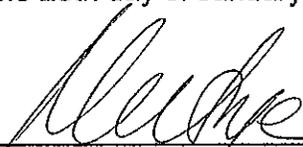
Section I. The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interest of the City of Plano and its citizens, are hereby in all things approved.

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.

RESOLUTION NO. 2010-1-12(R)

DULY PASSED AND APPROVED the 25th day of January, 2010.



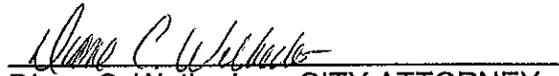
Phil Dyer, MAYOR

ATTEST:



Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:



Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "A"

**INTERLOCAL AGREEMENT
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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.

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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:

COUNTY OF COLLIN, TEXAS

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

By: _____
Name: Keith Self
Title: County Judge
Date: _____

Executed on this _____ date of _____, 2010, by the County of Collin, pursuant to Commissioners' Court Order No. _____

ATTEST:

CITY OF PLANO, TEXAS

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

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 Wetherbee*
Name: Diane Wetherbee
Title: City Attorney
Date: 1/26/2010

Project No. 5387

**McDermott
Coit to Ohio**

