

**INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF PLANO
CONCERNING THE DESIGN AND CONSTRUCTION OF
INDEPENDENCE PARKWAY CORRIDOR
INTERSECTION IMPROVEMENTS
COUNTY BOND PROJECT 07-058
CITY CIP PROJECT – 5687.1**

THIS AGREEMENT is made and entered by and between the County of Collin, Texas (“County”), and the City of Plano, Texas (“City”), a Home-Rule Municipal Corporation, as follows:

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes governmental entities to contract with each other to perform governmental functions and services under the terms thereof; and

WHEREAS, the County and the City are political subdivisions within the State of Texas and engaged in the provision of governmental services for the benefit of their citizens; and

WHEREAS, the County and the City desire to enter into an agreement concerning Independence Parkway Corridor Intersection Improvements (the “Project”) in Plano, Collin County, Texas; and

WHEREAS, the 2007 Collin County Bond Program includes the allocation of \$10,500,000 for intersection improvements at various locations in Collin County, Texas, and the Independence Parkway Corridor Improvements Project provides intersection improvements along Independence Parkway at Parker Road, Park Boulevard and 15th Street, in Plano, Collin County, Texas; 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 of the recitals set forth above and terms and conditions below.

WITNESSETH:

ARTICLE I.

The City shall arrange for the construction of the Independence Parkway Corridor Improvements Project from 15th Street to Parker Road, hereinafter called the “Project”. 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 easements required for the project; however, no real property for use as right-of-way will be acquired.

ARTICLE IV.

The City estimates the total actual cost of the project to be \$2,444,000. The County agrees to fund an amount not to exceed \$1,030,000. The County shall remit fifty percent (50%) of this amount 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 fifty percent (50%) within thirty (30) days after receipt of notice from the City that the Project is fifty percent (50%) complete. Following completion of the Project, the City shall provide a final accounting of expenditures for the Project. The "total cost of the Project" shall include engineering, construction, testing, and easement.

ARTICLE V.

If the actual cost to construct the Project ("Actual Project Cost") is less than the Estimated Project Cost, and the County has participated up to fifty percent (50%) of the Estimated Project Cost, then the City shall reimburse the County in an amount equal to fifty percent (50%) of the difference between the Estimated Project Cost and the Actual Project Cost. The County Commissioners Court may revise this payment schedule based on the progress of the Project. As used herein, the term "Actual Project Cost" shall include engineering, construction, inspection, testing, street lighting, and construction administration costs including contingencies.

ARTICLE VI.

The City shall prepare for the County an itemized statement specifying Project costs that have been incurred to date and submit monthly progress reports until 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 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:

COUNTY OF COLLIN, TEXAS

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

By: Keith Self
Name: Keith Self
Title: County Judge
Date: 7/25/16

Executed on this 25th date of July, 2016, by the County of Collin, pursuant to Commissioners' Court Order No. 2016-518-07-25

ATTEST:

CITY OF PLANO, TEXAS

By: Lisa C. Henderson
Name: Lisa C. Henderson
Title: City Secretary
Date: 6.15.16

By: Bruce D. Glasscock
Name: Bruce D. Glasscock
Title: City Manager
Date: 06/15/16

Executed on behalf of the City of Plano, Texas, pursuant to City Council Resolution No. 2016-6-6(R)

APPROVED AS TO FORM:

By: Michelle Dandrea
Name: for Paige Mims
Title: City Attorney
Date: 6/14/16