



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		1/28/13		
Department:		Public Works		
Department Head:		Gerald Cosgrove		
Agenda Coordinator (include phone #): Kathleen Schonne (7198)				
CAPTION				
<p>A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a Restated Interlocal Agreement between Collin County and the City of Plano concerning the engineering and construction of the 2007 Bond Project 07-057 Major Thoroughfare Rehabilitation on Custer Road, from SH 190 to Spring Creek Parkway; Spring Creek Parkway, from Custer Road to Preston Road; F Avenue, from Plano Parkway to 14th Street; Park Boulevard, from Ohio Drive to Ventura Drive; and Spring Creek Parkway, from K Avenue to Jupiter Road, 2010 Funding; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2012-13	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S): CAPITAL RESERVE				
<p>COMMENTS: This item approves the terms and conditions of a restated agreement between Collin County and the City of Plano for Collin County to remit \$1,500,000 for the Arterial Concrete Repair project.</p> <p>STRATEGIC PLAN GOAL: Partnering with Collin County to fund CIP projects relates to the City's Goals of Financially Strong City with Service Excellence and Partnering for Community Benefit.</p>				
SUMMARY OF ITEM				
<p>This Agreement provides for Collin County to remit to the City up to the sum of \$1,500,000.00 for the rehabilitation of Custer Road, from SH 190 to Spring Creek Parkway; Spring Creek Parkway, from Custer Road to Preston Road; F Avenue, from Plano Parkway to 14th Street; Park Boulevard, from Ohio Drive to Ventura Drive; and Spring Creek Parkway, from K Avenue to Jupiter Road. This Agreement eliminates Independence Parkway and a portion of Custer Road from the previous agreement.</p>				
List of Supporting Documents: Resolution; Restated Interlocal Agreement			Other Departments, Boards, Commissions or Agencies N/A	

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a Restated Interlocal Agreement between Collin County and the City of Plano concerning the engineering and construction of the 2007 Bond Project 07-057 Major Thoroughfare Rehabilitation on Custer Road, from SH 190 to Spring Creek Parkway; Spring Creek Parkway, from Custer Road to Preston Road; F Avenue, from Plano Parkway to 14th Street; Park Boulevard, from Ohio Drive to Ventura Drive; and Spring Creek Parkway, from K Avenue to Jupiter Road, 2010 Funding; 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 Collin County Commissioners Court approved an Interlocal Agreement for Major Thoroughfare Rehabilitation on Independence Parkway, from SH 190 to SH 121; Custer Road, from SH 190 to SH 121; Spring Creek Parkway, from Custer Road to Preston Road; F Avenue, from Plano Parkway to 14th Street; Park Boulevard, from Ohio Drive to Ventura Drive; and Spring Creek Parkway, from K Avenue to Jupiter Road; 2007 Bond Project #07-057 in the amount of \$1,500,000 on July 26, 2010, Court Order #2010-489-07-26; and

WHEREAS, the restated agreement shall modify the limits of Bond Project 07-057 to eliminate Independence Parkway, from SH 190 to SH 121, and to reduce the limits of Custer Road, from SH 190 to Spring Creek Parkway; and

WHEREAS, the City Council has been presented a proposed Restated Interlocal Cooperation Agreement by and between the City of Plano, Texas, and Collin County, Texas, providing terms and conditions for the rehabilitation of Custer Road, from SH 190 to Spring Creek Parkway; Spring Creek Parkway, from Custer Road to Preston Road; F Avenue, from Plano Parkway to 14th Street; Park Boulevard, from Ohio Drive to Ventura Drive; and Spring Creek Parkway, from K Avenue to Jupiter Road, 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 28th day of January, 2013.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

“Exhibit A”

**RESTATED INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF PLANO CONCERNING THE
ENGINEERING AND CONSTRUCTION OF THE 2007 BOND PROJECT 07-057
MAJOR THOROUGHFARE REHABILITATION ON CUSTER ROAD, FROM SH 190
TO SPRING CREEK PARKWAY; SPRING CREEK PARKWAY, FROM CUSTER
ROAD TO PRESTON ROAD; F AVENUE, FROM PLANO PARKWAY TO 14TH
STREET; PARK BOULEVARD, FROM OHIO DRIVE TO VENTURA DRIVE; AND
SPRING CREEK PARKWAY, FROM
K AVENUE TO JUPITER ROAD
2010 FUNDING**

WHEREAS, the County of Collin, Texas (“County”), and the City of Plano, Texas (“City”), desire to enter into a Restated Interlocal Agreement concerning Major Thoroughfare Rehabilitation on Independence Parkway, from SH 190 to SH 121; Custer Road, from SH 190 to SH 121; Spring Creek Parkway, from Custer Road to Preston Road; F Avenue, from Plano Parkway to 14th Street; Park Boulevard, from Ohio Drive to Ventura Drive; and Spring Creek Parkway, from K Avenue to Jupiter Road, in Collin County, Texas (location map attached - see Exhibit A); 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; and

WHEREAS, the Collin County Commissioners Court approved an Interlocal Agreement for Major Thoroughfare Rehabilitation on Independence Parkway, from SH 190 to SH 121; Custer Road, from SH 190 to SH 121; Spring Creek Parkway, from Custer Road to Preston Road; F Avenue, from Plano Parkway to 14th Street; Park Boulevard, from Ohio Drive to Ventura Drive; and Spring Creek Parkway, from K Avenue to Jupiter Road; 2007 Bond Project #07-057 in the amount of \$1,500,000 on July 26, 2010, Court Order #2010-489-07-26; and

WHEREAS, the Restated Interlocal Agreement shall modify the limits of Bond Project #07-057 to eliminate Independence Parkway, from SH 190 to SH 121, and to reduce the limits of Custer Road, from SH 190 to Spring Creek Parkway; and

WHEREAS, the Restated Interlocal Agreement will supersede and repeal Court Order #2010-489-07-26.

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

WITNESSETH:

ARTICLE I.

The City shall arrange to construct major thoroughfare rehabilitation improvements in several contracts on the following road sections:

1. Custer Road, from SH 190 to Spring Creek Parkway
2. Spring Creek Parkway, from Custer Road to Preston Road
3. F Avenue, from Plano Parkway to 14th Street
4. Park Boulevard, from Ohio Drive to Ventura Drive
5. Spring Creek Parkway, from K Avenue to Jupiter Road

These sections are hereinafter called the "2010 Project". The 2010 Project shall consist of removal of deteriorated pavement and the installation of new concrete pavement. 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 contracts for the 2010 Project.

ARTICLE III.

The City will acquire no 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 2010 Project to be \$3,000,000. The County agrees to fund one half of the total cost to construct the improvements in an amount not to exceed \$1,500,000. The County shall remit 50 percent of this amount,

\$750,000, 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 2010 Project is 50 percent complete. Following completion of the 2010 Project, the City shall provide a final accounting of expenditures for the 2010 Project. If the actual cost to construct the 2010 Project 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 the 2010 Project. The "total cost of the 2010 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 2010 Project shall not exceed \$1,500,000.

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 costs and progress reports every thirty (30) days until the 2010 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 2010 Project. This agreement shall automatically renew annually during this period.

ARTICLE XV.

Supersede. This agreement supersedes previous Court Order #2010-489-07-26.

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 _____, 2013, 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: Bruce D. Glasscock
Title: City Manager
Date: _____

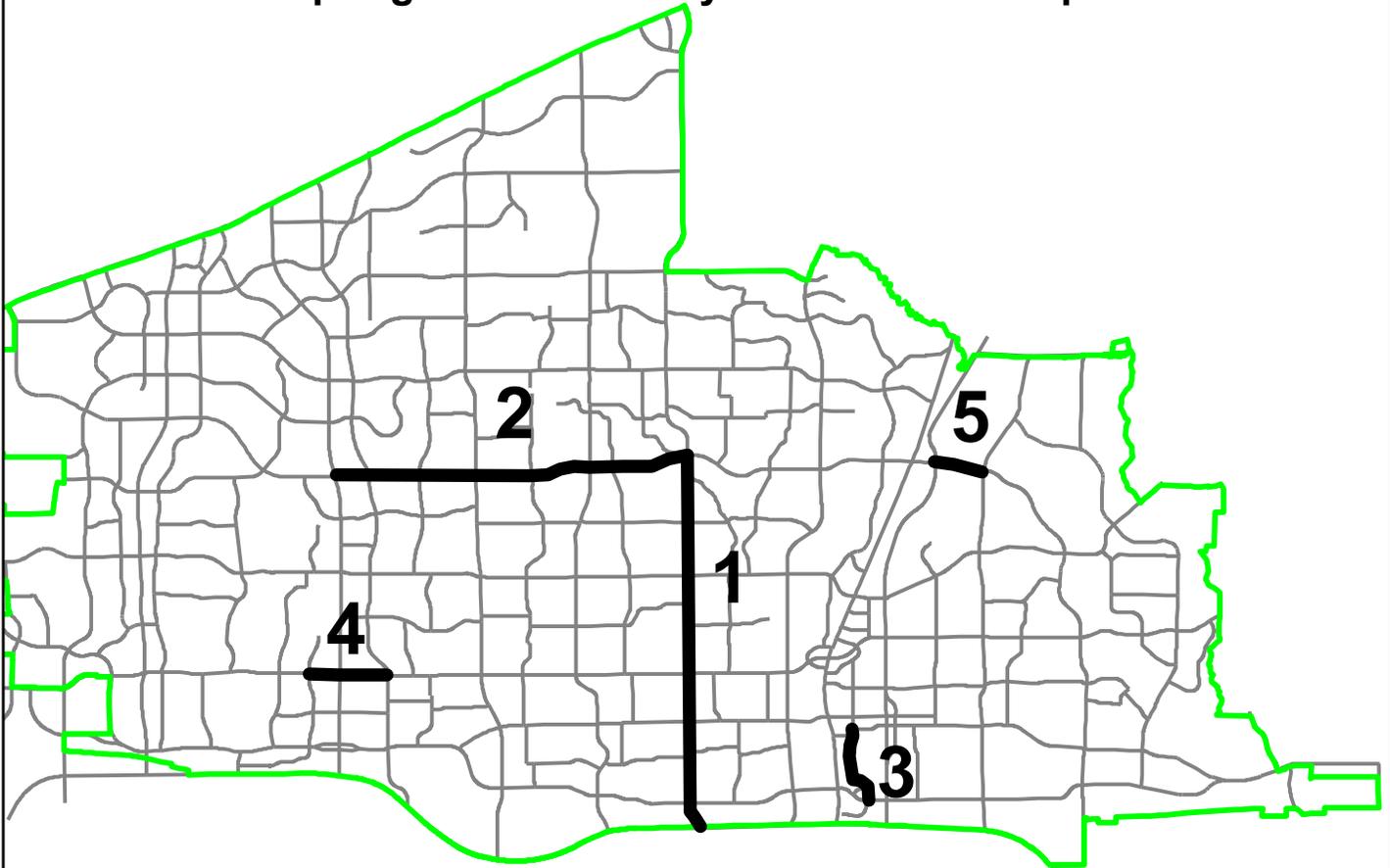
Executed on behalf of the City of Plano pursuant to City Council Resolution No. _____

APPROVED AS TO FORM:

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

Exhibit "A"

1. Custer Road - SH 190 to Spring Creek Parkway
2. Spring Creek Parkway - Custer to Preston
3. F Avenue - Plano Parkway to 14th Street
4. Park Boulevard - Ohio to Ventura
5. Spring Creek Parkway - K Avenue to Jupiter



**Restated Interlocal
Agreement
2010 Project
Location Map**