

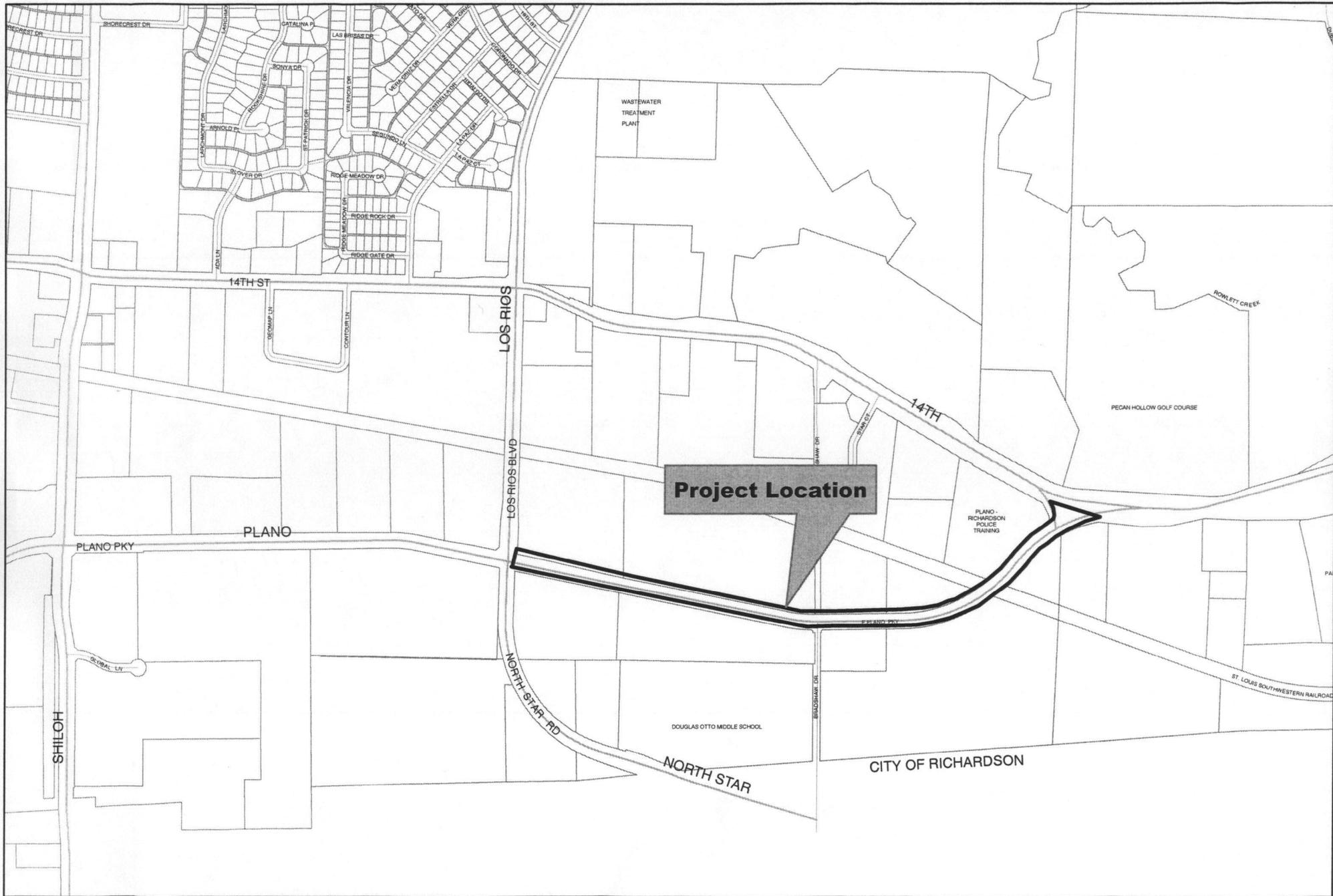


**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		6/28/10		
Department:		Public Works & Engineering		
Department Head:		Alan L. Upchurch		
Agenda Coordinator (include phone #): Irene Pegues (7198)				Project No. 5280
CAPTION				
<p>A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Amended Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, concerning the construction of Plano Parkway from east of Los Rios to 14th Street; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: 2009-2010	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	1,666,104	0	1,666,104
BALANCE	0	1,666,104	0	1,666,104
FUND(S): STREET IMPROVEMENT CIP				
<p>COMMENTS: This item allows the City to enter into an amended interlocal agreement with Collin County for the Plano Parkway – Los Rios to 14th project. If this request is approved, Collin County will remit to the City \$1,666,104, 50% of the project cost for construction on Plano Parkway – Los Rios to 14th. This amended interlocal agreement also authorizes the reallocation of other remaining funds from the US 75 Ramp Improvement Project.</p> <p>STRATEGIC PLAN GOAL: Interlocal agreements for street construction relate to the City's Goal of Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
<p>The original Interlocal Agreement for Plano Parkway provides for fifty percent (50%) Collin County participation in the project up to the amount of \$1,400,000.00. The final total cost of the project is \$3,332,208.11. This Amended Interlocal Agreement would provide for the County to reallocate \$266,104.05 from the remaining funds for the US 75 Ramp Improvement Project to Plano Parkway for a total allocation of \$1,666,104.05. It also provides for the remaining funds for the US 75 Ramp Improvement Project, \$1,024,259.03, to be reallocated to another mutually acceptable project.</p>				
List of Supporting Documents: Location Map			Other Departments, Boards, Commissions or Agencies N/A	

Plano Parkway - East of Los Rios to 14th Street

Project Number 5280



Location Map

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Amended Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, concerning the construction of Plano Parkway from east of Los Rios to 14th Street; 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 Amended Interlocal Cooperation Agreement by and between the City of Plano, Texas, and Collin County, Texas, providing terms and conditions concerning the construction of Plano Parkway from east of Los Rios to 14th Street, 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 June, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

**AMENDED INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF PLANO
CONCERNING THE CONSTRUCTION OF PLANO PARKWAY
FROM EAST OF LOS RIOS TO 14th STREET**

2003 BOND PROJECT #03-048

WHEREAS, the County of Collin, Texas (“County”), and the City of Plano, Texas (“City”), entered into an Interlocal Agreement for construction of Plano Parkway from east of Los Rios to 14th Street (the “Project”) in Plano, Collin County, Texas, dated July 26, 2005, court order # 2005-539-07-26 (“Agreement”) with the County’s fifty percent (50%) participation limited to \$1,400,000.00. This Amended Interlocal Agreement will supersede and will repeal the Interlocal Agreement approved on July 26, 2005; and

WHEREAS, the Project is now complete, and the actual cost for the Project increased to a total of \$3,332,208.11; and

WHEREAS, County has agreed to their fifty percent (50%) share of the Project cost, bringing their participation to \$1,666,104.05, an increase of \$266,104.05; and

WHEREAS, the County and City desire to modify the Agreement to account for an increase in Project cost for the Project for a total County participation of \$1,666,104.05; and

WHEREAS, the US 75 Ramp Improvement Project, 2003 Bond Project #03-045, is completed and has \$1,290,363.08 of funding remaining, of which the City proposes to reallocate \$266,104.05 to the Plano Parkway Project; and

WHEREAS, the County is in agreement to reallocate \$266,104.05 from the US 75 Ramp Improvement Project to the Plano Parkway Project for a total allocation of \$1,666,104.05, leaving an unallocated balance of \$1,024,259.03 in the US 75 Ramp Improvement Project to be reallocated to another mutually acceptable project; 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.

NOW, THEREFORE, this Amended Interlocal Agreement is made and entered into by the County and the City upon and for the mutual consideration stated herein.

WITNESSETH:

ARTICLE I.

The final cost of the Project is \$3,332,208.11. The County and City will each pay fifty percent (50%) of this amount, or \$1,666,104.05. County will pay this amount to the City within thirty (30) days following County's receipt of the City's written request for payment.

ARTICLE II.

The County and City agree that there is a total of \$1,024,259.03 remaining in the US 75 Ramp Improvement Project out of the \$4,000,000 that was allocated to the Project in the 2003 Collin County Bond Program. County and City agree that the remaining funds, \$1,024,259.03, will be reallocated to a mutually agreed upon project.

ARTICLE III.

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 Project completion. 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 fifty percent (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.

ARTICLE IV.

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 V.

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 VI.

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 VII.

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 VIII.

ENTIRE AGREEMENT. This agreement embodies the entire agreement between the parties and may only be modified in writing executed by both parties.

ARTICLE IX.

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 X.

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 XI.

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.

In the event of any conflict or inconsistency between the provisions set forth in this First Amended Interlocal Agreement and the Agreement, this First Amended Interlocal Agreement shall govern and control. For and in consideration of the covenants, duties and obligations contained herein, the parties do mutually agree that, except as provided above, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

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: _____
Name: Diane Wetherbee
Title: City Attorney
Date: _____