

ORDINANCE NO. 2006-350

AN ORDINANCE OF THE CITY OF DENTON, TEXAS APPROVING AN INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF DENTON, TEXAS AND DENTON COUNTY, TEXAS FOR THE CONSTRUCTION OF METRO STREET FROM INTERSTATE HIGHWAY 35 WEST (IH35W) SERVICE ROAD WEST TO CORBIN ROAD AND CORBIN ROAD NORTH OF ITS INTERSECTION WITH METRO STREET TO F.M. 1515; AND PROVIDING AN EFFECTIVE DATE.

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The City Council hereby approves an Interlocal Cooperation Agreement between the City of Denton, Texas and the Denton County, Texas for the construction of Metro Street from Interstate Highway 35 West (IH35W) service road west to Corbin Road and Corbin Road north of its intersection with Metro Street to F.M. 1515 substantially in accordance with the Interlocal Cooperation Agreement which is attached hereto and incorporated herein by reference (the "Agreement"). The City Manager, or his designee, is authorized to execute the Agreement on behalf of the City. The City Manager, or his designee, is authorized to carry out the City's rights and duties under the Agreement. Any prior actions of the City taken pursuant to the Agreement are hereby ratified.

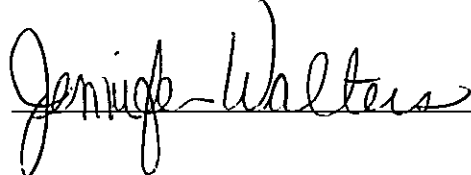
SECTION 2. The City Council finds that the Agreement will benefit the City of Denton and is in the public interest.

SECTION 3. This ordinance shall become effective immediately upon its passage and approval.

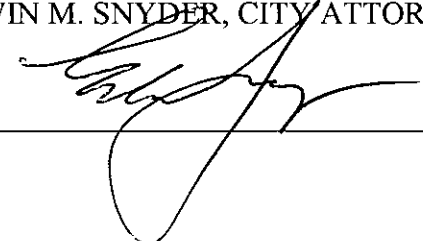
PASSED AND APPROVED this the 12th day of December, 2006.


PERRY R. McNEILL, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

By: 

APPROVED AS TO LEGAL FORM:
EDWIN M. SNYDER, CITY ATTORNEY

By: 

THE STATE OF TEXAS)
)
 COUNTY OF DENTON)

INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE CITY OF DENTON, TEXAS
AND DENTON COUNTY, TEXAS

THIS AGREEMENT is made and entered by and between Denton County, Texas, a political subdivision of the State of Texas, hereinafter referred to as “the County,” and the City of Denton, Texas, a political subdivision located within Denton County, Texas, duly organized and authorized under the laws of the State of Texas, hereinafter referred to as “the City.”

WITNESSETH that the County and the City propose to construct Metro Street from the Interstate Highway 35 West (IH35W) service road west to Corbin Road and improve Corbin Road north of this intersection to F.M. 1515 within and adjacent to the city limits of Denton, Texas, hereinafter referred to as “the Project”, and

WHEREAS, the County is a duly organized and political subdivision of the State of Texas engaged in the administration of county government and related services for the benefit of the citizens of Denton County, Texas; and

WHEREAS, the City is a duly organized political subdivision in Denton County, Texas, engaged in the administration of city government and related services for the benefit of the citizens of the area serviced by the City; and

WHEREAS, the County and the City mutually desire to be subject to the provisions of Chapter 791 of the Texas Government Code, the Interlocal Cooperation Act; which provides authorization for 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, each party has the authority to perform the activities set forth in this Agreement and will make all payments provided for herein out of current revenues available to the paying party and all payments made hereunder will fairly compensate the other party; and

NOW, THEREFORE, the County and the City, for the mutual consideration hereinafter stated, agree and understand as follows:

I.

This Agreement becomes effective when signed by the last party whose signing makes the respective agreement fully executed.

II.

The County and the City hereby agree that the scope of the Project shall be limited to engineering, right-of-way acquisition and construction of Metro Street on a new alignment as a two lane undivided roadway from Interstate Highway 35 West (IH35W) service road west to Corbin Road and to improve Corbin Road as a two lane undivided highway north from its intersection with Metro Street to F.M. 1515. The project's total cost is currently estimated to be FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) for engineering, right-of-way and in-house construction inspection and FOUR MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$4,500,000.00) for construction for a total estimated cost of FIVE MILLION AND NO/100 DOLLARS (\$5,000,000.00).

III.

The County agrees to contribute an amount of TWO MILLION, FOUR HUNDRED THOUSAND AND NO/100 DOLLARS (\$2,400,000.00) towards the completion of the Project from Precinct 4, Transportation Road Improvement Program – 04 funds. As the City proceeds with the completion of the Project, it shall submit invoices for work performed on the Project to the County in care of the County Auditor, on a monthly basis and the County shall reimburse the City for all expenses related to the Project within thirty (30) days of receipt of invoices.

IV.

The City agrees to contribute funds in an amount up to TWO MILLION SIX HUNDRED THOUSAND AND NO/100 DOLLARS (\$2,600,000.00) towards the construction of project.

V.

The City will oversee the right-of-way acquisition, design and construction of the Project.

VI.

This Agreement may be terminated in whole or in part by the County or the City upon thirty (30) days written notice to the other party setting forth a substantial failure by the defaulting party to fulfill its obligations under this agreement through no fault of the terminating party. No such termination may be affected unless the defaulting party is given (1) written notice delivered via certified mail, return receipt requested, of intent to terminate, setting forth the substantial failure to perform and (2) not less than thirty (30) calendar days to cure the failure; and (3) an opportunity for consultation with the terminating party prior to termination. Notices shall be directed as follows:

For City:	Mayor Perry McNeill City of Denton 215 E. McKinney Street Denton, Texas 76201
Copy To:	George C. Campbell, City Manager City of Denton 215 E. McKinney Street Denton, Texas 76201
For County:	Honorable Mary Horn Denton County Judge 110 West Hickory Denton, Texas 76201
Copy To:	Denton County Criminal District Attorney's Office Civil Division

P.O. Box 2850
Denton, Texas 76201

VII.

The City understands and agrees that the City, its employees, servants, agents and/or representatives shall at no time represent themselves to be employees, servants, agent and/or representatives of the County.

VIII.

The County understands and agrees that the County, its employees, servants, agents and/or representatives shall at no time represent themselves to be employees, servants, agent and/or representatives of the City.

IX.

The County agrees to and accepts full responsibility for the acts, negligence, and/or omissions of all County employees, agents, subcontractors, and/or contract laborers and for those of all other persons doing work under a contract or agreement with the County.

X.

The City agrees to and accepts full responsibility for the acts, negligence, and/or omissions of all City employees, agents, subcontractors, and/or contract laborers and for those of all other persons doing work under a contract or agreement with the City.

XI.

This agreement is not intended to extend the liability of the parties beyond that provided by law. Neither the County nor the City waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims made by third parties.

XII.

This agreement represents the entire agreement between the County and the City and supersedes all prior negotiations, representations and/or agreements, either written or oral. This agreement may be amended only by written instrument signed by the

governing bodies of both the County and the City or those authorized to sign on behalf of those governing bodies.

XIII.

The validity of this agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereto, shall be governed by the laws of the State of Texas. Further, this agreement shall be performable in Denton County, Texas.

XIV.

In the event that any portion of this agreement shall be found to be contrary to law, it is the intent of the parties hereto that the remaining portions shall remain valid and in full force and effect to the extent possible.

XV.

The undersigned officer and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this agreement on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions extending said authority have been duly passed and are now in full force and effect.

XVI.

Pursuant to Section 791.011 of the Texas Government Code the parties hereto agree that the purpose of this Agreement is to ensure that certain governmental functions and services in the area of streets, roads and drainage are performed. The parties hereto further agree that each of them is authorized to perform the functions and services individually.

XVII.

This Agreement is not intended to extend the liability of the parties beyond that provided by law. Neither the County nor the City waives, nor shall be deemed hereby to have waived, any immunity or defense that would otherwise be available to it against claims arising by third parties.

EXECUTED in duplicate originals this, the 12th day of December, 2006.

COUNTY

Denton County, Texas
110 West Hickory
Denton, Texas, 76201

By: Mary T. Horn

Honorable Mary T. Horn
Denton County Judge

12-19-06

CITY

City of Denton
215 East McKinney
Denton, Texas 76201

By: George C. Campbell

George C. Campbell
City Manager for the
City of Denton

Acting on behalf and by the authority of the
Commissioners Court of Denton County,
Texas

Acting on behalf and by the authority of the
City of Denton, Denton County, Texas

ATTEST:

By: Kathleen Bransford

Denton County Clerk

APPROVED AS TO FORM:

By: John Feldt

Assistant District Attorney



ATTEST:

By: Jennifer Walters

City Secretary

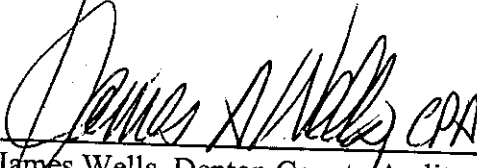
APPROVED AS TO FORM:

By: [Signature]

City Attorney

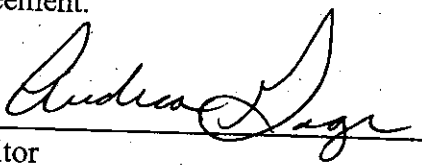
AUDITOR'S CERTIFICATE

I hereby certify funds will be available to accomplish and pay the obligation of Denton County, Texas under this Agreement.


James Wells, Denton County Auditor
TRIP 2004

CITY AUDITOR'S CERTIFICATE

I hereby certify funds will be available to accomplish and pay the obligation of the City of Denton, Denton County, Texas under this Agreement.


City Auditor

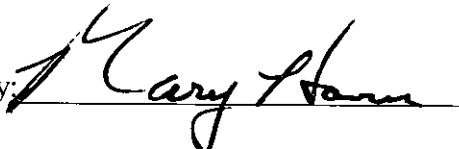
APPROVAL OF INTERLOCAL COOPERATION AGREEMENT PROJECT

The County of Denton, acting by and through the County Commissioners Court, having been advised of a project to construct Metro Street on a new alignment as a two lane undivided roadway from Interstate Highway 35 West (IH35W) service road west to Corbin Road and to improve Corbin Road as a two lane undivided highway north from its intersection with Metro Street to F.M. 1515 within and adjacent to the city limits of Denton, hereinafter referred to as the "Project" under an Interlocal Contract, herein gives its specific written approval of the project prior to beginning the project in satisfaction of the requirements of V.T.C.A., Government Code, Chapter 791, the Interlocal Cooperation Act, Section 791.014.

The description of the type of project to be undertaken and its location are as follows: Metro Street on a new alignment as a two lane undivided roadway from Interstate Highway 35 West (IH35W) service road west to Corbin Road and to improve Corbin Road as a two lane undivided highway north from its intersection with Metro Street to F.M. 1515 within and adjacent to the city limits of Denton.

The local government which requested the project and with which the County of Denton has contracted is the City of "Denton".

By vote on this date, the Commissioners Court has approved the project identified above and authorized execution of this document by the presiding officer on behalf of Denton County, Texas.

By: 

Presiding Officer of the Denton County
Commissioners Court

APPROVAL OF INTERLOCAL COOPERATION AGREEMENT PROJECT

The City of "Denton", acting by and through the City Council, having been advised of a project to construct Metro Street on a new alignment as a two lane undivided roadway from Interstate Highway 35 West (IH35W) service road west to Corbin Road and to improve Corbin Road as a two lane undivided highway north from its intersection with Metro Street to F.M. 1515 within and adjacent to the city limits of Denton, hereinafter referred to as the "Project", under an Interlocal Contract, herein gives its specific written approval of the project prior to beginning the project in satisfaction of the requirements of V.T.C.A., Government Code, Chapter 791, the Interlocal Cooperation Act, Section 791.014.

The description of the type of project to be undertaken and its location are as follows: Metro Street on a new alignment as a two lane undivided roadway from Interstate Highway 35 West (IH35W) service road west to Corbin Road and to improve Corbin Road as a two lane undivided highway north from its intersection with Metro Street to F.M. 1515 within and adjacent to the city limits of Denton, hereinafter referred to as the "Project".

The local government which requested the project and with which the City of "Denton" has contracted is the County of Denton.

By vote on this date, the City Council has approved the project identified above and authorized execution of this document by the presiding officer on behalf of the City of "Denton", Texas.

By: 

Presiding Officer of the City of "Denton"

DENTON COUNTY COMMISSIONERS COURT

Dec. 19, 2006
Month Day Year

Court Order Number: 06-0810

THE ORDER:

14. G

Approval of the Interlocal Cooperation Agreement between Denton County, Texas, and the City of Denton for the construction of Metro Street and improvement to Corbin Road, located in Commissioner Precinct 4, with funding to come from Precinct #4 TRIP-04 Discretionary Funds, w/ funds from TRIP04 1830 E TRIP04 LAKEVIEW BLVD.

Motion by Carter

Seconded by Mitchell

County Judge Yes ☒
Mary Horn Abstain ☐
No ☐
Absent ☐

Commissioner Pct No 1 Yes ☐
Cynthia White Abstain ☐
No ☐
Absent ☒

Commissioner Pct No 2 Yes ☒
Sandy Jacobs Abstain ☐
No ☐
Absent ☐

Commissioner Pct No 3 Yes ☒
Bobbie J. Mitchell Abstain ☐
No ☐
Absent ☐

Commissioner Pct No 4 Yes ☒
Jim Carter Abstain ☐
No ☐
Absent ☐

Motion Carried 4-0-0

Other Action: Pulled from Consent ☐ No Action ☐ Postponed ☐

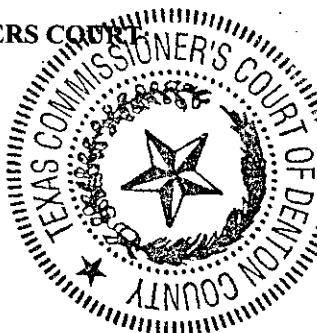
BY ORDER OF THE COMMISSIONERS COURT

ATTEST:

Mary Horn
Presiding Officer

APPROVED AS TO FORM

John Feldt
Assistant District Attorney



Cynthia Mitchell, County Clerk
and Ex-Officio Clerk of the
Commissioners Court of
Denton County, Texas

BY: K. Brangford
Deputy County Clerk