

ORDINANCE NO. 2011-07-075

AN ORDINANCE APPROVING A LOCAL AGENCY/COMPANY AGREEMENT

(City of Urbana/Creative Thermal Solutions, Inc.)

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That a Local Agency/Company Agreement between the City of Urbana and Creative Thermal Solutions, Inc. in substantially the form of the copy of said Agreement attached hereto, be and the same is hereby approved.

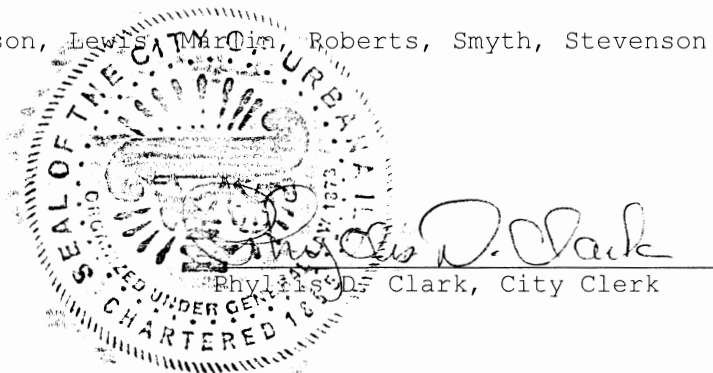
Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is authorized to attest to said execution of said Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

PASSED by the City Council this 18th day of July,
2011 .

AYES: Bowersox, Jakobsson, Lewis, Martin, Roberts, Smyth, Stevenson

NAYS:

ABSTAINS:



APPROVED by the Mayor this 28th day of July,
2011 .

Laurel Lunt Crussing, Mayor
By: Charles A. Smyth, Mayor Pro-tem



Illinois Department of Transportation

2300 South Dirksen Parkway / Springfield, Illinois / 62764

October 5, 2011

Phyllis D. Clark
City Clerk
400 South Vine
Urbana, IL 61801

Subject: City of Urbana
Section 11-00502-00-PV
Job No. C-95-326-11 & P-95-325-11

Dear Ms. Clark:

The attached joint agreement for the subject section was executed by the department on October 3, 2011.

Sincerely,

A handwritten signature in cursive that reads "Darrell W. Lewis" with a small flourish at the end.

Darrell W. Lewis, P.E.
Acting Engineer of Local Roads and Streets

Attachment

cc: William Gray, Municipal Engineer
Joseph E. Crowe, District 5 Attn: David Speicher
Joanne Woodworth Attn: Project Control
Jeff South

CITY OF URBANA
RECEIVED
OCT 06 2011
CITY CLERKS OFFICE

Local Agency Urbana, City of	 Illinois Department of Transportation Economic Development Program Agreement	Job Number - Construction C-95-326-11
Section 11-00502-00-PV		Job Number - Engineering P-95-325-11

This Agreement is made and entered into between the above local agency hereinafter referred to as "LA", and the State of Illinois, acting by and through its Department of Transportation, hereinafter referred to as "STATE". The STATE and LA jointly propose to improve the designated location as shown below.

Location

Local Name Willow Road Route _____ Length 425 feet
Termini Pavement adjacent to the Creative Thermal Solutions Co. Development to approximately 585' North of the centerline of Anthony Drive
Current Jurisdiction City of Urbana

Project Description

Reconstruction of pavement

Division of Cost

Type of Work	EDP (1)	LA (2)	Total
Participating Construction	119,745	119,745	239,490
Non-Participating Construction			0
Preliminary Engineering	9,798	9,798	19,596
Construction Engineering	10,887	10,887	21,774
			0
			0
			0
TOTAL	\$140,430	\$140,430	\$280,860

Note

- 1/ The STATE will reimburse the LA for eligible construction and engineering costs of the project subject to a maximum of \$140,430.
- 2/ Any remaining balance shall be the responsibility of the LA in the event the Economic Development funds are not sufficient to cover the project costs.

The STATE will pay the LA, 95% of its share of the construction costs upon the award of the construction contract and receipt of billing from the LA. The remaining 5% will be paid to the LA upon receipt of the final invoice. The STATE will reimburse the LA for the STATE's share of the Preliminary and Construction Engineering on the basis of periodic billings provided said billings contain sufficient cost information and include orders of payment by the LA. The final invoice will reflect the incurred cost of the improvement, less previous payments, no later than one year from the date of completion of the improvement. If a final invoice is not received within one year of completion of the improvement the most recent invoice will be considered the final invoice and the obligation of funds will be closed.

Agreement Provisions

1. It is mutually agreed that the PROJECT will be processed, let and constructed in accordance with Motor Fuel Tax standards, policies and procedures.
2. Construction of the PROJECT will utilize domestic steel as required by Section 106.01 of the current edition of the Standard Specifications for Road and Bridge Construction.
3. The LA will certify to the STATE that all necessary right-of-way, temporary and permanent easements, and temporary use permits have been obtained or are not required, prior to the LA advertising for bids for the PROJECT.
4. The PROJECT will be let and awarded by the LA upon approval of the plans and specifications by the STATE.
5. The LA agrees to retain jurisdiction and to maintain or cause to be maintained in a manner satisfactory to the STATE, the completed PROJECT.
6. Upon approval of the final plans and specifications by the STATE and the LA, the LA agrees to accept bids and award the contract for construction of the proposed improvements after receipt of a satisfactory bid and after concurrence in the award has been received from the STATE and provide, or cause to be provided, all of the initial funding necessary to complete the project subject to partial reimbursement by the STATE.
7. This Agreement and the covenants contained herein shall be null and void in the event the initial contract covering the construction work contemplated herein is not awarded by July 1, 2012.
8. The LA shall maintain, for a minimum of 3 years after the completion of the project, adequate books, records, and supporting documents to verify the amounts, recipients and uses of all disbursements of funds passing in conjunction with this Agreement. All books, records, and supporting documents related to the project shall be available for review and audit by the Auditor General and the Department. The LA agrees to cooperate fully with any audit conducted by the Auditor General and the Department and to provide full access to all relevant materials. Failure to maintain the books, records and supporting documents required by this section shall establish a presumption in favor of the STATE for the recovery of any funds paid by the STATE under the contract of which adequate books, records, and supporting documentation are not available to support their purported disbursement.
9. Obligations of the STATE shall cease immediately without penalty or further payment being required if, in any fiscal year, the Illinois General Assembly fails to appropriate or otherwise make available funds for the work contemplated herein.
10. All projects for the construction of fixed works which are financed in whole or in part with funds provided by this Agreement shall be subject to the Prevailing Wage Act (820 ILCS 130/0.01 et seq.) unless the provisions of that Act exempt its application.
11. The LA has entered into an economic development agreement with Creative Thermal Solutions, Inc. herein referred to as the "COMPANY". As required by Public Act 93-552, the COMPANY agrees to annually submit to the STATE for a period of five complete calendar years from the execution of this Agreement, a progress report of employment. All annual progress reports will be completed on-line through the Department of Commerce and Economic Opportunity. The initial Employee Reporting Form should be attached as "Exhibit B". The agreement between the LA and the COMPANY delineating the reporting requirements is attached as "Exhibit C".
12. It is mutually agreed that in the event of a default by the COMPANY on their commitment to create and/or retain jobs, the STATE will seek reimbursement of the Economic Development funds provided for this PROJECT from the LA. This determination to seek reimbursement will be based on an evaluation of the information reported in the annual progress report of employment (Exhibit "B") required in item 12 of this Agreement. Failure to submit the required employment report will be considered default on the COMPANY's commitment.
13. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

Local Agency Urbana, City of	Section 11-00502-00-PV
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EXHIBITS

Additional information and/or stipulations are hereby attached and identified below as being a part of this Agreement.

Exhibit A - Location Map

Exhibit B - Employee Reporting Form

Exhibit C - Local Agency/Company Agreement

The LA further agrees, as a condition of payment, that it accepts and will comply with the applicable provisions set forth in this Agreement and all exhibits indicated above.

APPROVED

Local Agency

Laurel Lunt Prussing

Name of Official (Print or Type Name)

Mayor

Title (County Board Chairperson/Mayor/Village President/etc.)

Laurel Lunt Prussing 7/19/11
(Signature) Date

The above signature certifies the agency's TIN number is 37-6000524 conducting business as a Governmental Entity.

NOTE: If signature is by an APPOINTED official, a resolution authorizing said appointed official to execute this agreement is required.

APPROVED

State of Illinois

Department of Transportation

Ann L. Schneider 10/3/11
Ann L. Schneider, Acting Secretary of Transportation Date

By:

(Delegate's Signature)

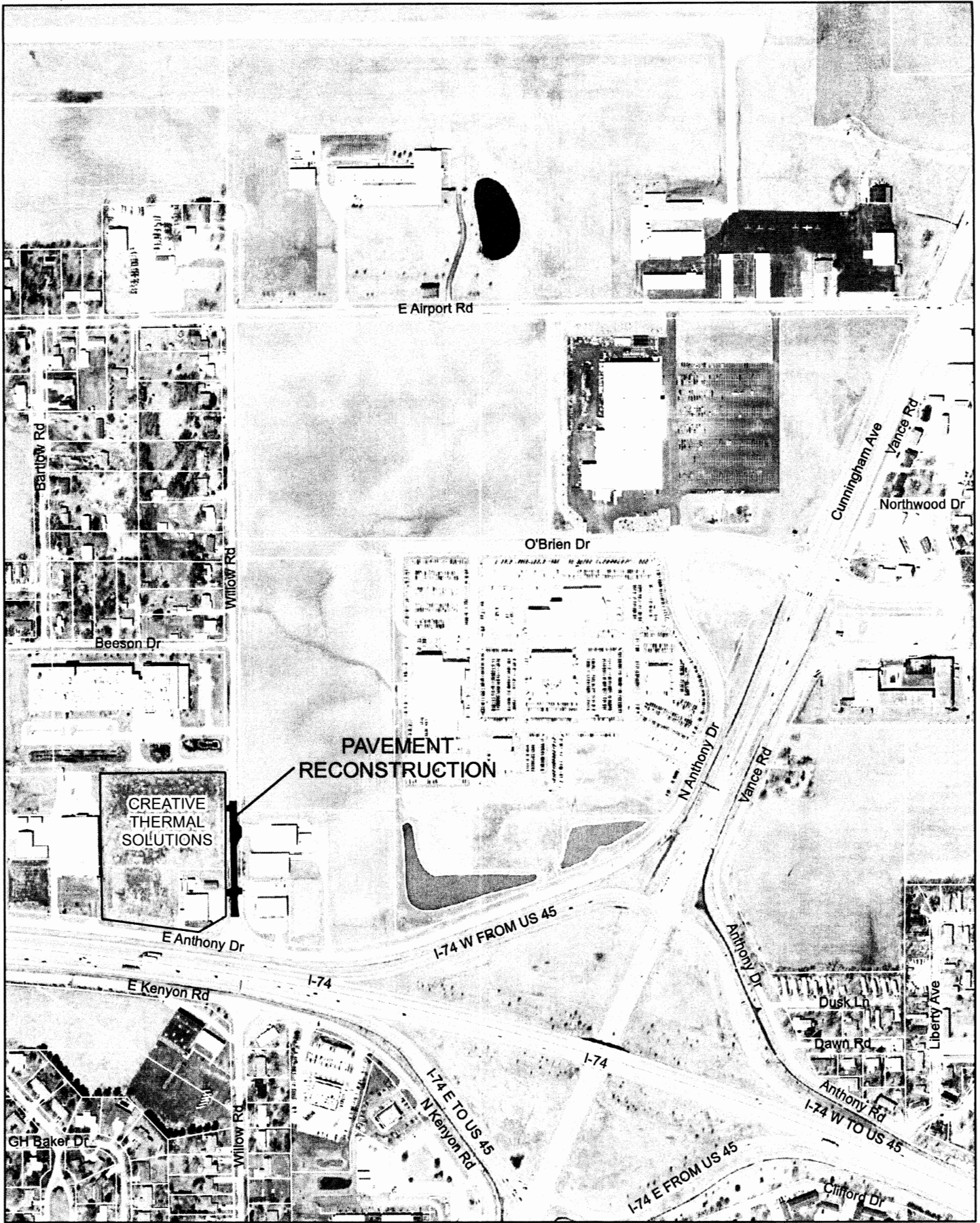
(Delegate's Name - Printed)

Christine M. Reed 9/28/11
Christine M. Reed, Director of Highways/Chief Engineer Date

Ellen J. Schanzle-Haskins 9-20-11
Ellen J. Schanzle-Haskins, Chief Counsel Date

Matthew R. Hughes 9/27/11
Matthew R. Hughes, Director of Finance and Administration Date

Local Agency Urbana, City of	Section 11-00502-00-PV
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GENERAL AREA PLAN
(EXHIBIT A)



1 inch = 500 feet



**Illinois Department
of Transportation**

Economic Development Program
Employment Reporting - Initial Application

Date of Application 1/28/11

Application Tracking Number _____
(Assigned by IDOT)

COMPANY INFORMATION

Name of Company CREATIVE THERMAL SOLUTION

Chief Officer or Authorized Designee PECA HRNJAK

Title PRESIDENT

Address 2209 WILLOW RD
URBANA IL 61802

Phone Number 217-390-5278

E-mail Address PECA@CREATIVETHERMALSOLUTIONS.COM
(required)

FEIN Number 20-0946943

Standard Industrial Classification
Number (SIC #) 8731

North American Industry Classification
System (NAICS) 541712

Project Site URBANA IL 61802
(City and Zip Code where employees,
new or retained, are to be located.)

SPONSOR INFORMATION

Sponsor (Unit of Government) City of Urbana

Contact Person Tom Carrine

Title Economic Development Manager

Address 400 S. Vine St.

Urbana, IL 61801

Phone Number (217) 384-2442

I, _____ As the Chief Officer (or authorized designee of the recipient) verify that the information in the progress report contains no knowing misrepresentation of material facts upon which eligibility for development assistance is based. I further certify that, to the best of my knowledge, the recipient is in compliance with the development assistance agreement(s) between, or behalf of, the recipient and the Illinois Department of Transportation.

P. M. M. J. O. L.

Signature

11/28/11

Date

PRESIDENT

Title

Granting Body of Economic Development Program Funds: Illinois Department of Transportation
Mr. Dick Smith, Director
Office of Planning and Programming
2300 South Dirksen Parkway
Springfield, Illinois 62764

Please mail form to: Illinois Department of Transportation
Mr. Keith Sherman
Office of Planning and Programming, Rm. 307
2300 South Dirksen Parkway
Springfield, Illinois 62764
Attn: Economic Development Program
Phone (217) 782-0378

EXHIBIT "C"

LOCAL AGENCY/COMPANY
AGREEMENT

(City of Urbana/Creative Thermal Solutions, Inc.)

THIS AGREEMENT is made as of the 05th day of July, 2011 by and between the City of Urbana, Illinois hereinafter called the LOCAL AGENCY and Creative Thermal Solutions, Inc., hereinafter called the COMPANY.

WHEREAS, the LOCAL AGENCY is interested in expanding its economic base with the primary emphasis on creating and retaining jobs; and

WHEREAS, the LOCAL AGENCY has entered into a Development Agreement with the COMPANY to develop certain property in the City which agreement contemplates applying for an Economic Development Program grant to assist in the project; and

WHEREAS, if such grant is awarded, special reporting obligations are a necessary condition of the grant; and

WHEREAS, the LOCAL AGENCY will enter into an agreement with the Illinois Department of Transportation, hereinafter called the STATE, to implement an economic development program that significantly impacts upon the LOCAL AGENCY's economic base; and

WHEREAS, proposed project will create and/or retain jobs, thus providing a significant benefit to the LOCAL AGENCY's economic base; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

I. REPORTING REQUIREMENTS

- I.1. As required by Public Act 93-552, the COMPANY shall to submit to the STATE an annual progress report of employment for five years from the date of the IDOT/Local Agency funding agreement.
- I.2. The annual progress report shall consist of job classifications, wages, number of positions, and other pertinent information as shown on Exhibit I.
- I.3. All annual employee progress reports will be completed on-line through the Department of Commerce and Economic Opportunity. The COMPANY will be notified by letter annually with instructions on how and when to fill out their annual report. This report will then be submitted electronically to IDOT.
- I.4. COMPANY agrees to make all reporting requirements under Public Act 93-552, also an obligation of any tenants on parcel PIN 91-21-05-277-003 (address).

II. DEFAULT AND REMEDIES

- II.1. The COMPANY shall make the investment in the Project which shall create and/or retain a minimum of fourteen (14) full-time jobs at the facility within five (5) years of the approval of this Local Agency/Company Agreement.
- II.2. In the event the COMPANY fails to create and/or retain the requisite number of full-time jobs, or the COMPANY fails to comply with the reporting requirements herein, the COMPANY may be held in default. If declared in default, the COMPANY shall be put on suspension and shall be prohibited from completing any current or providing any future development assistance until the state receives proof that the recipient has come into compliance with the requirements of Public Act 93-552.
- II.3. The commitment of EDP funds is contingent upon the fulfillment of the commitments to business investment and job creation/retention represented to the IDOT by the city of Urbana and The COMPANY. Any substantial modifications to these commitments change in location of this facility or the failure of The COMPANY to make firm commitment to this site will cause IDOT's commitment to be reevaluated.

The employment levels committed by The COMPANY must be created within and retained over the five-year reporting period required by Public Act 93-552. If these commitments are not met, the department will review the project funding provided to the city of Urbana. If reasonable justification for non-performance of the commitments is not provided, the city will be required to repay the EDP funding to IDOT in total or an appropriate pro rata sum commensurate with the circumstances of the situation.

It is understood and agreed that the City is seeking an Economic Development Program grant from IDOT for the purpose of improving Willow Road for the benefit of both parties. If such grant is awarded but later declared by the State to be in default under Section II hereof, or for any reason, and the State demands repayment of all or a portion of the grant, COMPANY will repay the City and hold the City harmless for such amount.

III. TERMINATION

- III.1. This Agreement may be terminated at any time by written, mutual agreement of the parties.
- III.2. This Agreement, and all further obligations of the parties hereunder, will terminate when the Project has been completed and when the COMPANY has satisfied its reporting obligations under Section I.

IV. GENERAL PROVISIONS

- IV.1. Wherever possible each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision shall be invalid under applicable law, such provision shall be ineffective to the extent of such invalidity without invalidating the remaining provisions of this Agreement.
- IV.2. This Agreement represents the full and complete agreement between the parties with respect to the matters addressed herein and there are no oral agreements or understandings between the parties.
- IV.3. This Agreement shall be construed in accordance with and governed by the law of the State of Illinois.

APPROVED BY

Creative Thermal Solutions, Inc.

Title PEGAHRENJAK, PRESIDENT

Signature P. Wrenjak

Date 7/22/2011

APPROVED BY

City of Urbana, Illinois

By CLAYTON
Mayor

ATTEST

By [Signature]
City Clerk

Date 8/3/11