

**INTERLOCAL AGREEMENT BETWEEN
THE NORTH TEXAS TOLLWAY AUTHORITY
AND THE CITY OF ROWLETT
REGARDING THE PROPOSED EASTERN EXTENSION
OF THE PRESIDENT GEORGE BUSH TURNPIKE
(Contract 02072-PGB-06-IL-EN)**

11/21/06

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**STATE OF TEXAS §
 §
COUNTY OF DALLAS §**

THIS AGREEMENT, by and between the **NORTH TEXAS TOLLWAY AUTHORITY**, a regional tollway authority acting by and through its Board of Directors, hereinafter identified as the “Authority,” and the **CITY OF ROWLETT**, a Texas home-rule municipality, acting by and through its duly elected City Council, hereinafter identified as the “City,” is to be effective as of the 30 day of November, 2006 (the “Effective Date”).

RECITALS

WHEREAS, the Authority is authorized to study, evaluate, design, acquire, construct, maintain, repair, and operate turnpike projects within the Counties of Dallas, Collin, Denton and Tarrant, pursuant to Chapter 366 of the Texas Transportation Code, as amended (the “Regional Tollway Authority Act”); and

WHEREAS, the Authority proposes to design, construct, and operate the President George Bush Turnpike, hereinafter referred to as the “Turnpike,” following the planned routes of SH 190 and SH 161 from its eastern terminus at SH 78 in eastern Dallas County to its western terminus at West Belt Line Road in the City of Irving; and

WHEREAS, the Authority has undertaken to conduct the necessary feasibility, environmental and other alignment studies for the possible easterly extension of the Turnpike, which has been proposed as a ten (10)-mile roadway following the approximate route of old

Loop 9 with a northern terminus of SH 78 and a southern terminus of IH 30 in the City of Garland (hereinafter the "Eastern Extension"); and

WHEREAS, through its Mobility 2025: The Metropolitan Transportation Plan, 2004 Update, the North Central Texas Council of Governments, the metropolitan planning organization for north central Texas, identified the Eastern Extension as an integral element of its regional transportation plan for the eastern Dallas County area; and

WHEREAS, the Authority has retained Carter & Burgess, Inc. to serve as its consulting engineer (hereinafter the "Consulting Engineer") to represent and assist the Authority in the evaluation, planning, design, review and coordination of the studies referenced above; and

WHEREAS, a significant amount of the Eastern Extension is within the corporate limits of the City, and the City, a political subdivision of the State of Texas with all of the authority and powers related thereto as prescribed by the laws of the State of Texas, has evidenced its support for the proposed Eastern Extension by Council Resolution No. 06-17-03F, duly resolved and adopted on June 17, 2003; and

WHEREAS, the Authority's Board of Directors resolved and adopted Resolution No. 03-82 on September 17, 2003 which, consistent with the City's recommendation, recommended the "build alternative" for the Eastern Extension designated as "EIS #1" and, contingent upon the execution of the necessary funding agreements, authorized the Authority's Executive Director to proceed with the procurement of necessary engineering services to design the Eastern Extension; and

WHEREAS, the City requested and the Authority has agreed to consider certain design and construction features for the Eastern Extension within the City's corporate limits; and

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes local governmental entities to contract with one another to perform governmental functions and services under the terms thereof, and the Authority and the City have determined that mutual benefits and advantages can be obtained by formalizing their agreement as to the design, construction, maintenance and operation of the Eastern Extension within the City's corporate limits.

AGREEMENT

NOW, THEREFORE, in consideration of these premises and of the mutual covenants and agreements of the parties hereto by them respectively kept and performed as hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Authority and the City agree as follows:

ARTICLE I. PROPOSED EASTERN EXTENSION STUDIES

A. THE STUDIES

The assessment of the feasibility of the Eastern Extension as a turnpike project consists of the preparation and evaluation of a series of feasibility, environmental and other alignment studies (collectively, the "Studies") directed by the Authority in accordance with the provisions of the Regional Tollway Authority Act, the Authority's trust agreements and other documents relating to its outstanding debt obligations, the National Environmental Policy Act of 1969 ("NEPA"), as well as other agreements by which it is bound and other applicable federal and state statutes, laws and regulations. The Authority agrees to conduct the Studies it deems necessary to determine its level of participation, if any, in the design, construction, funding and operation of the Eastern Extension. The Authority shall have the sole authority to determine (1) the nature and extent of the Studies, (2) the selection of engineers and other consultants retained

to prepare or evaluate the Studies, (3) the terms of any agreements between the Authority and such engineers or other consultants pertaining to the Studies, and (4) the adequacy of the work product submitted by such engineers and other consultants. The Authority agrees to keep the City reasonably informed of the progress and projected completion dates of the Studies. At no charge to the City, the Authority has provided the City with one bound master copy and one electronic copy of the draft environmental impact statement (the "DEIS") and one bound copy of the final environmental impact statement (the "FEIS") prepared as part of the Studies. The City may reproduce copies of the master and electronic documents, at its discretion, in whole or in part; however, the Authority shall not be responsible for the manner in which such reproduced material is subsequently used or distributed. If the City desires additional copies of the DEIS, FEIS or any of the other Studies from the Authority, the Authority may furnish such copies, provided that the City shall reimburse the Authority for its reasonable reproduction costs.

B. ENVIRONMENTAL ASSESSMENTS; THE STAKEHOLDER CITIES

The Authority agrees to pursue the completion of those Studies, designs, evaluations, proceedings and documents that are required to be submitted for environmental approval to the Texas Department of Transportation ("TxDOT") and the Federal Highway Administration ("FHWA") for the construction of the Eastern Extension as a controlled-access, four (4)- to six (6)-lane turnpike project connecting SH 78 to IH 30 through the Cities of Garland, Rowlett and Sachse. In evaluating and compiling the data for the environmental permitting process, the Authority shall, to the extent consistent with the Regional Tollway Authority Act and the covenants contained in the documents relating to its outstanding debt obligations, include in its considerations the City's current comprehensive and master thoroughfare plans. On January 24, 2005, the Authority received the record of decision ("ROD") for the Eastern Extension. Except

as provided below in Section III.C., if and when interlocal agreements are executed with the Cities of Garland, Rowlett and Sachse, the three (3) cities through which the Eastern Extension is located (hereinafter the "Stakeholder Cities"), and funding agreements are executed with TxDOT and FHWA, the Authority shall prepare, or cause to be prepared, plans sufficient for the (1) acquisition of right-of-way, (2) relocation of above- and below-ground existing utilities, and (3) construction of the facilities comprising the Eastern Extension, and the Authority shall provide in writing to the City a schedule showing the anticipated start and completion dates for the preparation of such plans. The Authority shall provide the foregoing plans to the City for comment at the 30%, 60% and 90% completion levels and, without limiting any other provisions of this Agreement, consider the City's comments.

C. INVESTMENT-GRADE FEASIBILITY STUDY

The Authority shall conduct, as part of the Studies, an investment-grade feasibility study to determine the feasibility of using turnpike revenue bond funding, alone or in combination with other funding sources, to finance the costs to design, construct and operate the Eastern Extension as a turnpike project. The investment-grade feasibility study may include traffic and revenue forecasts, a detailed engineering report and an investment and/or financing plan that evaluates the Eastern Extension as a turnpike project. The Authority shall conduct these evaluations, as well as such other analyses as may be deemed appropriate by the Authority, at its sole expense. Once it is approved and accepted by the Authority's Board of Directors, the Authority shall provide a copy of the investment-grade feasibility study to the City.

ARTICLE II.
SCHEMATIC, DESIGN AND CONSTRUCTION ELEMENTS

A. SERVICE ROADS

The Authority has prepared, and the City has reviewed and is in possession of, the schematic, an excerpted portion of which being attached hereto as Exhibit A and incorporated herein for all purposes, which schematic shall be subsequently modified to reflect the design changes described in this Agreement, including those depicted on the other exhibits hereto (the schematic, as modified, being the “Schematic”). The Authority agrees to design and construct, at its sole expense, two-lane service roads, northbound and southbound, between the City’s southern corporate limits and the proposed Merritt-Liberty Grove connector, with three (3) lanes at intersections, all as depicted (both limits and typical section) on Exhibit A. The geometric and pavement designs for the service roads constructed subsequent to the execution of this Agreement shall comply with applicable TxDOT standards and shall run generally parallel to controlled access lanes constructed as part of the Eastern Extension (the “Turnpike Lanes”). Upon the Authority’s completion of the service road construction and without limiting the provisions of Section II.G., the Authority shall retain control of and maintain the access ramps to and from the Turnpike Lanes to the ramp gore nose of the applicable service road or intersection with the applicable service road or other street, as well as the median between and the shoulder and any border area abutting the Turnpike Lanes (collectively, the “Turnpike Lane Area”), and the Authority intends to contract for TxDOT to assume full responsibility for the maintenance, signalization and operation of the all service roads that are within the City’s corporate limits (collectively, the “Service Roads”). To ensure the safe and efficient movement of motorists, the City agrees to limit access along the Service Roads in accordance with the Authority’s Ramp Access Plan, attached hereto as Exhibit B and incorporated herein for all purposes (as the same

may be subsequently amended). In addition, because the Service Roads are anticipated to be on the State Highway System, access will be permitted in accordance with applicable TxDOT policies and practices, as may be amended. The Authority is obligated to construct only those Service Roads that it has agreed to construct under this Agreement and shown on the Schematic. The City agrees that it will not construct, or otherwise approve or advance the construction of, service, frontage and/or access roads to or from, abutting or paralleling the Eastern Extension and, additionally, shall consult with the Authority prior to undertaking any thoroughfare system not currently shown on the City's Master Thoroughfare Plan which might affect the operation or performance of the Eastern Extension. The Authority intends to contract with TxDOT for the operation and maintenance of the Service Roads in accordance with the Project Agreement (as hereinafter defined), provided that the City agrees to provide for the policing of the Service Roads (other than the installation of regulatory signage) and to refrain from impeding, in any manner, access to or egress from the Turnpike Lanes or from otherwise adversely affecting the operation of the Eastern Extension, except in public safety emergency situations. The City may contract with TxDOT for the performance of all or any portion of the operation and maintenance responsibilities for the Service Roads upon terms satisfactory to the City and TxDOT. To the extent authorized under its agreement(s) with TxDOT or otherwise, the City shall maintain control of access to the Service Roads consistent with the terms of this Agreement. The Authority, at no cost to the City, shall widen the Service Roads as part of its initial construction of the Eastern Extension from two (2) lanes to three (3) lanes at the Service Road intersections shown on the Schematic. No additional widening of the Service Roads shall be permitted unless the City can demonstrate to the Authority's satisfaction that said widening will not adversely affect the safe and efficient operation of the Turnpike, including its financial performance. If

such additional widening is approved by the Authority at any time in the future, (1) the design and construction of all resulting improvements shall be subject to the review, inspection and approval of the Authority and TxDOT, (2) the City shall be solely responsible for all costs resulting from said design and construction (which shall be remitted to the Authority prior to letting), and (3) said widened features shall be operated, policed and maintained in the same manner as provided for the remainder of the Service Roads under this Section II.A. and the widened features shall be deemed part of the Service Roads for all purposes under this Agreement, provided, however, that in no event shall the Authority become responsible for additional maintenance costs as a result of any such widening.

B. DEPRESSION OF TURNPIKE LANES; SH 66/LIBERTY GROVE ROAD

1. **SH 66 to Main Street.** The Authority agrees to design and construct the Turnpike Lanes from SH 66 to Main Street as depressed or below-grade-level lanes, the depth of which shall be as depicted in Exhibit C, attached hereto and incorporated herein for all purposes, or as otherwise hereafter determined by the Authority.

2. **Other Segments.** The depression of Turnpike Lanes within any segment(s) other than as described in subsection II.B.1. above shall be at the sole discretion of the Authority, and the City shall be responsible for reimbursing the Authority for any and all design and construction costs (including the above-mentioned utility relocation costs) incurred in excess of that required for at-grade construction if requested by the City. The cost differential shall be determined by subtracting estimated costs to design and construct the Turnpike Lanes at grade level from the actual costs to design and construct the Turnpike Lanes at below-grade level. The City agrees to reimburse the Authority for the difference between the Authority's *estimated* costs to design and construct the Turnpike Lanes at grade level and the Authority's *actual* costs for the

design and construction of Turnpike Lanes at below-grade level. The City shall pay the difference in design and construction costs within thirty (30) days after receipt of an invoice for the same from the Authority. Notwithstanding the foregoing, the City shall bear no additional costs if the Authority elects to depress additional segments of the Turnpike Lanes acting on its own initiative and not at the City's request.

C. ENTERTAINMENT WATERFRONT DISTRICT INTERCHANGE

The City desires that access be provided from the Eastern Extension's Turnpike Lanes to the City's Entertainment Waterfront District (the "E-W District") located generally south of Miller Road, east of the proposed Turnpike Lanes and along the western banks of Lake Ray Hubbard, as shown in the City's Zoning Map as of the Effective Date of this Agreement. Access to the E-W District would require the design and construction of an "elongated" diamond interchange at Miller Road and the design and construction of service road segments between Miller Road and the E-W District, as shown in Exhibit D, attached hereto and incorporated herein for all purposes. If the Authority elects to construct the Eastern Extension, it agrees to design and construct the Miller Road interchange as an elongated diamond interchange in substantial conformance with Exhibit D.

D. MIXED USE-NORTH SHORE DISTRICT RAMP

The City's current zoning map includes a Mixed Use-North Shore District (such district, whether known by that or by another name and as generally depicted as Exhibit E attached hereto and incorporated herein for all purposes, being referred to as the "MU-NS District"). The MU-NS District is generally located north of Liberty Grove Road and south of Hickox Road. The Eastern Extension would cross through the MU-NS District. The City plans to construct an arterial cross street under the Turnpike Lanes to access the MU-NS District; however, it is

anticipated that the construction of the City cross street east and west of the underpass will not occur until after the completion of the Eastern Extension. The Authority agrees, at its sole expense, to design and construct the bridge, the roadway segment immediately under the bridge, and access ramps to and from the Turnpike Lanes that would accommodate the City's cross street providing access to the MU-NS District as shown on Exhibit A. The Authority will construct the access ramps during its construction of the Eastern Extension. When constructed by the City, the location and design of the cross street east and west of the underpass shall fully conform to the bridge and access ramps depicted on the Schematic. Under no circumstances shall the Authority be responsible for the construction of any bridge, overpass or cross street components other than as depicted on the Schematic.

E. PROPERTY ACQUISITIONS

1. **The Stakeholder Cities Agreements.** TxDOT and each of the Stakeholder Cities will enter into fully binding agreements (the "Stakeholder Cities Agreements") pursuant to which those parties will agree to share right-of-way acquisition costs for the Eastern Extension on a 90/10% basis, as more particularly described below. The City agrees to promptly commence and diligently pursue the negotiation and execution of its Stakeholder City Agreement and, thereafter, to fully perform under and comply with its terms.

2. **The Authority's Project Agreement with TxDOT.** The Authority, in turn, will enter into an agreement with TxDOT (the "Project Agreement") specifying, among other things, the right-of-way acquisition costs that are reimbursable at one hundred percent (100%), ninety percent (90%) or not reimbursable, as well as the method by which TxDOT and the Authority shall effect the reimbursement.

3. **Stakeholder Cities' Local Match.** Without limiting the provisions of subsection II.E.1 above, the City shall deposit its local match in a separate "revolving" account with TxDOT pursuant to its Stakeholder City Agreement. The Project Agreement will provide that when the Authority submits a request for reimbursable acquisition costs to TxDOT, TxDOT will draw down that amount from the "revolving" local match account, remit it to the Authority, and restore the remitted amount to the "revolving" local match account from other TxDOT funds.

4. **The City's and the Authority's Non-Monetary Obligations.** The Authority shall provide a Parcel-by-Parcel acquisition schedule to the City of when and what right-of-way is required; the City shall use best efforts to assist the Authority's acquisition of all required right-of-way as and when requested by the Authority, but shall not be required to expend any sums to do so. The Authority also shall obtain at its cost all land surveys, appraisals, and title insurance the Authority deems necessary or prudent to acquire the right-of-way, easements and other interests required for the Eastern Extension. The Authority shall specify which tracts are to be conveyed to the Authority in fee and which by easement. The Authority, at its sole cost, shall provide professional expertise to support the City's assistance to the Authority's right-of-way efforts by allowing the City and its staff and consultants access to the Authority's Right-of-Way Acquisition Team (the "RAT"); the City shall work in a fully collaborative and coordinated manner with the RAT, and, upon reasonable prior notice by the Authority, use land-use regulations, utility and other enhancement/betterment work (for which the City and the Authority may specifically agree to share or otherwise discharge resulting costs), and other tools to obtain donation or a lower acquisition cost whenever possible. Without limiting the foregoing, the City shall make its staff and consultants available to the Authority and the RAT to assist and support in (a) making contacts and facilitating negotiations with landowners for the right-of-way

acquisitions, (b) designing and conferring development incentives to elicit right-of-way donations and (c) assisting in carrying out relocation assistance for displaced residents and business as required by applicable law. The City agrees to participate in meetings and other activities with the Authority's staff, the RAT and other consultants.

5. **The Authority's Obligations are Contingent.** The Authority's obligations regarding the acquisition of right-of-way for the Eastern Extension and under this Agreement generally are fully contingent upon the agreement of all three (3) of the Stakeholder Cities and TxDOT to the procedure and obligations described above as evidenced by their execution of the three (3) Stakeholder Cities Agreements and the Project Agreement with provisions substantially identical to those contained in these subsections II.E.1 through 3. The City acknowledges that the Authority shall not be required to commence acquisition of right-of-way for the Eastern Extension until the Project Agreement has been fully executed.

6. **Use of City Rights-of-Way; Release of Certain Leasehold Interests.** The City shall dedicate, or cause to be dedicated, to the Authority, at no cost to the Authority, all property and/or property interests that the Authority determines are required for the construction of the Eastern Extension and which are owned by the City. Without limiting the foregoing, the City shall dedicate and assign, and does hereby dedicate and assign, to the Authority all of the City's street and roadway easements and similar interests in property necessary or convenient for the construction or operation of the Eastern Extension. Further, the City hereby releases any leasehold or similar interests it holds with respect to any property owned in fee by the City of Dallas that is required for the Eastern Extension in the vicinity of Lake Ray Hubbard, said release to be effective, without any additional action by the City, the Authority or any other party, upon the granting of rights to that right-of-way to the Authority by the City of Dallas. A

general depiction of the area affected by the foregoing release is set forth on Exhibit K, attached hereto and incorporated herein for all purposes, provided that a more accurate and superseding depiction shall result from subsequent right-of-way documentation and mapping.

7. **Coyle House Relocation.** The Coyle House is a structure located within or adjacent to the potential alignments identified for the Eastern Extension. The Coyle House is an historic resource requiring evaluation under Section 4(f) of the Department of Transportation Act of 1966 and Section 106 of the National Historic Preservation Act. The City will cooperate with the Authority to ensure compliance with all recommended practices and procedures to mitigate the impact of the Eastern Extension on the Coyle House and to obtain from all applicable governmental entities and agencies, whether federal, state or local, all approvals, permits and agreements in connection with the Coyle House that are necessary to construct and operate the Eastern Extension. Such mitigation will include moving the Coyle House from its present location and reconstructing it outside the area impacted by the Eastern Extension. The Authority entered into a Memorandum of Agreement (the "Coyle House MA") with the City, FHWA, TxDOT and the Texas Historical Commission, imposing requirements in connection with such relocation, reconstruction and mitigation and under which the Coyle House is made subject to certain historic preservation requirements that will be binding upon subsequent owners of the Coyle House. The City is a party to the Coyle House MA. Pursuant to the Coyle House MA or a subsequent supplemental agreement between the Authority and the City as described below in Section III.D., the City and the Authority will allocate between themselves the reasonable costs of studying, researching, documenting, relocating, reconstructing, operating, maintaining, and otherwise complying with all requirements necessary to ensure that the evaluation and disposition of the Coyle House complies with all applicable laws and regulatory requirements

necessary for the construction and operation of the Eastern Extension as set forth in the Coyle House MA.

8. **Lake Ray Hubbard Bridge Containment System.** In response to concerns raised by Dallas Water Utilities, the Authority instructed the Consulting Engineer to examine potentially feasible and compatible design alternatives for the Lake Ray Hubbard Bridge feature of the Eastern Extension (the “Bridge”) that would remove storm water runoff from that structure and treat it prior to release into the lake. Insofar as no similar system is in place on IH 30, SH 66 and local streets whose runoff enters Lake Ray Hubbard without treatment, the Authority questions the need for and benefit of such a system on the Bridge. Nevertheless, the Bridge design is anticipated to incorporate a containment system as well as a treatment system situated at both of its termini. If the Authority (or, as indicated in the concluding sentence of this subsection II.E.8., TxDOT) is required or elects to construct the Bridge with the containment and treatment systems, the City shall provide, at no cost to the Authority (or TxDOT) and irrespective of whether the Stakeholder Cities agree to the Alternative ROW Acquisition Program, such additional right-of-way and/or easements required in City-owned property only (or the release of any leasehold or similar interests it holds in property owned in fee by the City of Dallas) at the Bridge termini and any other locations, located within the City’s corporate limits, to permit the operation of the systems in an optimal manner. If TxDOT constructs the Bridge – as the Authority anticipates will be provided in the Project Agreement – all rights provided the Authority under this Agreement may be exercised and relied upon by TxDOT.

9. **Ten-Foot Utility Strip.** In accordance with then-applicable standards, the schematic design for the Eastern Extension was prepared to provide a ten (10) foot-wide strip extending from the outside boundaries of the roadway for the placement of existing utilities. The

standards for that recommended minimum width subsequently were changed to fifteen feet (15') in width by TxDOT. The City acknowledges and approves the 10-foot width reflected in the initial design for the Eastern Extension, provided, however, the Authority commits to acquire additional right-of-way or easement interests for the utility strip in those areas where the Authority deems it necessary to accommodate the relocation of existing utilities, as shown on Exhibit J attached hereto and incorporated herein for all purposes. Additionally, the right-of-way or easement limits depicted on Exhibit J include approximately 30,750 additional square feet of land requested by the City for which the City has agreed to reimburse the Authority by paying Thirty-Three Thousand and No/100 Dollars (\$33,000.00) to the Authority on or before December 4, 2006, which amount shall not be increased or decreased based on actual acquisition or related costs. If the Authority does not receive the \$33,000.00 reimbursement payment on or before December 4, 2006, it shall be released from any obligation to acquire the additional 30,750 square feet of land. All of the utility strip acquired pursuant to this subsection II.E.9 shall be conveyed to and held in the name of TxDOT.

10. **Access at Proposed Merritt-Liberty Grove Connector.** In its design of the overpass at the proposed Merritt Road – Liberty Grove Connector, the Authority will consider implementing prudent design measures to improve access to affected parcels, provided the Authority shall not be obligated to incur additional and material costs as a result.

F. CONSTRUCTION REQUIREMENTS

1. **Utility Clearances, Relocations and Connections.** The City agrees to maintain a utility clear zone by prohibiting the issuance of any utility permits that would conflict with the design and construction of the Eastern Extension. Without limiting the foregoing, for those portions of the Turnpike Lanes built as overpass structures, the utility clear zone shall extend not

less than seventy-five feet (75') from the Turnpike Lanes centerline (for a utility clear zone of not less than one hundred fifty feet [150'] total). This utility clear zone shall be located between four feet (4') and twelve feet (12') behind the back of curb of the through traffic lanes (ultimate width) of the cross street as shown in Exhibit F, attached hereto and incorporated herein for all purposes. The City shall be responsible for relocating any utilities or other surface or subsurface improvements and facilities that the Authority determines to be in conflict with the utility clear zone. The Authority shall design its bridges to accommodate the cross street widths as reasonably determined by the City and communicated in writing to the Authority before the design of any such bridge commences. If the Authority determines that Eastern Extension bridge foundation elements are required in the center median of a cross street, an eight foot (8') wide utility clear zone in such median shall also be provided by the City.

The City, when requested by the Authority, agrees to supply, at no cost to the Authority, water and sanitary sewer service to the right-of-way limits adjacent to the Authority's facilities, including ancillary support buildings, ramp tollbooths and main lane toll plazas, that are located within the City's corporate limits. The City's obligations regarding such sanitary sewer service may be initially satisfied by on-site waste disposal systems (septic systems) until proximate development causes a sanitary sewer line to be extended to the general vicinity of the facility in question, after which the City shall bring sanitary sewer service to the adjacent right-of-way limits to complete its obligations under the preceding sentence. The proposed and general locations for the Authority's ramp tollbooths and main lane toll plazas for the Eastern Extension are shown on Exhibit G, attached hereto and incorporated herein for all purposes; final locations shall be established by the Authority in consultation with its General Engineering Consultant (as hereinafter identified), the Consulting Engineer and other design professionals. The Authority

shall pay for its usage of City utilities; however, the Authority shall not be subject to any utility connection fees, impact fees, user fees or any other type of special assessment. The City shall invoice the Authority only for the Authority's actual usage of said utilities at such standard rates as the City applies to other governmental entities, and the Authority shall promptly pay all invoices submitted therefor by the City.

The City shall be responsible for, and promptly deposit with the Authority, all additional design, materials, and construction costs resulting from the upsizing or enhancement of, or other betterment to, any utility structures in connection with the construction of the Eastern Extension, including casings proposed at Miller Road and Main Street and upsized lines proposed at Liberty Grove Road and Merritt Road – Liberty Grove Connector.

2. **Storm Water Compliance.** The City will permit the Authority to connect to the City's municipal separate storm sewer and storm water drainage systems (the "MS4"), if any, and the City shall make such enlargements or other betterment work required for the efficient discharge of storm water from the Turnpike. The City shall cooperate, coordinate with, and assist the Authority in the Authority's compliance with the Authority's MS4 Permit. At the City's written request, the Authority shall provide the City with technical information and assistance required for the City to perform its obligations and responsibilities as set forth below. At the Authority's written request, the City shall provide the Authority with technical information and assistance required to perform its obligations and responsibilities as set forth below. The City and the Authority agree as follows:

- (a) The Authority will be responsible for the operation and maintenance of the MS4 it owns within the corporate limits of the City unless otherwise provided in an agreement with the City. The City shall be responsible for the construction,

operation, maintenance, and inspection of the MS4s it owns and the remaining area within the City's corporate limits. The City and Authority shall each be responsible and liable for any fines and/or penalties which may be assessed in relation to their own MS4.

- (b) If and to the extent required by law, each party shall develop its own Storm Water Management Plan ("SWMP") as part of its MS4 permit and will be responsible for implementing the SWMP on the MS4 for which it is the operator and for complying with the conditions of its storm water permit relating to the SWMP. The City shall cooperate with the Authority on the creation or modification of the Authority's SWMP.
- (c) The City recognizes the Authority does not have authority, police power, personnel, or resources to detect, identify, and enforce violations of the Clean Water Act or storm water pollution laws and regulations. The City shall use its authority and police power to detect, identify, and enforce applicable Clean Water Act (which for all purposes includes all amendments thereto), storm water pollution laws and regulations with respect to the following:
 - i. Those areas within the corporate limits of the City that generate or convey runoff that originates outside of the Authority's MS4 permit right-of-way.
 - ii. Those areas within the corporate limits of the City that generate or convey runoff that originates outside of the Authority's MS4 permit right-of-way and is conveyed to or through the Authority's MS4.
 - iii. Illicit discharges and improper disposal that have the potential to enter from outside the Authority's MS4.
 - iv. Construction site runoff (other than construction of the Eastern Extension) that has the potential to enter from outside the Authority's MS4.
 - v. Industrial and high risk run-off that has the potential to enter from outside the Authority's MS4.

To the extent the City lacks the foregoing enforcement authority, the Authority will be responsible for providing the necessary communication to the Texas Commission on Environmental Quality or its successor commission or agency.

- (d) The Authority will use reasonable efforts to substantially comply with its MS4 permit, and control pollution in storm water that originates on the Turnpike Lane Area, as required by the conditions of its MS4 permit. The City shall use reasonable efforts to substantially comply with its MS4 permit, and control pollution in storm water discharged within the corporate limits of the City and onto the Turnpike Lane Area, as required by the conditions of its MS4 permit. The Authority and the City will comply with all applicable regulations and policies applicable to such permitted storm water discharge binding upon them.
- (e) Each party will promptly notify the other if it knows of a discharge of oil or other hazardous substance or material in an amount that requires reporting or be violative of any law, regulation or permit and that has the potential to be introduced into the other party's MS4, regardless of where such discharge originates.
- (f) After reasonable written notice to the Authority and subject to safety and traffic-control measures required by the Authority in response to such notice, the City may enter the Turnpike Lane Area to conduct inspections reasonably related to monitoring compliance with the Clean Water Act, storm water pollution laws and regulations by parties other than the Authority.
- (g) Utility construction, operation or maintenance, or any other activity performed by the City, its agents, employees or contractors on the Turnpike Lane Area shall not

begin without prior written notification to the Authority and shall comply with all applicable local, state and federal laws and regulations, including but not limited to, the Clean Water Act and those governing storm water pollution.

- (h) The Authority may incorporate into its MS4 permit filings and reports the results of the City's tests conducted in connection with its MS4 storm water permits, including "wet-weather" monitoring results (whether under the wet-weather monitoring program coordinated by the North Central Texas Council of Governments or otherwise) and "dry weather" field screening.
- (i) At the City's request, the Authority will make available to the City research related to highway operations and storm water runoff referenced in the Authority's SWMP.
- (j) The Authority may state its use of and reliance on the storm water public awareness and public education program, which is required by the MS4 permit for the City and which is conducted by the City, as a program that satisfies the Authority's public education and awareness program obligations under the Authority's MS4 permit.
- (k) The City and the Authority each may incorporate into its respective MS4 permit applications, reports, and filings information from the permit applications reports and filings of the other.
- (l) The City shall pass such ordinances, rules, or regulations as shall be necessary to satisfy its obligations and responsibilities under this subsection II.F.2.

3. **Construction Staging Areas.** If requested by the Authority and irrespective of whether the Stakeholder Cities agree to the Alternative ROW Acquisition Program, the City shall

make available its rights-of-way or other properties located along the Eastern Extension, if any, for the Authority's exclusive use as temporary staging areas before and during construction; provided, however, the City shall not be obligated to obtain any additional right-of-way solely for such purpose. Notwithstanding the foregoing, if the City demonstrates that a property requested by the Authority cannot be utilized for this purpose without materially interfering with the City's current or committed future use for that property and the City identifies a substitute property offering substantially identical utility as a temporary staging area, the substitute property shall be utilized. Such areas may be used for the placement and operation of construction site trailers, for temporary material disposal, for temporary embankments, for the operation of a concrete and/or asphalt batch plant, or for any other purpose that may be related to the construction of the Eastern Extension. During its use of the staging areas, the Authority shall use all reasonable efforts to maintain the property in an orderly condition, free from excessive debris and clutter and with no unlawful contamination. Upon completion of construction activities or cessation of its use thereof, whichever comes first, the Authority, at its cost, shall return the staging areas to the City in a condition comparable to or better than when received for use by the Authority.

4. **Soundwalls.** The Authority may be required to or elect to construct soundwalls, retaining walls or similar structures as a condition of operating the Eastern Extension. The provision of soundwalls, also known as noise walls, has been analyzed in the FEIS process according to applicable FHWA criteria. The FEIS contains results of that analysis and/or noise contours based upon projected Eastern Extension noise levels. The Authority provided a copy of the FEIS to the City and the City hereby acknowledges its receipt. The City shall be responsible for using the information to determine compatible land uses based on projected noise levels. The

City acknowledges that the Authority shall not be responsible for constructing any soundwalls, which (1) are not identified by the FEIS, (2) are not approved by adjacent property owners, or (3) are required due to incompatible land uses that the City allows to be planned, platted, approved or constructed where the noise contours or analysis indicate that the FHWA or other applicable sound criteria are exceeded. The Authority will not be liable or obligated, financially or otherwise, for providing soundwalls to any development which is proposed, platted, approved, permitted or constructed after the completion of the FEIS. The City agrees to maintain and repair all soundwalls, retaining walls or similar structures which are constructed by or on behalf of the City subsequent to the Authority's completion of the initial construction of the Eastern Extension.

5. **Signalization.** Within the City's corporate limits, the design of the Eastern Extension provides for five (5) signalized intersections along the Service Roads and/or at the cross streets or ramps to and from the Turnpike Lanes. These intersections are as depicted in Exhibit H, attached hereto and incorporated herein for all purposes. In consideration of the City's performance of its obligations under this Agreement, the Authority shall provide for the design, construction and installation of temporary and permanent traffic signalization necessitated by the construction of the Eastern Extension. The Authority shall design, prepare and issue construction plans and specifications, take bids, award contracts and purchase orders, install and test (or cause the same to be done) any temporary or permanent traffic signalization systems at the City street intersections with the Eastern Extension as shown on Exhibit H, and also shall install and/or relocate, at its sole expense, any traffic signals, conduit, controllers or any other related facilities that may be required for or as a result of the construction of the Eastern Extension (collectively, the "Signalization Work"). Thereafter, as more specifically set

forth below, the City shall be responsible (either itself or by agreement with TxDOT) for the operation and maintenance of said traffic signalization systems. The Signalization Work shall include the Authority's provision, at its cost, of the standard TxDOT signal kit, plus "Opticom® units," for the signalization systems at the Merritt Road – Liberty Grove Connector, Liberty Grove Road, SH 66, Main Street and Miller Road intersections. Further, the Authority shall install Uninterrupted Power Supply (UPS) systems and illuminated street signs at the foregoing intersections if all necessary, fully functional and compatible equipment is provided by the City to the Authority, at the City's cost, sufficiently in advance of the Authority's commencement of the Signalization Work.

The City shall ensure that, once completed, its traffic signalization systems do not impede or interfere with the operation of the Eastern Extension. The Authority shall keep the City reasonably informed of the Authority's design and construction plans in furtherance thereof. Upon completion of the Signalization Work, the City agrees (either itself or by agreement with TxDOT) to operate, police and maintain the described traffic signalization systems at no cost to the Authority and to assume the responsibility for provision of all electrical power required for signal operations, including that required during construction and test periods. This subsection II.F.5 sets forth the Authority's sole obligation regarding the Signalization Work and nothing contained in this Agreement shall in any way impose upon or create for the Authority any responsibility for (i) the proper operation of traffic signalization along the Eastern Extension within the corporate limits of the City or (ii) the police enforcement required for securing compliance with the traffic signals described in this Agreement.

6. **U-Turns.** The Authority, at its cost, will design and construct the approved U-turns and U-turn deceleration lane(s) as depicted on the Schematic at the intersections of the

Eastern Extension with Merritt Road – Liberty Grove Connector (NB to SB), Liberty Grove Road (SB to NB and NB to SB), SH 66 (SB to NB and NB to SB), and Miller Road (NB to SB and SB to NB). The City shall be responsible for policing, operating and maintaining, at its sole expense, the U-turns and U-turn deceleration lanes in a manner that does not impede access to or egress from the Turnpike Lanes. The City does not request the inclusion of any additional underpass or overpass U-turns in the Eastern Extension design.

7. **Cross Streets.** The Authority shall design and construct the various intersections depicted on Exhibit H, as indicated thereon, including with respect to intersection layouts, U-turns, left-turn lanes, and three-lane frontage roads. If the City subsequently desires at any time to construct or modify a cross street over or under the Eastern Extension, it shall contact the Authority and thereafter take all steps the Authority reasonably deems necessary or desirable to ensure that the design, construction, maintenance and operation of the cross street does not impair or interfere with the design, construction, operation or maintenance of the Eastern Extension. The City shall submit to the Authority the name of the engineering firm the City intends to retain to design the cross street and shall not award the engineering contract unless and until it receives the Authority's written approval thereof. The City shall submit the plans for any such proposed cross street to the Authority for the Authority's review, and the applicable construction contract shall not be let unless and until the Authority approves the plans in writing. Thereafter, the cross street shall be constructed in accordance with the approved plans and the Authority shall have the right to make such inspections and testing it desires to confirm same. Without limiting the foregoing, the City, at its sole expense, shall cause any cross street to be designed and constructed to accommodate the profile grade design of the Eastern Extension. The City also shall cause its staff and consultants to meet and communicate with the Authority

regularly during the planning, design and construction phases of any cross street, and the Authority shall reasonably cooperate with the City in advancing the design and construction of any cross street complying with the provisions of this subsection II.F.7.

8. **Signage.** On February 20, 2002, the Authority's Board of Directors passed Resolution 02-03, "A Sign Policy for Turnpike Projects," to promote a consistent and comprehensive approach to the installation of directional and informational signs on the Authority's facilities. Signage to be installed by the Authority in the initial construction of the Eastern Extension, as well as signage requested at any time by the City, shall be evaluated and determined in accordance with the foregoing policy, as it may be amended.

G. MAINTENANCE

1. **The City's Responsibilities.** The City has the responsibility to operate, maintain, police, regulate and provide public safety functions only for the City's streets over and under the Turnpike Lanes. Said responsibilities, to be performed at the sole cost and expense of the City, shall include the following, as further shown on Maintenance Responsibility Areas attached as Exhibit I and incorporated herein for all purposes:

- (a) Repair and maintain all the City's streets over and under the Turnpike Lanes (*i.e.*, the bridge deck and above), including all traffic signal systems, luminaires, other illumination structures and foundations therefor.
- (b) Repair and maintain all storm water conduits and receivers, both open and closed, on, along and across the City's streets and maintain any drainage, utility, right-of-way or other easements situated thereon for the purpose of serving the Eastern Extension.

- (c) Repair and maintain all soundwalls, screen walls, retaining walls and similar structures in accordance with subsection II.F.4.
- (d) Keep the vegetation mowed, and remove, collect and dispose of all unauthorized signs, debris and trash accumulated in the Eastern Extension right-of-way areas adjacent or relating to the City's streets.
- (e) Maintain and, as necessary, modify guardrail and fences, if any, along the City's streets crossing over and under the Turnpike Lanes.
- (f) Maintain and, as necessary, modify or supplement all traffic regulatory and directional signs and all pavement traffic markings on the City's streets over and under the Turnpike Lanes, except Turnpike trailblazers, "Left Lane Must Enter Turnpike," "No Pedestrians, Bicycles or Motor Driven Cycles," and similar signs regarding the Eastern Extension.
- (g) Furnish all policing, sweeping, flushing, snow/ice control services and other public safety services on the City's streets crossing over and under the Turnpike Lanes.
- (h) License, permit and regulate all driveway and street connections to the Service Roads in accordance with any TxDOT requirements, except to or from property owned or controlled by the Authority, in accordance with Exhibit B, the Ramp Access Plan.
- (i) Provide fire, emergency medical service and "haz-mat" response for the Turnpike Lanes, the Service Roads and the City's streets.

Additionally, to the extent the City elects to enter into one or more agreements with TxDOT for the City's operation, maintenance, policing, regulation or provision of public safety functions for

the Service Roads, the City shall perform those functions in accordance with the applicable agreement(s) and so as to avoid any interference with the operation of the Eastern Extension. The City acknowledges and agrees that the Authority shall have no responsibility or obligation to operate, maintain, police, regulate or provide public safety functions outside the Turnpike Lane Area.

2. **The Authority's Responsibilities.** The Authority has the responsibility to operate, maintain, police, regulate and provide public safety functions for the Turnpike Lanes. Said responsibilities, to be performed at the sole cost and expense of the Authority, shall include the following, as further shown on the Maintenance Responsibility Areas attached as Exhibit I:

- (a) Perform all mowing, snow/ice control, and collection and removal of debris within the Turnpike Lane Area.
- (b) Maintain all improvements constructed by the Authority as a part of the Eastern Extension exit and entrance ramps within the limits extending from the Turnpike Lane Area to either (i) the ramp gore nose at the applicable Service Road or (ii) the intersection with the applicable Service Road or other street.
- (c) Repair and maintain all soundwalls, screen walls, retaining walls and similar structures within the Turnpike Lanes Area.
- (d) Maintain the fence and guardrail, if any, placed along and between the Turnpike Lanes Area and Service Roads used to protect ramp toll plazas.
- (e) Maintain all Eastern Extension illumination structures, including under-bridge lighting, but specifically excluding all Service Road illumination and street intersection illumination.

- (f) Maintain complete bridge structures that carry the Turnpike Lanes over the City's streets.
- (g) Maintain structural components (*i.e.*, below the bridge deck) of bridges carrying the City's streets over the Turnpike Lanes.
- (h) Maintain all Turnpike trailblazers, "Left Lane Must Enter Turnpike," "No Pedestrians, Bicycles or Motor Driven Cycles," and similar signs regarding the Eastern Extension and/or the Turnpike within the corporate limits of the City.
- (i) License, permit and regulate utility construction and maintenance along and across the Turnpike Lanes Area.

The Authority acknowledges and agrees that the City shall have no responsibility or obligation to operate, maintain, police, regulate or provide public safety functions for the Turnpike Lanes and/or with respect to the Turnpike Lanes Area, except as provided in subsections II.F.2.(c) and II.G.1.(j). Subject to the Authority's right to negotiate specific terms tailored to address specific circumstances or facts that may differ from municipality to municipality, the allocation of responsibilities between the City and the Authority regarding the operation, maintenance, policing, regulation, and provision of public safety functions for or with respect to the Turnpike Lanes, Turnpike Lanes Area, and the Service Roads in general shall not be less advantageous to the City than the allocation of responsibilities contained in the Authority's interlocal agreements with the other two (2) Stakeholder Cities regarding the Eastern Extension.

H. AESTHETIC TREATMENTS

On June 18, 2003, the Authority's Board of Directors passed Resolution No. 03-57, "A Resolution of the North Texas Tollway Authority Approving the Adoption of System-Wide

Design Guidelines for the Dallas North Tollway System” to promote continuity in the implementation of aesthetic treatments along the Authority’s existing and future facilities. Aesthetic treatments to be installed by the Authority in the initial construction of the Eastern Extension, as well as treatments requested at any time by the City, shall be evaluated and determined in accordance with the foregoing guidelines, as they may be amended. The determination of whether to implement any aesthetic modifications or upgrades shall be at the sole discretion of the Authority. For purposes of this Agreement, aesthetic treatments shall mean any aspect of or enhancement to the roadways, rights-of-way, lighting, medians, intersections, signals, soundwalls or any other structure or facility (including, without limitation, landscaping) that is not essential to the function or operation of the applicable structure or facility. Without limiting the provisions of the third sentence of this Section II.H., the City shall reimburse the Authority for the additional costs for the design, construction, operation and maintenance of any requested modification or upgrade to the Authority’s baseline aesthetic treatments within thirty (30) days after receipt of any invoice for the same from the Authority.

I. MAIN STREET BRIDGE WIDENING

As of the Effective Date, the Authority has designed the Main Street Bridge to be eighty-six feet (86’) in width, as depicted on Exhibit H-D(1) attached hereto and incorporated herein for all purposes. The City intends to apply for State Transportation Enhancement Program (STEP) funding for its trail system to provide connectivity between Rowlett High School, Coyle Middle School and Stevens Elementary School, including an extension of the trail system across the Main Street Bridge over the Eastern Extension. To support the City’s efforts, the Authority agreed to modify the Bridge’s design, at no cost to the City, to combine the Bridge’s sidewalks on a single side to accommodate the trail. Alternatively, the City requested, and the Authority

agreed, that the Authority offer to widen the Bridge to one hundred feet (100'), provided the City provide certain notices and reimburse the Authority for all additional design and construction costs that result. The Authority has determined those estimated additional costs for widening the Bridge, which reflect modifying the Bridge's deck and superstructure (the foundation and retaining walls), as well as any necessary adjustment to the profile of the Turnpike Lanes, to achieve a 100-foot width as shown on Exhibits H-D(2), (3) and (4).

As a condition for the Authority undertaking the necessary design change for the Bridge widening, the City must provide the Authority with written notice on or before December 4, 2006 that it elects to have the Bridge widened and which side of the Bridge it wishes to have widened. If the City provides the foregoing notice, it must escrow with the Authority the estimated additional costs listed below within four (4) weeks after providing that notice, but in no event later than January 1, 2006.

	Main Street Bridge Widening on North Side <i>- this would <u>not</u> impact Turnpike Lane profile</i>	Main Street Bridge Widening on South Side <i>- this would require changes to Turnpike Lane profile</i>	Increased Costs of Widening on South Side
Additional Design Costs	\$32,000	\$45,000	\$13,000
Additional Construction Costs	\$510,000	\$710,000	\$200,000
Total Escrowed Amount	\$542,000	\$755,000	\$213,000 Increase

If (1) on or before December 4, 2006 the City either (a) notifies the Authority that it does not wish to seek that widening or (b) does not furnish the notice or (2) the City fails to provide the escrow in the amount and in accordance with the timetable provided in the preceding sentence, the Authority shall combine the sidewalks and the Bridge shall not be widened.

Alternatively, if the foregoing conditions are satisfied, the Authority shall widen the Main Street Bridge as shown for the applicable (north or south side) widening option the City selects on Exhibits H-D(2), (3) and (4). Upon completion of the widened Bridge, the Authority shall conduct a final review of the actual additional design and construction costs resulting from the widening and furnish the result of that review (and supporting documentation) to the City. If the result of that final review differs from the estimated reimbursement amount escrowed by the City with the Authority, the Authority or the City, as applicable, shall make the appropriate adjusting payment so that the City pays only the actual increased costs.

ARTICLE III. **GENERAL PROVISIONS**

A. TERM OF AGREEMENT

The term of this Agreement shall begin on the Effective Date and end on the earlier to occur of (1) the complete performance by the parties hereto of all provisions of this Agreement or (2) the determination by the Authority of the non-feasibility of the Eastern Extension or other termination by the Authority pursuant to Section III.C.

B. MUTUAL SUPPORT

The City acknowledges its approval of and support for the Authority's financing, design, construction, operation and maintenance of the Eastern Extension as a turnpike project within the corporate limits of the City and agrees to take all actions reasonably requested by the Authority which are consistent with this Agreement in furtherance of the purposes of this Agreement. Unless and until the Authority determines that the design, construction and operation of the Eastern Extension as a turnpike project is not feasible, the City shall not advance any alternative to or conflicting or competing proposal for the development of the Eastern Extension. The City

agrees to support the Authority in the necessary environmental clearance and permitting review processes and to provide such information as may be requested by the Authority, TxDOT or FHWA from time to time with regard to the Studies generally. The parties agree to coordinate and conduct the necessary public hearings and public participation efforts required to initiate and complete the Eastern Extension. The parties shall make every reasonable effort to maintain communication with the public and the other party's representatives regarding the progression of the Eastern Extension review process and plans. In addition, the City agrees to assist and join the Authority in obtaining and performing under the various approvals, permits and agreements required of the applicable governmental entities and agencies, whether federal, state or local, regarding the Eastern Extension.

C. ELECTION TO PROCEED AND RELIANCE

Notwithstanding any other provision of this Agreement, the Authority, in its sole judgment, shall determine whether it is feasible to design, finance, construct, operate and maintain the Eastern Extension as a turnpike project. The City acknowledges that unless and until said feasibility is established and accepted by the Authority's Board of Directors, this Agreement creates or imposes no obligations on the Authority with respect to the design, construction, operation and/or maintenance of the Eastern Extension, and the Authority makes no representations with respect thereto. Should the Authority determine that the Eastern Extension is not feasible or otherwise determines not to proceed with the evaluation, design and construction of the Eastern Extension for any reason, the Authority shall promptly notify the City in writing and the City shall be released from its obligations under this Agreement, including its right-of-way acquisition obligations under Section II.E. In such event, this Agreement shall terminate, and neither the Authority nor the City shall incur or be obligated to the other for any

further obligations or expenses regarding the Eastern Extension. Nothing contained in this Section III.C. shall be construed, however, as modifying or conflicting with the Authority's commitment to evaluate the feasibility of the Eastern Extension in accordance with this Agreement.

D. SUPPLEMENTAL AGREEMENTS

Upon completion of the Studies and an acceptable determination by the Authority, in its sole discretion, of the feasibility of the Eastern Extension as a turnpike project, the City agrees to enter into any supplemental or additional agreement(s) as may be necessary for the design, construction, operation and maintenance of the Eastern Extension within the City's corporate limits. Such agreement(s) may include, but not be limited to, (1) specifying the final alignment and schematics of the Eastern Extension, (2) more precisely delineating cost sharing between the parties, including, but not limited to, provisions for property acquisition and transfer, (3) refining responsibilities for construction, operation and maintenance of Service Roads, interchanges, traffic control devices and signals, (4) specifying details and timing regarding the relocation of utilities, (5) the Coyle House MA, and (6) such other terms as may be appropriate to ensure the physical and fiscal integrity of the Eastern Extension. Although the precise terms of the supplemental agreements shall be negotiated at a later time, none of those terms shall conflict with any provision of this Agreement, absent the specific written agreement of the parties to the contrary, and all such supplemental agreements shall be consistent with the terms and provisions hereof. In addition, the City agrees to assist and join with the Authority in obtaining the various approvals, permits and agreements required of the applicable governmental entities and agencies, whether federal, state or local.

E. CONTROL OF AUTHORITY FACILITIES, OPERATIONS AND NONAPPLICABILITY OF CERTAIN CITY CODES

The City acknowledges and agrees that the Authority is not subject to the various zoning, building and development codes and/or ordinances promulgated and enforced by the City with respect to the Authority's structures and activities within the Eastern Extension right-of-way, and that it shall not assess against the Authority any development, impact license, zoning, permit, building, connection or construction fee(s) of any kind with respect to the construction or operation of the Eastern Extension. The parties are subject to certain federal regulations, in particular those related to the Clean Air Act, which may affect the Authority and its contractors in their performance of this Agreement. The City acknowledges that as a result of federal and/or state regulations, or other construction schedules, the Authority may be required to perform construction activity at night or twenty-four (24) hours a day. The Authority shall use reasonable efforts to notify the City of any planned night or 24-hour work. The City agrees to give its full cooperation to accommodate such activity, including providing support for notifying the public by posting a press release and notice on the City's website. The Authority agrees to comply with the City's telecommunications tower ordinance with respect to its offices and administration facilities situated outside the Eastern Extension right-of-way whenever the Authority can reasonably do so.

F. RELATIONSHIP OF THE PARTIES; NO JOINT ENTERPRISE

Nothing in this Agreement is intended to create, nor shall be deemed or construed by the parties or by any third party as creating, (1) the relationship of principal and agent, partnership or joint venture between the City and the Authority or (2) a joint enterprise between the City, the Authority and/or any other party. Without limiting the foregoing, the purposes for which the

City and the Authority have entered into this Agreement are separate and distinct, and there are no pecuniary interests, common purposes and/or equal rights of control among the parties hereto.

G. BILLBOARDS

The City acknowledges that with respect to billboards or similar off-premises signs within the Eastern Extension right-of-way, the Authority will follow its policy expressed in Resolution No. 98-048, dated July 24, 1998. The City agrees to cooperate with the Authority to prohibit and eliminate the presence of billboards or other similar off-premises signs that would or could be visible from the traveled portion of the Eastern Extension. Except as specifically set forth below, the City shall be solely responsible for (1) the removal of any and all billboards and similar outdoor off-premises signs from within the right-of-way for the Turnpike Lanes and Service Roads of the Eastern Extension, (2) any related relocation costs and other consideration, and (3) the termination of existing billboard/sign leases to the greatest extent practical and permissible under applicable laws. To the extent allowed by applicable law, the Authority and the City agree that neither party shall allow the future construction or installation of billboards or similar off-premises outdoor signs on the Eastern Extension right-of-way. Without limiting the foregoing, with respect to the items reportedly owned by Benbrook Winchester situated within the Eastern Extension right-of-way that said owner may want to characterize as signs or billboards (the "BW Items"), the City agrees to accomplish, working with Benbrook Winchester, the permitting and/or relocation of the BW Items consistent with the City's existing ordinances and other law. If the BW Items are not relocated, the City will be solely responsible for their removal and for accomplishing the activities and satisfying the obligations described in clauses (1) through (3) of the third sentence of this Section III.G. If the BW Items are relocated, the Authority will reimburse the City only for the actual cost of their physical relocation, and for no

other costs or claims. The City will be responsible for any other costs or claims related to the BW Items. To the greatest extent permitted by applicable law, the Authority and the City agree that neither party shall allow the future construction or installation of billboards or similar off-premises outdoor signs on the Eastern Extension right-of-way.

H. NO LIABILITY

Nothing in this Agreement shall be construed to place any liability on either the City, the Authority, the Consulting Engineer, or any liability on any of the Authority's or the City's respective employees, consultants (including HNTB Corporation, the Authority's General Engineering Consultant), contractors, agents, servants, directors or officers for any alleged personal injury or property damage arising out of the Eastern Extension evaluation, design and construction, or for any alleged personal injury or property damage arising out of the City's operation, policing, regulation, maintenance or repair of the Service Roads or the City streets connecting to, crossing or within the Eastern Extension. Furthermore, it is not the intent of this Agreement to impose upon the City or the Authority any liability for any alleged injury to persons or damage to property arising out of any matters unrelated to the terms of this Agreement undertaken by any consultant or contractor employed or engaged by the Authority or the City. Nothing herein shall be construed as a waiver of any rights which may be asserted by either party hereto, including the defense of governmental immunity.

I. NOTICES

In each instance under this Agreement in which one party is required or permitted to give notice to the other, such notice shall be deemed given (1) when delivered in hand, (2) one (1) business day after being deposited with a reputable overnight air courier service, or (3) three (3)

business days after being mailed by United States mail, registered or certified mail, return receipt requested, postage prepaid, and, in all events, addressed as follows:

In the case of the City:

By Hand Delivery or Courier:

City of Rowlett
Attn: Craig S. Owens, City Manager
4000 Main Street
Rowlett, Texas 75088-5077

By Mail:

City of Rowlett
Attn: Craig S. Owens, City Manager
P.O. Box 99
Rowlett, Texas 74030-0099

In the case of the Authority:

By Hand Delivery or Courier:

North Texas Tollway Authority
Attn: Allan Rutter, Executive Director
5900 W. Plano Parkway, Suite 100
Plano, Texas 75093

By Mail:

North Texas Tollway Authority
Attn: Allan Rutter, Executive Director
P.O. Box 260729
Plano, Texas 75026

Either party hereto may from time to time change its address for notification purposes by giving the other party prior written notice of the new address and the date upon which it will become effective.

J. SUCCESSORS AND ASSIGNS

This Agreement shall bind, and shall be for the sole and exclusive benefit of, the respective parties and their legal successors. Other than as provided in the preceding sentence, neither the City nor the Authority shall assign, sublet or transfer their respective interests in this Agreement without the prior written consent of the other party to this Agreement, unless otherwise provided by law.

K. SEVERABILITY

If any provision of this Agreement, or the application thereof to any person or circumstance, is rendered or declared illegal for any reason and shall be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but shall be enforced to the greatest extent permitted by applicable law.

L. WRITTEN AMENDMENTS

Any change in the agreements, terms and/or responsibilities of the parties hereto must be enacted through a written amendment. No amendment to this Agreement shall be of any effect unless in writing and executed by the City and the Authority.

M. LIMITATIONS

All covenants and obligations of the City and the Authority under this Agreement shall be deemed valid covenants and obligations of said entities, and no officer, councilmember, director, or employee of the City or the Authority shall have any personal obligations or liability hereunder.

N. SOLE BENEFIT

This Agreement is entered into for the sole benefit of the City and the Authority and their respective successors and permitted assigns. Nothing in this Agreement or in any approval subsequently provided by either party hereto shall be construed as giving any benefits, rights, remedies or claims to any other person, firm, corporation or other entity, including, without limitation, the public in general.

O. AUTHORIZATION

Each party to this Agreement represents to the other that it is fully authorized to enter into this Agreement and to perform its obligations hereunder, and that no waiver, consent, approval or authorization from any third party is required to be obtained or made in connection with the execution, delivery or performance of this Agreement. Each signatory on behalf of the City and the Authority, as applicable, represents that he or she is fully authorized to bind that entity to the terms of this Agreement.

P. VENUE

The provisions of this Agreement shall be construed in accordance with the laws and court decisions of the State of Texas, and exclusive venue for any legal actions arising hereunder shall be in Collin County, Texas.

Q. INTERPRETATION

No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court, other governmental or judicial authority, or arbitrator by reason of such party having or being deemed to have drafted, prepared, structured or dictated such provision.

R. WAIVER

No delay or omission by either party hereto to exercise any right or power hereunder shall impair such right or power or be construed as a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or any other covenant, condition or agreement herein contained.

S. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. There are no representations, understandings or agreements relative hereto which are not fully expressed in this Agreement.

T. COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be deemed an original and shall constitute one single agreement between the parties.

U. HEADINGS

The article and section headings used in this Agreement are for reference and convenience only, and shall not enter into the interpretation hereof.

IN WITNESS WHEREOF, the City and the Authority have executed this Agreement on

the dates shown below, to be effective on the date listed above.

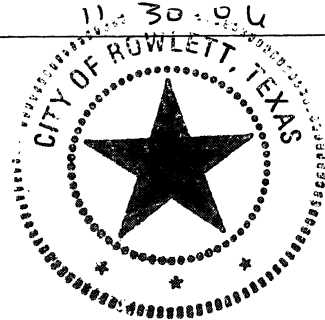
ATTEST:

CITY OF ROWLETT,
a Texas municipal corporation

Susie Quinn
Susie Quinn,
City Secretary

By: J. Alan Alberts
Name: J. ALAN ALBERTS
Title: MAYOR PRO TEM

Date: 11-30-06



APPROVED AS TO FORM:

Robert E. Hager
Robert E. Hager, City Attorney
By: _____
Name: _____

ATTEST:

NORTH TEXAS TOLLWAY AUTHORITY

Debra Smith
Debra Smith
Secretary

By: Allan Rutter
Allan Rutter,
Executive Director

Date: 12-1-06

APPROVED AS TO FORM:

Locke Liddell & Sapp LLP,
General Counsel to the Authority

By: Frank E. Stevenson, II
Frank E. Stevenson, II