

INTERLOCAL AGREEMENT
BETWEEN
THE COUNTY OF DENTON
AND
THE NORTH TEXAS TOLLWAY AUTHORITY

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THE STATE OF TEXAS §
 §
COUNTY OF DENTON §

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This Interlocal Agreement ("Agreement") is entered into as of the _____ day of January 2013 ("Effective Date"), by and between the North Texas Tollway Authority ("NTTA"), a regional tollway authority created and operating under the Regional Tollway Authority Act, Chapter 366 of the Texas Transportation Code (the "Act"), and the County of Denton, a political subdivision of the State of Texas (the "County"). NTTA and the County are collectively referred to as the "Parties" and each, individually, as a "Party."

RECITALS

WHEREAS, NTTA owns and operates the Dallas North Tollway ("DNT"), a turnpike project as defined in the Act, which includes, without limitation, main lanes ("Main Lanes") and service roads, and, which, as of the Effective Date, has a northern terminus at FM 428 in Collin County, Texas; and

WHEREAS, on June 15, 2011, NTTA's Board of Directors approved the alignment for a possible extension of the DNT northward from its current northern terminus, said extension being identified as the Dallas North Tollway Extension, Phase 4B ("Phase 4B"); and

WHEREAS, the County has requested that NTTA design and construct at the County's expense in accordance with this Agreement an approximately 7.8-mile long two-lane paved roadway to be located wholly in Denton County and having a southern terminus at FM 428 and a northern terminus at the common boundary of Denton and Grayson counties (the "County Road"); and

WHEREAS, approximately 6.8 centerline miles of the County Road will be located in the approved alignment for Phase 4B and will be designed and constructed to be suitable for eventual use as a one-way southbound service road or frontage road comprising part of Phase 4B, if and when Phase 4B Main Lanes are constructed; and

WHEREAS, the County has \$21.5 million in available funds to pay total project costs required for the design and construction of the County Road in accordance with the terms of this Agreement and has agreed to make such funds available for that purpose; and

WHEREAS, the County has agreed that upon completion of construction of the County Road, the County will operate and maintain the County Road at its expense in accordance with the terms of this Agreement; and

WHEREAS, route of the County Road is generally as depicted on the map attached to this Agreement as Exhibit A; and

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code ("ILA Act"), authorizes local governmental entities to contract with one another to perform governmental functions and services in accordance with the ILA Act; and

WHEREAS, each Party has determined that it will derive benefit from the design, construction, operation, and maintenance of the County Road on the terms and conditions set forth in this Agreement; and

WHEREAS, each Party has the authority to enter into this Agreement and perform its obligations hereunder;

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each Party, NTTA and the County agree as follows:

**ARTICLE 1
DEFINED TERMS**

As used in this Agreement, each of following terms shall have the meaning indicated with respect to such term:

1. **60% Preliminary Design** means preliminary plans and specifications for the County Road completed to the sixty percent (60%) preliminary design phase
2. **100% Preliminary Design** means preliminary plans and specifications for the County Road completed to the one-hundred percent (100%) preliminary design phase
3. **Commissioners Court** means the Commissioners Court of Denton County, Texas
4. **County Road** has the meaning set forth in the Recitals.
5. **County's Share** means the maximum dollar amount of Project Costs that the County will pay under this Agreement, subject, however, to the County's agreement to pay all actual Project Costs under the circumstances described in Article 4. Unless modified in accordance with the express provisions of this Agreement or a written amendment to this Agreement duly and properly authorized, executed, and delivered by the County and NTTA, the County's Share is Twenty-One Million Five Hundred Thousand Dollars (\$21,500,000).
6. **Final Plans** means the plans and specifications to be used for construction of the County Road, which shall be based on the 100% Preliminary Design, as modified, if applicable, pursuant to agreement of the Parties under Section 3.A.(3) below or pursuant to Change Orders that have been properly approved and issued in accordance with Section 7.C.
7. **NTTA Board** means the Board of Directors of the North Texas Tollway Authority.
8. **Project Costs** means all costs of whatever kind or nature incurred in connection with the design and construction of the County Road, including, but not limited to, costs of all

goods, services, equipment, and property required for engineering and design services, construction plans, bid documents, surveys, construction services, contingencies, construction management services, permitting, public involvement, utility installation and relocation, communication infrastructure, geotechnical studies, record drawings, satisfaction of all environmental obligations, costs of compliance with all applicable laws, ROW costs, legal fees, traffic signalization and controls, and all other costs incurred in connection with the design and construction of the County Road. If the County issues a Termination Notice, all of such costs incurred through termination of the work under this Agreement shall be deemed Project Costs, even if the County Road is not completed. Provided, however, that NTTA will provide internal project management and administration by NTTA employees, the costs of which, whether direct or indirect, shall not be included in Project Costs.

9. **ROW** means all fee, easement, and other interests in real property that are required for the construction, operation, and maintenance of the County Road, whether as a Phase 4B service road or otherwise, including (but not limited to) fee interests and easements for utilities, slopes, embankments, and drainage, and temporary construction easements.
10. **Service Road Segment** means the portion of the County Road to be constructed in the approved alignment of Phase 4B, located between Mobberly Road on the south and the common border between Denton and Grayson counties on the north; the Service Road Segment will be designed and constructed to be suitable for future use as a portion of a one-way two-lane southbound service or frontage road comprising part of Phase 4B.

11. **Temporary Southern Segment** means a temporary portion of the County Road that is not included in the Service Road Segment and is located approximately between Mobberly Road and FM 428.
12. **TWG** means the Technical Working Group (or any subset thereof) established by the Parties; the TWG will meet on a regular basis to review technical issues related to the design and construction of the County Road, and the TWG will be particularly charged with conferring on, coordinating, and jointly reviewing the Cost Estimates, as defined in Section 2.D.

Certain other terms are expressly defined in the body of this Agreement, and such terms shall have the meanings specified for such terms in such definitions.

ARTICLE 2 DESIGN OF COUNTY ROAD; RIGHT-OF-WAY; COST ESTIMATES

A. Design of County Road

1. NTTA will design the County Road utilizing one or more engineering design firms retained by NTTA. NTTA will procure contracts for the services of such firms in accordance with all applicable laws and NTTA policies regarding the procurement of goods and services. The County must approve such contracts (including the firms selected) before NTTA finally approves, executes, and delivers the contracts. The County agrees that its approval will not be unreasonably withheld, conditioned, or delayed. The County's approval shall be deemed given unless the County issues a written disapproval notice within thirty (30) days after the draft of a proposed NTTA contract is provided to the County by NTTA. If the County disapproves a contract, the NTTA at its option may select, and negotiate a contract with, another qualified firm as permitted by law or may reissue a request for qualifications ("RFQ") for the contract. The County agrees that the costs of

renegotiating a contract or reissuing an RFQ shall be borne by the County, and will be included in Project Costs.

2. The design, grade, and precise alignment of the County Road will be determined by NTTA in its sole discretion, after reasonable consultation with the County. The plans and specifications for construction of the County Road shall comply with NTTA's engineering design criteria, specifications, and practices, subject, however, to any modifications agreed upon in accordance with Section 3.A.

B. Right-of-Way

1. NTTA will oversee acquisition of all ROW for the Service Road Segment. Such ROW will be acquired in the name of, and owned by, NTTA. All costs of acquisition, including, contract consideration, condemnation awards, closing costs, title insurance premiums, and legal fees shall be included in Project Costs.

2. The Parties currently anticipate that all right-of-way required for Phase 4B will be donated by the owners thereof. The Parties agree to coordinate and cooperate with each other in soliciting, encouraging, and promoting right-of-way donations; provided, however, neither Party will have any obligation to grant economic or other incentives or similar benefits or incur any obligation or liability with respect to such efforts. NTTA intends concurrently to acquire all Service Road Segment ROW and all other right-of-way required for the other elements of Phase 4B, including, without limitation, the Main Lanes and northbound service road. All right-of-way required for Phase 4B must be acquired before NTTA commences construction of the County Road; provided, that if the Parties mutually agree in writing, this requirement may be waived or modified.

3. The County will acquire all ROW for the Temporary Southern Segment (including necessary drainage, utility, and other easements), and such ROW will be owned by the County. The County agrees to close and directly pay for the purchase of such ROW and/or to initiate and prosecute any condemnation proceedings required to obtain such ROW.

4. As noted above, the Parties currently expect that all right-of-way required for Phase 4B (including Service Road Segment ROW) will be donated. Notwithstanding such expectation, the Parties agree that consideration for acquisition of all right-of-way required for Phase 4B located in Denton County, including condemnation awards and purchase consideration (if any), and costs to clear title matters required for operation and maintenance of Phase 4B in Denton County as a turnpike project, shall be included in Project Costs. Further, all closing costs, title insurance premiums, and legal fees for acquisition of all Phase 4B right-of-way shall be included in Project Costs.

C. Review of Plans

The TWG will meet as often as required to review and resolve technical issues in advance of NTTA's submission of plans and specifications and Cost Estimates at both 60% Preliminary Design and 100% Preliminary Design. The County will have a full and sufficient opportunity, not to exceed thirty (30) days, to review and comment on such preliminary plans and specifications and the Final Plans. The County's failure to object within such time will be deemed to constitute its agreement that it is satisfied in all respects with the plans and specifications for the County Road.

D. Cost Estimates

Each submittal of plans and specifications shall be accompanied by an estimate of total Project Costs (a "Cost Estimate"), determined as of the effective date of such Cost Estimate. Cost Estimates shall be prepared in accordance with Section 6.A.

**ARTICLE 3
PRELIMINARY DESIGN CHECKPOINTS**

A. Request for Modification of Plans and Specifications

1. If the Cost Estimates issued in connection with the 60% Preliminary Design or the 100% Preliminary Design indicate that the total estimated Project Costs exceed the County's Share, in either event the County may request NTTA to consider modifications to the plans and specifications proposed by the County that reasonably are anticipated to reduce the total estimated Project Cost to no more than the County's Share. NTTA will review and consult with the County concerning alternative plans and specifications proposed by the County, but NTTA shall have sole and absolute discretion to accept or reject modifications proposed by the County, propose other modifications, or reject any modifications to the plans and specifications. The County agrees that all costs related to the review of the County's proposals or any modification of the Plans shall be borne by the County and will be included in Project Costs. If the County does not request plan modifications within thirty (30) days after a Cost Estimate is issued, the County will be deemed to have waived the right to make such request.

2. If NTTA and the County are unable to agree on modifications to the plans and specifications within ninety (90) days following NTTA's issuance of a Cost Estimate at either 60% Preliminary Design or 100% Preliminary Design, the County may within thirty (30) days after the expiration of such 90-day period issue a Termination Notice or a Go-Forward Notice as described below in Section 3.B.

3. If NTTA and the County agree on modifications to the plans and specifications, a revised Cost Estimate shall be prepared which accounts for changes, if any, to total estimated Project Costs resulting from the modifications. If the revised Cost Estimate continues to indicate that total estimated Project Costs exceed the County's Share, the County may, within thirty (30)

days after the revised Cost Estimate is issued, issue either a Termination Notice or Go-Forward Notice under Section 3.B., but shall not be entitled to make additional requests for modifications to the plans and specifications. If the revised Cost Estimate indicates that total estimated Project Costs do not exceed the County's Share, NTTA shall continue toward completion of 100% Preliminary Design or Final Plans, as applicable.

B. County Options Regarding Excess Cost Estimate

1. If a Cost Estimate, including a revised Cost Estimate, issued in connection with either 60% Preliminary Design or 100% Preliminary Design indicates that the total estimated Project Costs exceed the County's Share, the County, in lieu of requesting modifications to the plans and specifications, may within thirty (30) days following the issuance of the Cost Estimate:

(a) issue written notice to NTTA that the County will not pay Project Costs in excess of the County's Share (a "Termination Notice"); or

(b) issue written notice to NTTA that the County desires NTTA to continue preparation of plans and specifications for the County Road (a "Go-Forward Notice").

2. The County will be deemed to have issued a Termination Notice if within thirty (30) days after the issuance of a Cost Estimate it does not either (a) request modifications to the plans and specifications as described in Section 3.A., or (b) issue a Go-Forward Notice. The effective date of a Termination Notice deemed issued under this subsection will be the thirtieth (30) day after issuance of the Cost Estimate in question.

C. Effect of Termination Notice

If the County issues or is deemed to have issued a Termination Notice, the obligations of the Parties under this Agreement will be governed by Section 5.B.

D. Final Plans.

Unless the County issues or is deemed to issue a Termination Notice under Section 3.B, NTTA shall prepare the 100% Preliminary Design or proposed Final Plans, as applicable. Final Plans for the County Road will be based upon the 100% Preliminary Design, as modified, if applicable, by agreement of the Parties. The County will have a full and sufficient opportunity to review and comment on the proposed Final Plans. Any changes to the proposed Final Plans requested by the County and approved by NTTA in its sole discretion shall be incorporated into the Final Plans, which shall be prepared by NTTA. Without the express approval of the County (as reflected in a duly adopted resolution of the Commissioners Court), no change will be made to the proposed Final Plans if it is reasonably anticipated that the change will increase the Cost Estimate (or if applicable, the revised Cost Estimate) issued in connection with the 100% Preliminary Design.

**ARTICLE 4
CONSTRUCTION CONTRACTS**

NTTA will seek bids or proposals for the construction of the County Road in accordance with all applicable laws and NTTA policies regarding the procurement of goods and services. The County must approve each construction contract (including the contractor thereunder) before NTTA finally approves, executes, and delivers the contract in question. If the County disapproves a contract, NTTA at its option may accept the next lowest bid (if permitted by law) or may rebid the contract. The County agrees that costs of renegotiating and/or rebidding a contract shall be borne by the County and will be included in Project Costs. The County's approval shall be deemed given unless the County expressly issues a written disapproval within thirty (30) days after a draft of a contract with a contractor is provided to the County by NTTA.

ARTICLE 5
FINAL COST ESTIMATE; COUNTY TERMINATION NOTICES

A. Final Cost Estimate

1. When bid prices for all of the construction contracts for the County Road have been received, a final Cost Estimate ("Final Cost Estimate") shall be prepared. If the Final Cost Estimate exceeds the County's Share, the County may:

(a) issue a Termination Notice confirming that the County will not pay Project Costs in excess of the County's Share; or

(b) issue written notice to NTTA that the County desires for NTTA to proceed with construction of the County Road (the "Final Go-Forward Notice").

2. The County will be deemed to have issued a Termination Notice if it does not issue the Final Go-Forward Notice within thirty (30) days after the issuance of the Final Cost Estimate.

B. Effect of a County Termination Notice

If the County issues or is deemed to have issued a Termination Notice, the obligations of the Parties under this Agreement to proceed with the design and construction of the County Road and all other obligations of NTTA under this Agreement will terminate immediately. All other obligations of the County under this Agreement will terminate upon the County's payment to NTTA of all Project Costs incurred through the date the County issues or is deemed to have issued its Termination Notice, together with all such additional costs that NTTA incurs in connection with termination and demobilization of design, construction, ROW acquisition, and other activities pertaining to the County Road, including, without limitation, liability NTTA incurs in connection the termination of design or construction contracts. The County's obligations under this Section 5.B will survive the termination of this Agreement.

ARTICLE 6
COUNTY COMMITMENT FOR PROJECT COSTS

A. Regarding Cost Estimates

Each Cost Estimate under this Agreement shall be prepared by NTTA and shall be reviewed and revised jointly by the County and NTTA, utilizing the TWG or such other personnel and consultants as each Party deems appropriate. NTTA and the County will fully collaborate with and assist the other Party to ensure the accuracy of Cost Estimates to the greatest degree reasonably possible and to ensure that the Parties are in agreement regarding the Cost Estimates. Without limiting the foregoing, each Party agrees, subject to reasonable confidentiality protections, to share all information held or obtained by a Party that could affect the accuracy of a Cost Estimate. The Parties expressly intend that each Cost Estimate shall reflect joint and mutual sharing of information, analyses, and preparation.

B. County's Commitment to Pay Project Costs

In light of such collaboration and assistance regarding Cost Estimates, the County expressly acknowledges and agrees that any Final Go-Forward Notice must be issued by the Commissioners Court, and its issuance of a Go-Forward Notice shall constitute the County's unconditional covenant and assurance that (1) funds equal to (a) the total Project Costs as set forth in the Final Cost Estimate, less (b) Project Costs previously paid by the County, are available to the County as of the date of the Go-Forward Notice and will be applied by the County to pay Project Costs in accordance with Section 6.C., and (2) the County will pay all additional Project Costs (if any) in accordance with Section 6.C., even though the actual final Project Cost may exceed the County's Share. For clarification and the avoidance of doubt, upon the County's issuance of a Final Go-Forward Notice, any provisions of this Agreement limiting the County's obligations to the County's Share shall be null and of no effect.

C. Payment of Project Costs

Following issuance of the Final Go-Forward Notice, NTTA shall remit monthly invoices to the County reflecting incurred Project Costs, and the invoices shall be paid by the County within thirty (30) days of the date of each invoice. If the County objects to NTTA in writing to an item included in an invoice, NTTA and the County shall work together in good faith to resolve such objection and, if applicable, NTTA shall reimburse the County for any amount agreed to be incorrect. But the County will not, without NTTA's written consent, withhold payment of any disputed invoice pending resolution of such dispute.

D. Records

NTTA shall maintain complete and accurate records for all Project Costs. The County shall be allowed to inspect said records during regular business hours. All records of Project Cost records shall be maintained by NTTA for three (3) years after NTTA receives reimbursement of any such costs from the County.

**ARTICLE 7
CONSTRUCTION OF THE COUNTY ROAD**

A. NTTA Will Construct County Road

1. NTTA will be solely responsible for the construction of the County Road in accordance with the Final Plans, including, without limitation, all required construction management, coordination, inspection, construction materials testing and all utility relocation and adjustments.

2. NTTA will have no obligation to commence construction until the County issues a Final Go-Forward Notice and all ROW required for the construction and operation of the County Road has been obtained.

3. NTTA will provide the County with reasonable notice of its intent to commence construction.

B. Staging Areas

If requested by NTTA, the County will provide on a temporary basis any available County-owned property for NTTA's use as a staging area(s) during the construction of the County Road. Upon completion of construction activities or cessation of NTTA's use of the staging areas, NTTA shall return the staging areas to a condition comparable to when received for use.

C. Change Orders

1. Without the County's prior review and written approval, NTTA will not approve or enter into any change orders, supplemental agreements or additional work orders that materially modify the Final Plans with respect to essential features of the County Road (collectively, "Change Orders"). The County will provide comments on any proposed Change Orders submitted to the County within ten (10) calendar days of its receipt thereof. Approval of any Change Order that increases Project Costs must be evidenced by a duly adopted resolution of the Commissioners Court.

2. Notwithstanding the foregoing, the Parties acknowledge that minor adjustments, as reasonably determined by NTTA, to the Final Plans will be required when construction starts and will be addressed on an expedited basis to the extent reasonably possible.

D. Audit and Inspection Rights

In addition to the regular exchange of information through meetings with the TWG, the County at its expense may from time to time, after reasonable written notice, conduct field inspections (subject to safety and traffic-control measures required by NTTA) and audit, inspect

and copy all Project Cost records and documents maintained by NTTA. The County immediately will notify NTTA of any perceived material deviation from the Final Plans.

E. Transfer of Easement Interests in County Road

Upon completion of construction of the County Road, NTTA will convey to the County a permanent and perpetual easement for operation and maintenance of the County Road in and on the ROW in the Service Road Segment; such conveyance will be made under an assignment of easements without warranty.

**ARTICLE 8
COUNTY OPERATION AND MAINTENANCE OBLIGATIONS**

A. County Operation and Maintenance Responsibilities

1. Upon completion of construction of the County Road, the County shall assume at its own expense all responsibility to operate, maintain, police, regulate and provide public safety functions for the County Road. Without limiting the generality of the foregoing, the County shall assume all responsibility to:

(a) repair and maintain the County Road, including all traffic signal systems, luminaires, other illumination structures, and foundations therefor, and, as necessary, plan, design, procure, install and maintain any of such items that become required after NTTA completes construction of the County Road;

(b) repair and maintain all storm water conduits and receivers, both open and closed, on, along and across the County Road and maintain any drainage, utility, right-of-way or other easements situated thereon;

(c) maintain all unpaved portions of the County Road ROW, including keeping vegetation mown, maintaining any landscaping and irrigation systems, and removing,

collecting and disposing of unauthorized signs, debris and trash accumulated in the County Road ROW;

(d) maintain and, as necessary, modify guardrail and fences, if any, along the County Road;

(e) maintain and, as necessary, modify or supplement all traffic regulatory and directional signs and all pavement traffic markings on the County Road;

(f) furnish all policing, sweeping, flushing, snow/ice control services and other public safety services on the County Road;

(g) consult with NTTA to ensure that driveway and street connections to the County Road licensed, permitted, and regulated by the County will not adversely affect the possible design and construction of Main Lanes and ramps for Phase 4B;

(h) provide fire, "haz-mat," and EMS response for the County Road; and

(i) until NTTA commences construction on the Main Lanes of Phase 4B, perform the foregoing maintenance operations for all other Phase 4B right-of-way that is acquired by NTTA and is located in the County.

2. In addition to the above-described routine maintenance, the County shall be responsible for and shall undertake all capital or major repairs and maintenance of the County Road, including, by way of example only, roadway surface overlays, required to maintain the County Road in a safe and efficient condition in accordance with NTTA standards for other DNT frontage roads.

3. The County acknowledges and agrees that NTTA shall have no responsibility or obligation to operate, maintain, police, regulate and provide public safety functions for the County Road.

4. Upon request of the County, NTTA shall provide the County, at the County's expense, as-built plans for the County Road, to assist in the County's operation and maintenance of the road.

5. If the County fails to maintain the County Road in accordance with its obligations under this Agreement, NTTA, after giving reasonable notice and opportunity to the County to cure such failure, may perform any maintenance required for the safe and efficient operation of the County Road, and, upon demand, the County shall remit to NTTA all costs incurred by NTTA in such performance.

6. The Parties' obligations under this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 MISCELLANEOUS

A. Northbound Service Road

If NTTA constructs, or enters into an agreement with Collin County, Texas, or any other party to construct a roadway suitable for use as a northbound service road for Phase 4B (the "Parallel Road"), NTTA will calculate NTTA's monetary or in-kind expenditures for the design and construction of the Parallel Road, exclusive of internal project management and administration or any other NTTA expenditures not included in Project Costs under this Agreement. Such NTTA expenditures for the Parallel Road are defined as the "NB Service Road Contribution." If NTTA determines that, after accounting for the time-value of money and other applicable economic principles, the NB Service Road Contribution exceeds NTTA's monetary or in-kind expenditures for the County Road (exclusive of internal project management and administration or any other NTTA expenditures not included in Project Costs under this

Agreement), NTTA will remit to the County the amount of such excess, as reasonably determined by NTTA after consultation with the County.

B. Subsequent Agreements

If NTTA determines, in its sole discretion, that Phase 4B is feasible as a turnpike project, the County agrees to enter into such agreement(s) with NTTA as may be necessary for the construction, operation and maintenance of Phase 4B as a turnpike project. Although the precise terms of the Subsequent Agreements shall be negotiated at a later time, none of those terms shall conflict with any provision of this Agreement without the specific agreement of the Parties to the contrary.

C. Failure to Commence Phase 4B Main Lanes.

If NTTA does not commence construction of any portion of the Main Lanes of Phase 4B by January 1, 2025, NTTA, at its option, may at any time thereafter elect to transfer all of its fee and other interests in and to Surface Road Segment ROW to the County, and the County agrees to accept such transfer.

D. Recitals

The County and NTTA acknowledge and agree that (a) the recitals in this Agreement are true and correct in all material respects, (b) form the basis upon which the Parties negotiated and entered into this Agreement, and (c) reflect the intent of the Parties with regard to the subject matter of this Agreement. If it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be given full effect.

E. Liability Issues

1. Each Party shall be liable to the other Party for the first Party's failure to perform its obligations in accordance with the terms of this Agreement. Each Party will provide the other

Party with reasonable notice of and opportunity cure any such failure. Without limiting the generality of the foregoing, if at any time the County shall be in default of its payment obligations under this Agreement, and such default is not cured within five (5) days after NTTA provides written notice of such default to the County, NTTA, without waiving or impairing any other remedies available to it for such default, may suspend construction operations pending the County's cure of such default and the County shall be liable for all costs incurred by NTTA in connection with such suspension.

2. Without hereby waiving any governmental immunity, official immunity, or qualified immunity generally available to any Party under Texas law with respect to third parties, each Party is and will be responsible for its own acts and deeds and for those of its respective employees, agents, contractors, subcontractors, invitees and/or any other third party for whom such Party is legally responsible in connection with bodily injury or death or property damage claimed by any third party in connection with the design or construction of the County Road. Notwithstanding the foregoing, nothing in this Agreement shall be construed to place any liability to third parties on the County, NTTA, or any of NTTA's or the County's respective employees, consultants, contractors, agents, servants, directors or officers for any alleged personal injury or property damage claimed by third parties and arising out of the evaluation, design, construction, operation, or maintenance of the County Road by either NTTA or the County.

3. Each Party agrees to bears its own legal expenses in connection with litigation brought against such Party by any person or entity (other than the other Party) that seeks to block the planning, design, construction, or operation of Phase 4B in the alignment approved by the NTTA on June 15, 2011.

4. The County will fully compensate and make NTTA whole for all costs, liability, and damage, including reasonable attorney fees, sustained or incurred by NTTA with respect to claims of third parties against NTTA arising in connection with the County's operation or maintenance of the County Road or its policing, regulating, or providing public safety functions for the County Road. To the greatest extent permitted by applicable law, the County hereby waives all defenses of governmental immunity, official immunity, or qualified immunity in connection with any claims by NTTA under this provision.

F. No Third-Party Beneficiaries; No Waiver.

This Agreement is solely for the benefit of the Parties and their successors and assigns. Nothing contained in this Agreement is intended, nor will be deemed or construed to, create or confer any rights, remedies, or causes of action in any person or entities that are not parties to this Agreement or their successors or assigns.

G. Nonapplicability of Certain County Codes

The County acknowledges and agrees that NTTA is not subject to any zoning, building and development codes and/or ordinances promulgated and enforced by the County, and that the County shall not assess against NTTA any development, impact, license, zoning, permit, building, connection or construction fee(s) of any kind with respect to the construction or operation of the County Road or Phase 4B. The County acknowledges that as a result of federal and/or state regulations, traffic control concerns, work sequencing or weather-related issues or general scheduling matters, NTTA may be required to perform construction activity at night, and the County agrees to accommodate and support such activity, if necessary, upon receiving reasonable prior notice thereof by NTTA.

H. Notices

In each instance under this Restated 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 County:

County of Denton
Attn: County Judge
110 W. Hickory St., 2nd Floor
Denton, Texas 76201-4168

In the case of NTTA:

By hand delivery or air courier:

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

By mail:

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

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

I. Complete Agreement and Amendment.

This Agreement, including any exhibits hereto, all of which are incorporated herein for all purposes, embodies the entire agreement between the Parties and there are no oral or written

agreements between the Parties, or any representations made, which are not expressly set forth herein. This Agreement may be amended only by a written instrument executed by the Parties.

J. Binding on Successors and Assigns.

This Agreement will bind the Parties and their respective successors and assigns.

K. Interpretation.

No provision of this Agreement will be construed against or interpreted to the disadvantage of any Party by any court or other governmental or judicial authority because such Party drafted or is deemed to have drafted such provision.

L. Multiple Successors.

If two (2) or more entities subsequently succeed to the rights and obligations of any Party under this Agreement, all the covenants and agreements of that Party in this Agreement will be the joint and several covenants and agreements of such multiple entities.

M. No Waiver.

The waiver by the Parties of the breach of any provision of this Agreement by a Party will in no way impair the Party or Parties right to enforce that provision for any subsequent breach thereof.

N. Choice of Law and Venue.

The laws of the State of Texas govern this Agreement and venue for any lawsuit arising under this Agreement will be proper only in Denton County, Texas.

O. Governmental Functions.

The parties acknowledge and agree that the performance by each Party of their respective obligations under this Agreement constitute governmental functions.

P. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument. A facsimile signature will also be deemed to constitute an original if properly executed.

Q. Headings.

The headings of the various sections of this Agreement are included solely for convenience of reference and are not to be full or accurate descriptions of the content thereof.

R. Additional Representations.

Each signatory represents this Agreement has been read by the Party for which this Agreement is executed and that such Party has had the opportunity to confer with its counsel.

S. Savings/Severability.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

T. Limitations

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

U. 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 County and NTTA, as applicable, represents that he or she is fully authorized to bind that entity to the terms of this Agreement.

IN WITNESS WHEREOF, the County and NTTA have executed this Agreement on the dates shown below, to be effective on the date listed above.

ATTEST:



COUNTY OF DENTON,
a political subdivision of the State of Texas

[Signature]
County Secretary

By: [Signature]
Name: Mary Horn
Title: County Judge

APPROVED AS TO FORM
[Signature]
County Attorney

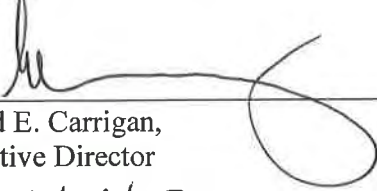
Date: 2.5.13

By: _____
Name: _____

ATTEST:


Ruby Franklin, Secretary

NORTH TEXAS TOLLWAY AUTHORITY,
a regional tollway authority


Gerald E. Carrigan,
Executive Director

Date: 2/26/13

EXHIBIT A

Depiction of the Route of the County Road

EXHIBIT A

DNT Phase 4B

