



NORTH TEXAS TOLLWAY AUTHORITY

Letter of Transmittal

Originating Director & Department: Elizabeth Mow-Project Delivery Date: 04/27/09

Vendor: Denton County

Project/Change Description:

Supplemental Agreement to FSF-75 feasibility study for the design, specifications and construction plans for 3 categories of improvements needed along the Access Roads to enhance the operation and mobility benefits of the LLB project.

I am forwarding to you:

- Contract/Agreement #
Work Authorization #
Supplemental Agreement # 5
Change Order #
Other (explain):

Resolution # 09-104 Date Board Approved: 4/27/09

Original Contract value: \$0 Bus. Diversity Goal % n/a %
Changes to date: \$0
Current Amount Requested: \$300,850.00 Total % of change: n/a %
New contract value: \$0

These are transmitted:

- For Execution (signature)
For Your Use
Review and Return
Other (explain):

These items have been reviewed by:

Table with 2 columns: Reviewer (AED, DED) and Contract Management (Initials, Date). Includes checkboxes for Procurement Services, Legal, Insurance Coordinator, and B. Div.

Elizabeth Mow 4-29-09
Originating Director's Signature

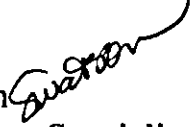
Approved Date: 4-30-09
Initials

- Need Further Info
Declined
Contact AED

Please return to the Contract Management Office for further action as needed.

TRANSMITTAL OF EXECUTED DOCUMENTS

To: Kim Hernandez
Procurement Specialist
HNTB

From: Sherry Watson 
NTTA Contracts Specialist

Date: 05/01/09

RE: Contract FSF 75
Agreement

Attached is one original copy of the above referenced agreement for distribution to the contractor. Please use this original to make additional copies as needed for your files or distribution to others as you deem necessary.

Contract management has maintained one original copy of each for the central files.

Should you require any additional information you may contact me at ext. 3098.

SUPPLEMENTAL AGREEMENT NO. 5
TO
LEWISVILLE LAKE BRIDGE CORRIDOR
FEASIBILITY STUDY INTERLOCAL AGREEMENT
(UNDERTAKING OF ADJACENT IMPROVEMENTS)
(FSF-75)

STATE OF TEXAS §
 §
COUNTY OF DENTON §

THIS SUPPLEMENTAL AGREEMENT NO. 5, by and between the NORTH TEXAS TOLLWAY AUTHORITY, a regional tollway authority and a political subdivision of the State of Texas, acting by and through its Board of Directors (the "Authority"), and the COUNTY OF DENTON, a political subdivision of the State of Texas, acting by and through its duly elected Commissioners Court (the "County"), is entered into effective as of the 30th day of Nov. 2009.

WITNESSETH

WHEREAS, the Authority and the County entered into the Lewisville Lake Bridge Corridor Feasibility Study Interlocal Agreement dated as of September 20, 2000 (the "Existing Agreement"), which describes the parties' respective obligations regarding a transportation project (the "Project") divided into two basic parts;

WHEREAS, one part of the Project is a proposed four-lane toll bridge across Lewisville Lake, defined in the Existing Agreement and herein as the "Bridge," and the other part is a series of roadways connecting the Bridge and extending from the intersection of IH-35E and Swisher Road on the west to the proposed intersection of the Dallas North Tollway with FM 2934 on the east, defined in the Existing Agreement and herein as the "Access Roads;"

WHEREAS, on the west side of the Bridge, the Access Roads consist in part of a four-lane roadway identified as Swisher Road (sometimes described as "Section 1") that continues easterly from IH-35E until it intersects with the Bridge in the City of Lake Dallas;

WHEREAS, on the east side of the Bridge, the Access Roads consist in part of a four-lane roadway identified as Eldorado Parkway (sometimes described as "Section 3") that continues easterly from the Bridge until it intersects with, and proceeds easterly along, the east-west portion of FM 720 situated in the Town of Little Elm (sometimes described as "Section 4," "Section 5" and "Section 6");

WHEREAS, the Authority currently intends to substantially complete and open the Bridge for traffic in early August 2009, thereby generating additional traffic along the Access Roads;

WHEREAS, the Authority and the County agree that improvements should be undertaken to the Access Roads and completed prior to the opening of the Bridge in order to enhance the operation and mobility benefits of the Project, and both the Texas Department of Transportation ("TxDOT"), the City of Lake Dallas ("Lake Dallas"), and the Town of Little Elm ("Little Elm") support that undertaking;

WHEREAS, while there was and is no intention to change the general allocation of costs as provided in the Existing Agreement, the Authority and the County have previously agreed that the Authority should take the lead role in the provision of certain work required on various sections of the entire Project, and not just the Bridge, and, to that end, the parties executed (1) that certain letter agreement approved by the County by Court Order No. 02-0662 dated October 15, 2002, and which was accepted by the Authority on November 1, 2002 (the "Letter Agreement"), (2) Supplemental Agreement No. 1 dated as of November 21, 2001 and approved by the County by Court Order No. 05-0429, dated July 19, 2005 (the "First Supplemental Agreement"), (3) Supplemental Agreement No. 2 dated July 28, 2005 and approved by the County by Court Order No. 05-0611, dated August 30, 2005 (the "Second Supplemental

Agreement”), (4) Supplemental Agreement No. 3 dated October 19, 2005 and approved by the County by Court Order No. 05-0869, dated November 29, 2005 (the “Third Supplemental Agreement”), and (5) that certain letter agreement dated February 23, 2006 by and behalf of the Authority and the County approving design changes to Section 3 resulting in additional costs of \$44,954.00 and approved by the County by Court Order No. 06-0221, dated March 21, 2006 (the “Fourth Supplemental Agreement”), the First Supplemental Agreement, the Second Supplemental Agreement, the Third Supplemental Agreement, and the Fourth Supplemental Agreement being collectively referred to as the “Previous Supplemental Agreements”;

WHEREAS, the Authority and the County desire to again amend the Existing Agreement, as amended by the Letter Agreement and the Previous Supplemental Agreements, with respect to the necessary temporary improvements at the Intersection; and

WHEREAS, the County, by Court Order No. 09-0276 dated April 21, 2009, has authorized the County to enter into this Supplemental Agreement No. 5 and to perform its obligations hereunder.

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 being hereby acknowledged, the Authority and the County agree as follows:

1. Approval, Design and Construction of the Adjacent Improvements. The Authority, at its cost, has designed, and prepared the construction plans and specifications for, three (3) categories of improvements needed along the Access Roads (the “Plans”) to enhance the operation and mobility benefits of the Project, consisting of the following:

- (a) Swisher Road improvements:
 - (i) Add northbound right-turn lane on IH-35E frontage road at Swisher Road; and
 - (ii) Add traffic signal at Swisher Road and Shady Shores Road intersection;
- (b) FM 720 improvements:
 - (i) Add a turn-lane on each leg of the existing FM 720-Eldorado Parkway intersection; and
 - (ii) Overlay and re-stripe intersection;
- (c) Eldorado Parkway improvements:
 - (i) Upgrade existing 72" culvert; and
 - (ii) Overlay and re-stripe Eldorado Parkway;

all as shown on Exhibit A attached hereto and made a part hereof (the "Adjacent Improvements"), which Plans have been reviewed and approved by the County. Additionally, the Authority has obtained all necessary approvals from TxDOT, Lake Dallas, Little Elm, and other necessary parties regarding said design and construction. The Authority (or, as provided in Paragraph 4 hereof, Little Elm) shall promptly advertise and take bids on the Plans in accordance with its standard letting practice and award and administer the necessary construction contract(s) (collectively, the "Construction Contract") and use all reasonable efforts to complete the Adjacent Improvements prior to the opening of the Bridge.

2. Reimbursement for the Adjacent Improvements. The total, currently estimated cost to construct the Adjacent Improvements is Six Hundred One Thousand Seven Hundred Dollars (\$601,700.00). The County agrees to reimburse the Authority for fifty-percent (50%) of the Authority's (or, as provided in Paragraph 4, Little Elm's) actual costs under the Construction Contract. Invoices complying with the terms of this Supplemental Agreement No.

5 shall be due and paid to the Authority within thirty (30) days from their receipt by the County, together with reasonably adequate supporting documentation, regardless of whether said invoice is issued prior to this Supplemental Agreement No. 5 becoming fully executed. Invoices will not be submitted by the Authority to the County under this Supplemental Agreement No. 5 more frequently than once in any calendar month. The Authority may stop construction of the Adjacent Improvements if nonpayment by the County of the full amount of any compliant invoice continues for more than forty-five (45) days from the County's receipt thereof. The Authority may offset amounts it owes the County against amounts owed by the County to the Authority under this Supplemental Agreement No. 5.

3. Operation and Maintenance of the Adjacent Improvements. Upon completion of the Adjacent Improvements, all of the Authority's obligations relating thereto shall be conclusively deemed fully satisfied and complete. The County, working with TxDOT, Lake Dallas, and Little Elm, agrees to provide or arrange for the operation and maintenance of the Adjacent Improvements at no cost to the Authority in accordance with the allocation of responsibilities provided below:

- (a) Operation and Maintenance Responsibilities of TxDOT:
 - (i) The northbound right-turn lane on IH-35E frontage road at Swisher Road; and
 - (ii) The FM 720-Eldorado Parkway intersection;
- (b) Operation and Maintenance Responsibilities of Lake Dallas:
 - (i) The traffic signal at Swisher Road and Shady Shores Road intersection;
- (c) Operation and Maintenance Responsibilities of Little Elm:
 - (i) The improved culvert under Eldorado Parkway; and
 - (ii) The overlay of existing Eldorado Parkway.

This Supplemental Agreement No. 5 shall neither impose upon nor create for the Authority any responsibility for (i) the proper operation or maintenance of the Adjacent Improvements, including any costs resulting therefrom, or (ii) the police enforcement required for securing compliance with the traffic signalization, speed limits, or other matters related to the Adjacent Improvements.

4. **Performance by Little Elm.** The County and the Authority acknowledge and agree that the Authority may elect in its discretion to have all or a portion of its construction obligations under this Supplemental Agreement No. 5 performed by Little Elm pursuant to a separate agreement between those two parties (the "Little Elm Agreement"). The County's obligations under this Supplemental Agreement No. 5, including its reimbursement obligations under Paragraph 2 above, shall be unaffected by Little Elm's performance of the Authority's obligations, provided that the County shall have no payment or other obligations under the Little Elm Agreement.

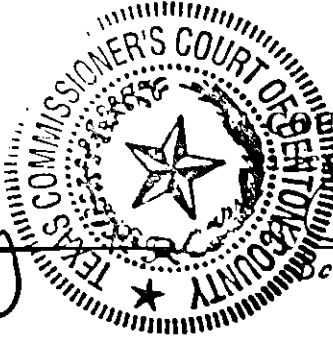
5. **Authorization.** Each party to this Supplemental Agreement No. 5 represents to the other that it is fully authorized to enter into this Supplemental Agreement No. 5 and to perform its obligations hereunder, and that no waiver, consent, approval, or authorization from any third party is required to be obtained or made in connection with the execution, delivery, or performance of this Supplemental Agreement No. 5. Each signatory on behalf of the County and the Authority, as applicable, is fully authorized to bind that entity to the terms of this Supplemental Agreement No. 5.

6. **Full Force and Effect.** Except as amended in the Letter Agreement, the Previous Supplemental Agreements, or hereby, all terms of the Existing Agreement shall remain in full force and effect as written.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the County and the Authority have executed this Supplemental Agreement No. 5 on the dates shown below, to be effective on the date listed above.

ATTEST:



By: [Signature] [Signature]
Sabbie J. Mitchell, Presiding Officer

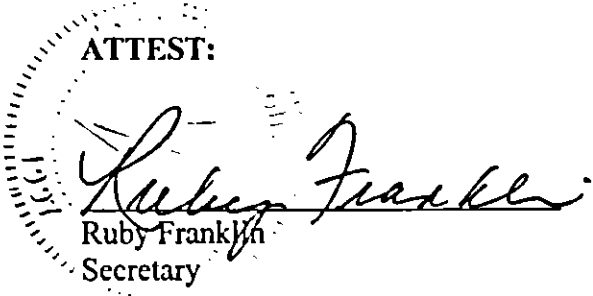
APPROVED AS TO FORM:

Date: 4-21-09

[Signature]
Assistant District Attorney

ATTEST:

NORTH TEXAS TOLLWAY AUTHORITY



[Signature]
Ruby Franklin
Secretary

[Signature]
Janice D. Davis
Interim Executive Director

Date: 4.30.09

APPROVED AS TO FORM:

Locke Lord Bissell & Liddell LLP
General Counsel

By: [Signature]
Frank E. Stevenson, II

EXHIBIT A

to

SUPPLEMENTAL AGREEMENT NO. 5

TO

LEWISVILLE LAKE BRIDGE CORRIDOR FEASIBILITY STUDY INTERLOCAL AGREEMENT

Depiction of the Adjacent Improvements

[see following pages]

