

MAINTENANCE AGREEMENT

DALLAS NORTH TOLLWAY/DALLAS PARKWAY CORRIDOR

STATE OF TEXAS)(

COUNTY OF COLLIN)(

THIS AGREEMENT entered into to be effective as of the 7 day of November 1995, by and between the **CITY OF PLANO, COLLIN AND DENTON COUNTIES, TEXAS**, a municipal corporation, hereinafter referred to as "City", and the **TEXAS TURNPIKE AUTHORITY**, an agency of the State of Texas, hereinafter referred to as "Authority".

WITNESSETH

WHEREAS, the Authority has constructed a toll facility known as the Dallas North Tollway (the "DNT") between Briargrove Lane and SH121, in the City of Plano, Texas, including the construction of toll lanes, approaches, interchanges, ramps, toll facilities, bridges, buildings, and the modification of existing pavement and structures, all to be operated and maintained by the Authority, said construction being commonly known as the Phase 2 Extension Project, and, contemporaneously with and as a component of the Phase 2 Extension Project, the Authority has constructed certain north and southbound service roads commonly known as the Dallas Parkway;

WHEREAS, the DNT will provide for the rapid movement of traffic to and from the Central Business District of Dallas to, along, and through the corporate limits of the City, a section of far north Dallas County and a section of far south Collin County not otherwise adequately served by the City's streets; and

WHEREAS, the construction and operation of the DNT, and the construction of Dallas Parkway, by the Authority, will relieve the City of the necessity of constructing additional street facilities in the area being served; and

WHEREAS, a portion of Dallas Parkway that was constructed by the Authority is situated within the corporate limits of the City, specifically, that portion of Dallas Parkway extending between the intersections of the Atchison Topeka & Santa Fe Railroad (the "ATSF Railroad") and SH121; and

WHEREAS, the Authority has requested the City to assume the operation, maintenance, regulation, and public safety functions along the northbound and southbound Dallas Parkway and its right-of-way within said corporate limits of the City; and

WHEREAS, the City recognizes the value of the DNT and Dallas Parkway as a supplement to the City's system of streets and thoroughfares, and is agreeable to assuming said operational, maintenance, regulatory, and public safety responsibilities; and

WHEREAS, the City and the Authority previously executed that certain Maintenance Agreement dated July 30, 1987, pertaining to the City's operation, maintenance, and regulation of, and public safety responsibilities for, the Dallas Parkway as it existed prior to the Phase 2 Extension Project (the "Previous Maintenance Agreement"); and

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes local governmental entities to contract with one or more state agencies to perform government functions and services under the terms thereof, and the City and the Authority have determined that it is in their best interests to assist each other in the operation, maintenance, regulation, and public safety functions along and within the DNT/Dallas Parkway corridor;

NOW THEREFORE, in consideration of these premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed, it is agreed by both parties that operational, maintenance, regulatory, and public safety responsibilities will be assumed by each as set out in the following:

A. LIMITS OF MAINTENANCE AGREEMENT

The obligations of the City and the Authority arising under this Agreement shall apply to those portions of the DNT and Dallas Parkway situated with the following limits.

1. Northbound Dallas Parkway and DNT:
Dallas Parkway Station 842+54.45 (north right-of-way ATSF Railroad) to
DNT Centerline, Station 1123+91.88 (south right-of-way line of SH121)
2. Southbound Dallas Parkway and DNT:
Dallas Parkway Station 843+40.22 (north right-of-way ATSF Railroad) to
DNT Centerline, Station 1123+91.88 (south right-of-way line of SH121)

B. TEXAS TURNPIKE AUTHORITY RESPONSIBILITIES

1. Maintain all DNT improvements including but not limited to mowing, snow/ice control, and collect and remove debris from the DNT extending from DNT Centerline Station 842+75 (north right-of-way line of ATSF Railroad) to DNT Centerline Station 1038+00 (approximately 700 feet north of the intersection of

the DNT and Spring Creek Parkway), between and including the chain link fence along the west side of northbound Dallas Parkway and the chain link fence along the east side of southbound Dallas Parkway, such area hereinafter shall be referred to as the "DNT Lanes" and as further depicted on Exhibit A attached.

2. Maintain jointly with Legacy Association all DNT improvements including but not limited to mowing, snow/ice control, and collect and remove debris from DNT Centerline Station 1038+00 (approximately 700 feet north of the intersection of the DNT and Spring Creek Parkway) to DNT Centerline Station 1115+00 at the convergence/divergence of Ramps A and B between the back of the west curb along northbound Dallas Parkway and the back of the east curb along southbound Dallas Parkway, except the metal beam guard fence and traffic control signs adjacent to northbound and southbound Dallas Parkway, as depicted on Exhibit A attached.
3. Maintain all improvements constructed by the Authority as a part of DNT on the following DNT exit and entry ramps within the limits shown on Exhibit A, attached.

FM544 (Park Blvd.)
Parker Road
Windhaven Pkwy.

Spring Creek Pkwy.
Legacy Drive
Headquarters Drive

4. Maintain guardrail placed along Dallas Parkway used to protect Ramp Toll Plazas at Park Blvd., Parker Road and Spring Creek Pkwy. as depicted on Exhibit A, attached.
5. Maintain all DNT illumination including under bridge luminaries.
6. Maintain complete bridge structures that carry the DNT lanes over city streets.
7. Maintain structural bridge components carrying city streets over the DNT.
8. Maintain all DNT trailblazers, "Left Lane Must Enter Tollway", and "No Pedestrian Bicycles or Motor Driven Cycles" signs to the DNT within the corporate limits of the City.
9. License, permit, and regulate utility construction and maintenance along and across the DNT lanes.

C. CITY OF PLANO RESPONSIBILITIES

1. Furnish, construct, install, test, repair, and maintain all Dallas Parkway street illumination, structures, including luminaries and foundations.
2. Furnish, construct, repair, install, test, and maintain traffic signalization, including traffic signal heads, controllers, structures, and foundations.
3. License, permit, and regulate all utility construction in and east of the west curb of northbound Dallas Parkway and in and west of the east curb of southbound Dallas Parkway.
4. Repair, maintain, and, as necessary, construct all storm water conduits and receivers, both open and closed, on, along, and across northbound and southbound Dallas Parkway and its east and west rights-of-way and easements limits, as depicted on Exhibit B, attached, beyond the DNT corridor right-of-way limits.
5. Maintain the surface drainage of all unpaved right-of-way areas not otherwise defined as a responsibility of the Authority.
6. Collect and dispose of debris and trash accumulated in all right-of-way areas not otherwise defined as a responsibility of the Authority.
7. Keep the vegetation mown on all right-of-way areas not otherwise defined as a responsibility of the Authority.
8. Maintain and, as necessary, supplement all pavement traffic markings on Dallas Parkway and on City streets over and under the DNT.
9. Repair and maintain and, as necessary, modify guardrail along and upon City streets crossing under and over the DNT.
10. Maintain, and, as necessary, modify all traffic regulatory and directional signs on Dallas Parkway and city streets over and under the DNT, except DNT trailblazers, "Left Lane Must Enter Tollway", and "No Pedestrian, Bicycles or Motor Driven Cycles".
11. Furnish all policing and other public safety services on Dallas Parkway and streets crossing over and under the DNT.
12. License, permit, and regulate all driveway and street connections to Dallas Parkway.

13. Provide all sweeping, flushing, and snow/ice control services on Dallas Parkway and City streets crossing over and under the DNT.
14. Repair, maintain, and provide joint sealing of all pavements, curbs, driveways, sidewalk, and rip rap, including precast pavers, on and along Dallas Parkway and City streets crossing over and under the DNT.
15. Maintain and repair and, as necessary, modify all guardrail within the defined limits of the responsibilities stated and depicted in this Agreement and its Exhibits.
16. Pay the cost of electrical energy for operating Dallas Parkway illumination and traffic signal systems.

In no event shall the City discharge, or fail to discharge, any of its obligations under this Agreement in a manner that adversely affects the safety or operation of the DNT.

D. CANCELLATION

This Agreement supersedes and terminates the Previous Maintenance Agreement.

E. TERMINATION

It is understood and agreed between the parties hereto that if and when the DNT ceases to be operated by the Authority, all of the Authority's obligations and rights hereunder shall be deemed transferred automatically to the entity exercising jurisdiction over the DNT.

F. MISCELLANEOUS

1. Effective Date. This Agreement shall be effective as of the date first written above, said date being the date on which the entire lengths of the DNT and Dallas Parkway situated within the limits of this Agreement were opened to traffic.
2. 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.

3. 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 services, 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:

Attn: _____

In the case of the Authority:

Texas Turnpike Authority
P O Box 190369
3015 Raleigh Street
Dallas, Texas 75219-0369
Attn: Executive Director

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.

4. Sole Benefit. This Agreement is entered into for the sole benefit of the Authority and the City and their respective successors and 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. Without limiting the foregoing, the reference in Section B.2. to the Authority's agreement with Legacy Association shall create no rights in the City with respect to that agreement.
5. Definition of "Maintenance". For the purposes of this Agreement, "maintenance" shall mean the repair, replacement and/or correction, as appropriate, of defective conditions of materials, equipment or property in accordance with generally accepted safety, design, and construction standards. "Maintain" and other variants of the word "maintenance" shall be similarly defined.

6. Relationship of the Parties. Nothing in this Agreement shall be deemed or construed by the parties, or by any third party, as creating the relationship of principal and agent, partnership, or joint venture between the parties.
7. Entire Agreement This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. There are no representations, understandings, or agreements relative hereto which are not fully expressed herein. No change, waiver, or discharge hereof shall be valid unless in writing and signed by an authorized representative of the party against which such change, waiver, or discharge is sought to be enforced.
8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

IN WITNESS WHEREOF, the parties have hereunto affixed their signatures, the City of Plano, Collin and Denton Counties, Texas, on the 7 day of November 1995, and the Texas Turnpike Authority on the 11th day of December, 1995.

ATTEST:

Jackie Blakey
City Secretary

CITY OF PLANO, COLLIN AND
DENTON COUNTIES, TEXAS

By Thomas W. McPherson
City Manager

ATTEST:

Jimmie Newton
Jimmie Newton
Secretary

TEXAS TURNPIKE AUTHORITY

By James W. Griffin
James W. Griffin
Executive Director

APPROVED AS TO FORM:
LOCKE PURNELL RAIN HARRELL
(A Professional Corporation)
General Counsel, Texas Turnpike Authority

By Frank C. Harrell
Date December 12, 1995

MAINTENANCE AGREEMENT

DALLAS NORTH TOLLWAY/DALLAS PARKWAY CORRIDOR

STATE OF TEXAS)(

COUNTY OF COLLIN)(

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W I T N E S S E T H

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WHEREAS, the DNT will provide for the rapid movement of traffic to and from the Central Business District of Dallas to, along, and through the corporate limits of the City, a section of far north Dallas County and a section of far south Collin County not otherwise adequately served by the City's streets; and

WHEREAS, the construction and operation of the DNT, and the construction of Dallas Parkway, by the Authority, will relieve the City of the necessity of constructing additional street facilities in the area being served; and

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In no event shall the City discharge, or fail to discharge, any of its obligations under this Agreement in a manner that adversely affects the safety or operation of the DNT.

D. CANCELLATION

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E. TERMINATION

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F. MISCELLANEOUS

1. Effective Date. This Agreement shall be effective as of the date first written above, said date being the date on which the entire lengths of the DNT and Dallas Parkway situated within the limits of this Agreement were opened to traffic.
2. 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.

3. 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 services, 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:

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Attn: _____

In the case of the Authority:

Texas Turnpike Authority
P.O. Box 190369
3015 Raleigh Street
Dallas, Texas 75219-0369
Attn: Executive Director

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.

4. Sole Benefit. This Agreement is entered into for the sole benefit of the Authority and the City and their respective successors and 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. Without limiting the foregoing, the reference in Section B.2. to the Authority's agreement with Legacy Association shall create no rights in the City with respect to that agreement.
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6. Relationship of the Parties. Nothing in this Agreement shall be deemed or construed by the parties, or by any third party, as creating the relationship of principal and agent, partnership, or joint venture between the parties.
7. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. There are no representations, understandings, or agreements relative hereto which are not fully expressed herein. No change, waiver, or discharge hereof shall be valid unless in writing and signed by an authorized representative of the party against which such change, waiver, or discharge is sought to be enforced.
8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

IN WITNESS WHEREOF, the parties have hereunto affixed their signatures, the City of Plano, Collin and Denton Counties, Texas, on the 17 day of November, 1995, and the Texas Turnpike Authority on the 14th day of December, 1995.

ATTEST:

Justin Blakely
City Secretary

CITY OF PLANO, COLLIN AND
DENTON COUNTIES, TEXAS

By *Thomas H. McDaniel*
City Manager

ATTEST:

Jimmie Newton
Jimmie Newton
Secretary

TEXAS TURNPIKE AUTHORITY

By *James W. Griffin*
James W. Griffin
Executive Director

APPROVED AS TO FORM:
LOCKE PURNELL RAIN HARRELL
(A Professional Corporation)
General Counsel, Texas Turnpike Authority

By *Frank Bennett*
Date December 12, 1995