

**TEXAS
TURNPIKE
AUTHORITY**



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Dallas, Texas 75219
Phone 214/522-6200
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November 9, 1993

The Honorable Ron Harris
County Judge
Collin County
210 McDonald St., 6th Floor
McKinney, TX 75069

The Honorable Bob Warren
Mayor
City of Frisco
P.O. Box 177
Frisco, TX 75034

RE: DNT 210 - Preliminary Schematic Design
As Const Dallas North Tollway Extension Phase 3

Gentlemen:

The agreement among the City of Frisco, Collin County, and the Texas Turnpike Authority providing for the preliminary schematiac design of DNT Ph 3 has been executed by all parties. We are returning two copies of the fully executed document for your files and are retaining copies for our files. Other agreements now are being executed among the Authority and its consultants that will allow work to begin pursuant to the provisions of DNT 207.

Yours very truly,

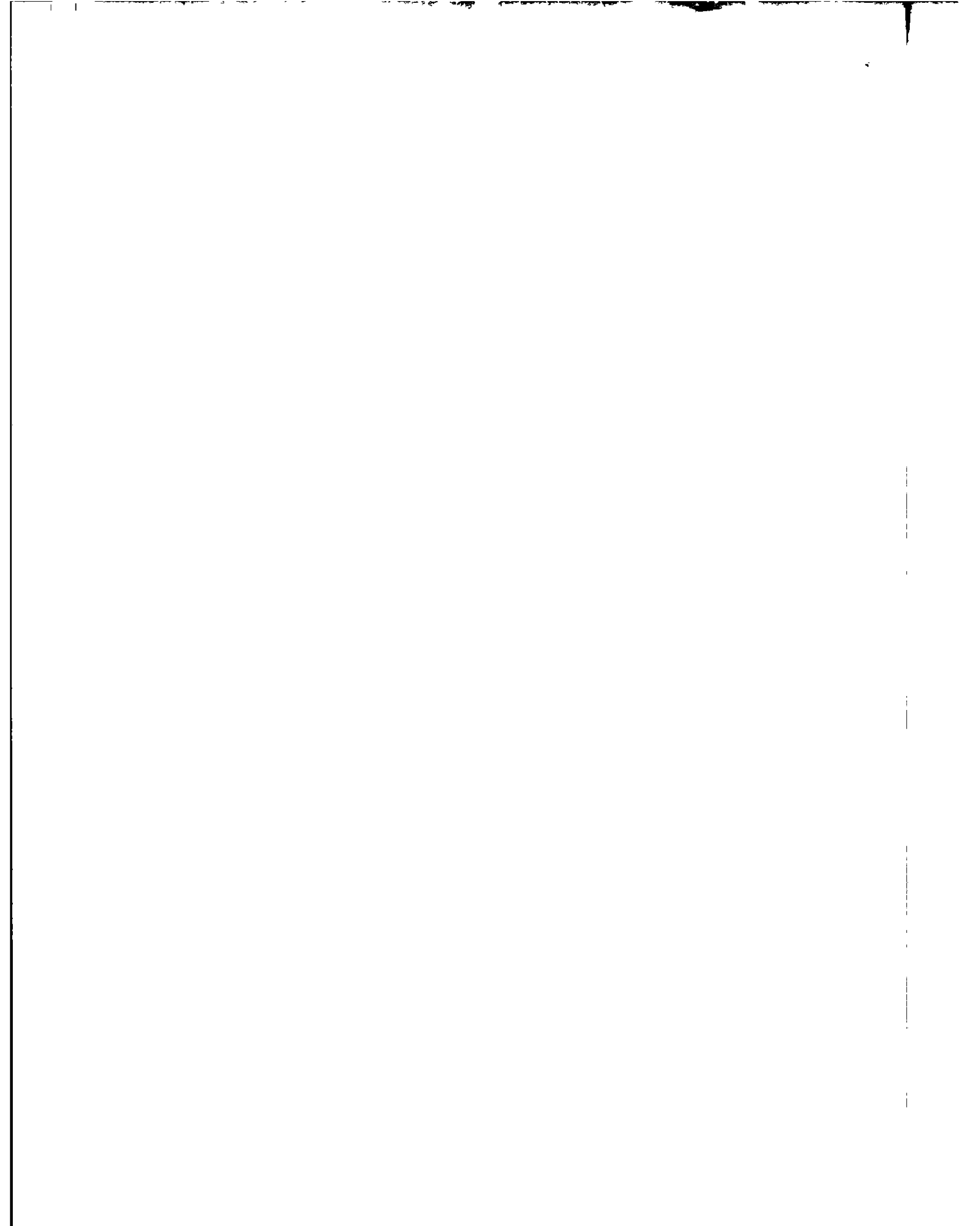
James W. Griffin
James W. Griffin, P.E.
Deputy Director

cc: John Ramming
Locke Purnell Rain Harrell
Harry Kabler
HNTB

Enclosure
nlg

MEMBERS: LUTHER G. JONES, JR., CHAIRMAN, CORPUS CHRISTI • MICHAEL Y. CHOU, VICE CHAIRMAN, HOUSTON
ANNE S. WYNNE, AUSTIN • HENRY R. MUNOZ, III, SAN ANTONIO • LORRAINE PERRYMAN, ODESSA • TOMAS CARDENAS, JR., EL PASO
DAVID E. BERNSEN, BEAUMONT • JERE W. THOMPSON, JR., DALLAS • WILLIAM MAHOMES, JR., DALLAS • RAUL A. BESTEIRO, JR., BROWNSVILLE
NATHELYNE A. KENNEDY, HOUSTON • PHILIP MONTGOMERY, DALLAS • JOHN B. RAMMING, EXECUTIVE DIRECTOR • HARRY KABLER, SECRETARY-TREASURER

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AGREEMENT
BY AND AMONG
THE CITY OF FRISCO, THE COUNTY OF COLLIN,
AND
TEXAS TURNPIKE AUTHORITY

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**AGREEMENT BY AND AMONG THE CITY OF FRISCO,
THE COUNTY OF COLLIN, AND TEXAS TURNPIKE AUTHORITY**

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THE STATE OF TEXAS §
 §
COUNTY OF COLLIN §

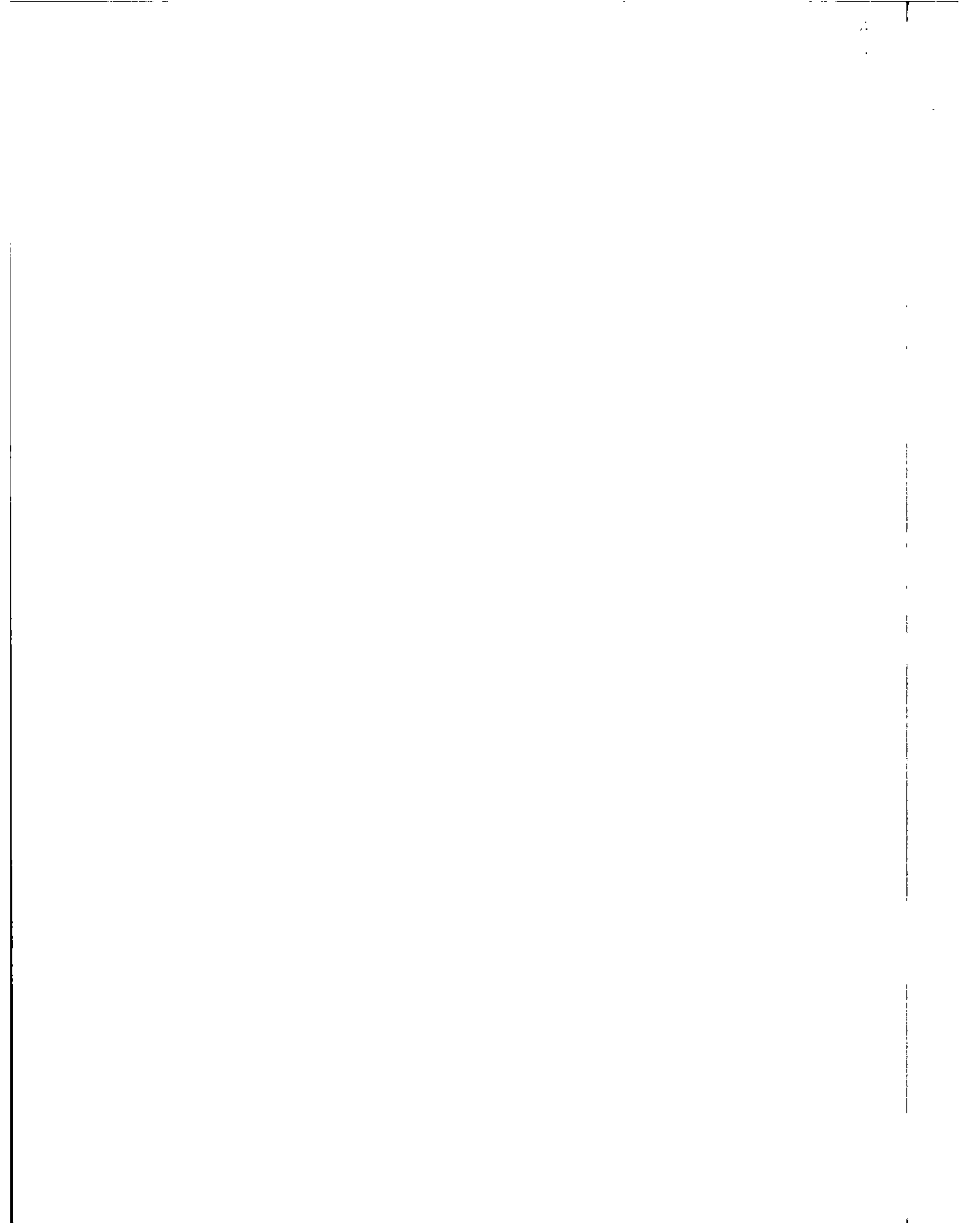
AGREEMENT BY AND AMONG THE CITY OF FRISCO,
THE COUNTY OF COLLIN, AND TEXAS TURNPIKE AUTHORITY

THIS AGREEMENT is entered into as of the 7th day of September, 1993, by and among CITY OF FRISCO, a municipal corporation organized and existing under the laws of the State of Texas (the "City"), COUNTY OF COLLIN, a political subdivision of the State of Texas (the "County"), and TEXAS TURNPIKE AUTHORITY, an agency of the State of Texas organized and existing under the laws of the State of Texas (the "Authority");

W I T N E S S E T H:

WHEREAS, the Authority currently is improving, extending, and enlarging the Dallas North Tollway following, generally, the existing rights-of-way of Dallas Parkway, Addison Road, and Bishop Road between Briargrove Lane and SH-121, said improvement, extension, and enlargement to include the construction of tollway lanes, service roads, approaches, interchanges, ramps, toll facilities, bridges, and buildings, and, where appropriate, the modification of existing structures, all of said improvement, extension, enlargement, and modification being known as the Dallas North Tollway Extension Project, Phase 2 (the "Phase 2 Extension"), and all being conducted in conformance with the provisions of Acts 1953, 53rd Leg., Ch. 410, as amended (article 6674v, Title 116, Texas Revised Civil Statutes), hereinafter referred to as the "Turnpike Act";

WHEREAS, the City and the County have determined that the future northward extension of the Dallas North Tollway beyond SH-



121 is in the best interest of their citizens, and the City Council of Frisco and the Commissioners Court of Collin County each have passed Resolutions requesting that the Authority continue in its joint effort with the City and the County to evaluate, and preliminarily plan and develop, a proposed Dallas North Tollway Extension Project, Phase 3 (the "Phase 3 Extension") which, if constructed, would extend the Dallas North Tollway northward from SH-121 to SH-380;

WHEREAS, the City and the County have requested that the Authority provide for the completion of the conceptual schematic design for the Phase 3 Extension between SH-121 and SH-380, and have agreed to provide for the preparation and delivery to the Authority of survey plats and legal descriptions of the property required to provide the Authority with a three hundred (300) foot wide strip of right-of-way between SH-121 and SH-380, which is of sufficient width to construct thereon six (6) lanes of service roads and six (6) lanes of controlled access tollway lanes as part of the Phase 3 Extension, together with survey plats and legal descriptions of all easements required in connection with said Phase 3 Extension;

WHEREAS, the City and the County additionally desire for the Authority to evaluate and design one (1) service road between SH-121 and the point of divergence of the proposed alignment of the Phase 3 Extension from the South Fifth Street corridor in Frisco, a distance of approximately 2.9 miles, and to construct said service road after completion of the Phase 2 Extension, which

service road shall serve as a feeder to, and an extension and enlargement of, the Dallas North Tollway;

WHEREAS, the City and the County also are willing to provide for the conveyance to the Authority, at no cost to the Authority, of the property and easements described in the preceding recitals which are required in connection with the construction of the Phase 3 Extension and the referenced service road;

WHEREAS, the Authority is willing to (a) continue its evaluation, planning, and design of the Phase 3 Extension, (b) evaluate and design the proposed service road, and (c) perform other work and provide additional commitments all as more particularly described, and for the consideration expressed, in this Agreement; and

WHEREAS, the Interlocal Cooperation Act, Article 4413(32c) of the Texas Revised Civil Statutes, authorizes local governmental entities to contract with one or more state agencies to perform governmental functions and services under the terms thereof, and the City, the County, and the Authority have determined that mutual benefits and advantages can be obtained by formalizing their agreement as to the matters addressed herein.

NOW, THEREFORE, in consideration of these premises and the mutual benefits and advantages accruing to the City, the County, and the Authority, and other good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged, the parties hereto agree as follows:

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ARTICLE I.

Obligations of the Authority

Section A. Aerial Photogrammetry. The Authority shall authorize and direct Dallas Aerial Surveys, Inc. to perform, at no cost to the City or the County, those aerial photogrammetry and ground control survey services required for the Authority's general consulting engineer, Howard Needles Tammen & Bergendoff (the "General Consultant"), to complete the studies and conceptual designs described in Section I.(B) below. The Authority shall accomplish this task by issuing Supplemental Agreement No. 2 to the Authority's Contract DNT 189.

Section B. General Consultant. The Authority shall instruct the General Consultant to, at no cost to the City or the County, (1) prepare and evaluate conceptual schematic designs for the controlled access lanes, service roads, and other features of the Phase 3 Extension between FM 720 and SH-380, and (2) evaluate and, if appropriate in the judgment of the General Consultant and the Authority, revise the previously completed conceptual schematic designs for the Phase 3 Extension between SH-121 and FM 720 in the manner suggested by the City and/or the County to promote the dedication of right-of-way pursuant to Section II.(B) below. The Authority shall accomplish this task by issuing Supplemental Agreement No. 10 to the Authority's Contract DNT 78A.

Section C. TTA General Counsel. The Authority shall authorize and direct its general counsel, Locke Purnell Rain Harrell (A Professional Corporation) (the "TTA General Counsel"),

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to draft and/or review all documents necessary or desirable to effect the conveyance of the fee and easement interests to be provided by the City and the County pursuant to Section II.(B) hereof. The foregoing services to be performed by the TTA General Counsel shall include, in cooperation with the City and the County, the clearing of title to property and easements to be conveyed to the Authority pursuant to Section II.(B) hereof, as necessary. The TTA General Counsel shall review the status of title for the property to be conveyed or encumbered by an easement and shall prepare all applicable legal documents, including deeds, easement agreements, and partial releases, to be delivered to the City and the County for subsequent transmittal to the affected owners.

Section D. Service Road Design. Provided that sufficient uncommitted capital funds are available from the Series 1989 and 1990 bond issuances subsequent to the delivery of the certificate of completion for the Phase 2 Extension as required in the applicable trust indentures, the Authority shall retain and direct a civil section engineer acceptable to the Authority to design as two-lane service road (the "Service Road") to operate as a bidirectional street and subsequently to be included as a portion of a one-way two-lane service road comprising part of the Phase 3 Extension. The Service Road shall extend from south to north a distance of approximately two and nine-tenths (2.9) miles from SH-121 to the point of divergence of the proposed right-of-way for the Phase 3 Extension and South Fifth Street in the City of Frisco.

Section E. Service Road Construction. Upon completion of the Phase 2 Extension, the Authority shall instruct its traffic and revenue engineer, acting in accordance with and under the provisions of the 1989 and 1990 trust indentures, to evaluate the impact on both accessibility to and the level of patronage of the Dallas North Tollway by the construction of the Service Road. If the traffic and revenue engineer determines that the construction of the Service Road will operate as a beneficial extension and feeder to the then-completed Phase 2 Extension and will not decrease the net revenue otherwise generated by the Dallas North Tollway, the traffic and revenue engineer shall certify same in writing to the Authority. In that event, provided that sufficient uncommitted capital funds are available from the Series 1989 and 1990 bond issuances subsequent to the delivery of the certificate of completion for the Phase 2 Extension as required in the applicable trust indentures, and further provided that the City and County have provided sufficient right-of-way and easements for the construction of the Service Road in accordance with clause (3) of the first sentence of Section II.(B) hereof, the Authority shall provide for the construction of the Service Road by contractors selected and approved by the Authority. The design, grade, and alignment of the Service Road shall be determined by the Authority in its sole discretion, but only after reasonable consultation with the City and the County.

Section F. Reimbursement by the Authority. Provided that sufficient uncommitted capital funds are available from the Series



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1989 and 1990 bond issuances subsequent to the delivery of the certificate of completion for the Phase 2 Extension as required by the applicable trust indentures, the Authority shall reimburse the City and the County for all amounts paid to the professional surveying firm described in Section II.(A) for the performance of the work therein described.

Section G. Conveyance of Streets to the City or the County.

Upon completion of the Phase 3 Extension, The Authority shall convey to the City a permanent and perpetual easement for street purposes in and to the right-of-way on which service roads comprising part of the Phase 3 Extension have been constructed within the municipal limits of the City of Frisco and shall convey to the County a permanent and perpetual easement for street purposes in and to the right-of-way on which service roads have been constructed within the jurisdiction of the County of Collin. The City and the County thereafter shall operate, maintain, regulate, and police said service roads.

Section H. Timing of Performance. The obligations of the Authority are set forth in this Article I in the order and sequence in which the Authority shall perform same, provided that the Authority shall in no event be required to commence work on any of said obligations before (1) a sufficient degree of progress has been achieved on any preceding but related obligation(s) so as to permit and facilitate the efficient and comprehensive completion of the applicable obligation, (2) the completion to the Authority's reasonable satisfaction of any of the City's and/or the County's



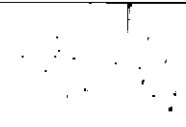
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obligations described in Article II which in the Authority's reasonable determination are useful or necessary prerequisites to the Authority's performance of its obligations; additionally, the Authority shall not be required to commence work on the obligations described in Sections I.(D), (E), (F), or (G) prior to the full completion of the Phase 2 Extension, as evidenced by the issuance of the certificate of completion by the General Consultant in accordance with the terms of the applicable trust indentures.

ARTICLE II.

Obligations of the City and the County

Section A. Surveying. The City and the County shall retain a professional surveying firm to prepare ground surveys, set or establish monuments and property corners, locate features (including all improvements of any kind), prepare survey plats, and prepare legal descriptions for all land which, in the determination of the Authority and the General Consultant, is required (1) to be acquired in fee to provide the Authority with a 300-foot wide right-of-way, or (2) to be encumbered with drainage, slope or embankment, temporary construction or detour, or other easement interests, in order to permit the construction and operation by the Authority of the Phase 3 Extension. All survey plats prepared in accordance with this Section II.(A) shall be of such a form as to permit the Title Company, as hereinafter defined, to furnish the "standard survey deletion," and shall be certified and delivered to the Authority.



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Section B. Conveyance to the Authority. The City and the County, at no cost to the Authority, shall acquire and convey to the Authority (1) fee simple ownership in and to all property required to provide the Authority with a 300-foot wide right-of-way as described in clause (1) of Section II.(A) above, (2) the appropriate easement interests of suitable lengths and widths in and to all property described in clause (2) of said Section II.(A), and (3) fee simple ownership in and to all property, and all easement interests, required to construct the Service Road. All property to be provided to the Authority pursuant to this Article II may be conveyed either to the City and/or the County and then to the Authority or directly from the then current owner to the Authority. The Authority shall receive good and indefeasible fee simple title to all property conveyed, and good title to all easement interests granted, pursuant to this Article II, subject only to those matters of title reasonably acceptable to and approved by the Authority (the "Permitted Exceptions"), and free from all liens, rights of assessments, private easements, rights of reverter, and use restrictions. All property and easement interests shall be conveyed or granted by such instruments and with such warranties of title as are required by the Title Company as a condition to the issuance of the title insurance described in Section II.(C) below. Upon obtaining title to any property or easement interest to be conveyed to the Authority pursuant to this Article II, the City and the County shall convey said property or easement to the Authority at such time as the Authority is prepared

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to commence design and construction of the service roads and controlled access tollway lanes thereon. The City and the County shall cooperate with the TTA General Counsel in reviewing and, to the extent necessary, clearing the status of title for the property to be conveyed or to be encumbered by an easement, and shall deliver all applicable legal documents prepared by the TTA General Counsel, including deeds, easement agreements, and partial releases, to the affected owners.

Section C. Title Insurance. The Authority shall select and retain one or more title insurance companies reasonably acceptable to the City and the County (whether one or more, the "Title Company") to issue, at no cost to the City or the County, owner policies of title insurance insuring the Authority's good and indefeasible title to the property to be conveyed to the Authority in fee, and good title to the easements to be granted to the Authority, pursuant to Section II.(B) above, said policies to be subject only to the Permitted Exceptions. Without limiting the foregoing, the City and the County shall provide the foregoing title insurance, at the Authority's cost, with respect to all property and easements required in connection with the construction of the Service Road.

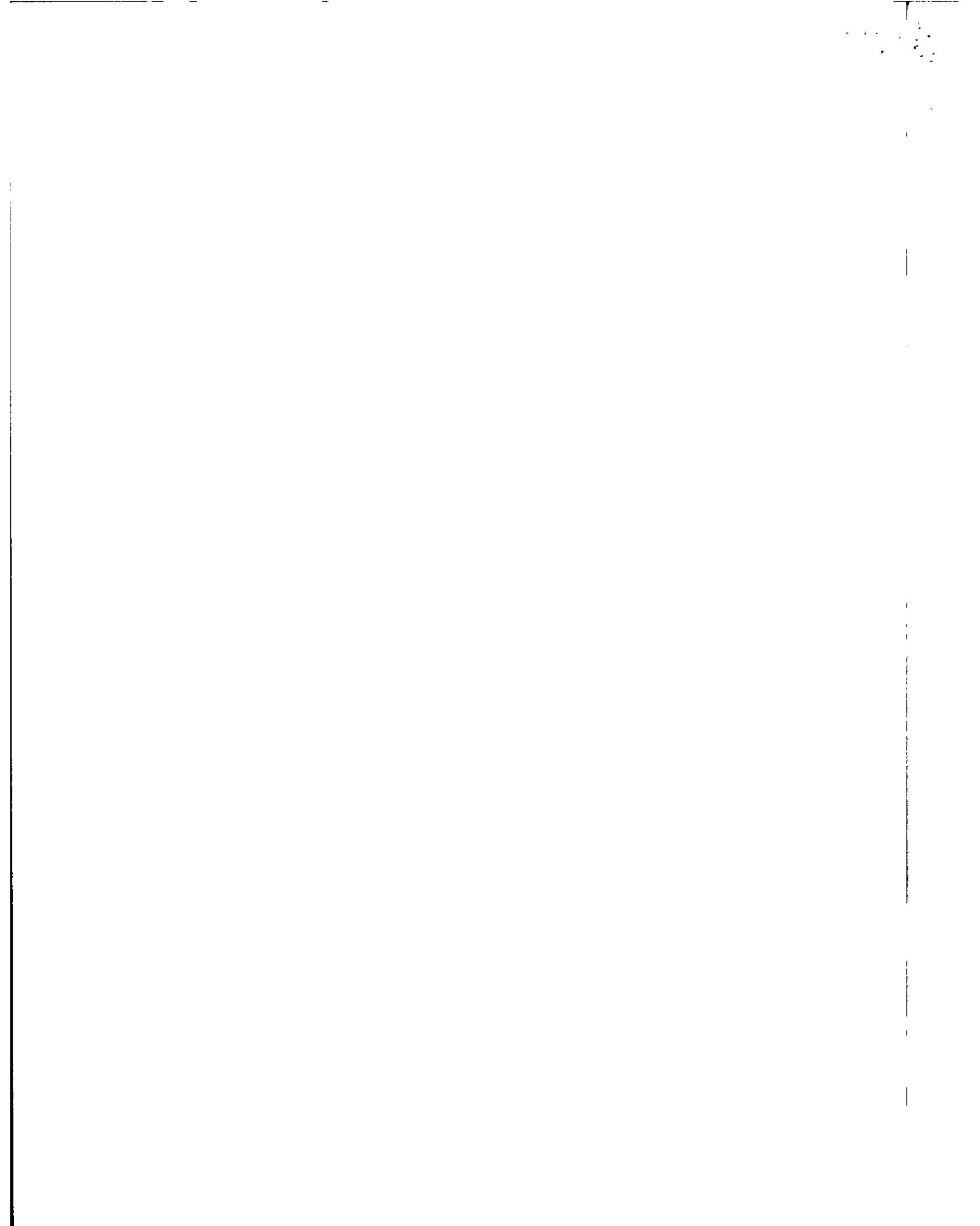
Section D. Signalization.

1. **The Work.** The City, at no cost to the Authority, shall design, install, relocate, test, maintain and, with respect to any temporary signalization equipment, remove all traffic signalization systems (the "Work") which are required in

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connection with the Phase 3 Extension. The Work shall include the design of all temporary and permanent signalization systems, the letting of any construction and surety contracts, the supervision of construction, the furnishing, installing, testing, regulating, and adjusting of all signals (complete with lamps, ballasts, ballast boxes, all conduit and interconnect cable required for the proper operation of the signals, conductors between the signals and the base of the tower or post supporting the signals, mounting brackets, cable and guys, fastenings, hardware and internal connections), and all labor, tools, equipment, and incidentals necessary to provide the signals complete in place, in a neat and workmanlike finished appearance, and ready for operation. In addition, the City and the County shall provide for the removal of all temporary signalization equipment at appropriate times and, upon completion of said removal, the City and the County shall return the property to its prior condition, free of debris and hazards. The City and the County shall prepare any plans and specifications required for the Work and shall submit said plans and specifications to the Authority for approval. Upon the Authority's review and approval of said plans and specifications, said approval to be in writing by the Project Manager for the Authority, said approved plans and specifications shall constitute the "Plans" for the purposes of this Agreement.

2. Future Agreement. Upon the request of any party to this Agreement, the Authority, the City, and the County shall enter into one or more separate signalization agreements more



specifically describing the Work, but being in all other respects consistent with the provisions of this Section II.(D).

Section E. City Utilities. The City, at no cost to the Authority, shall provide sufficient water and sanitary sewer service to all toll plazas and similar structures erected in connection with the Phase 3 Extension within the municipal limits of the City.

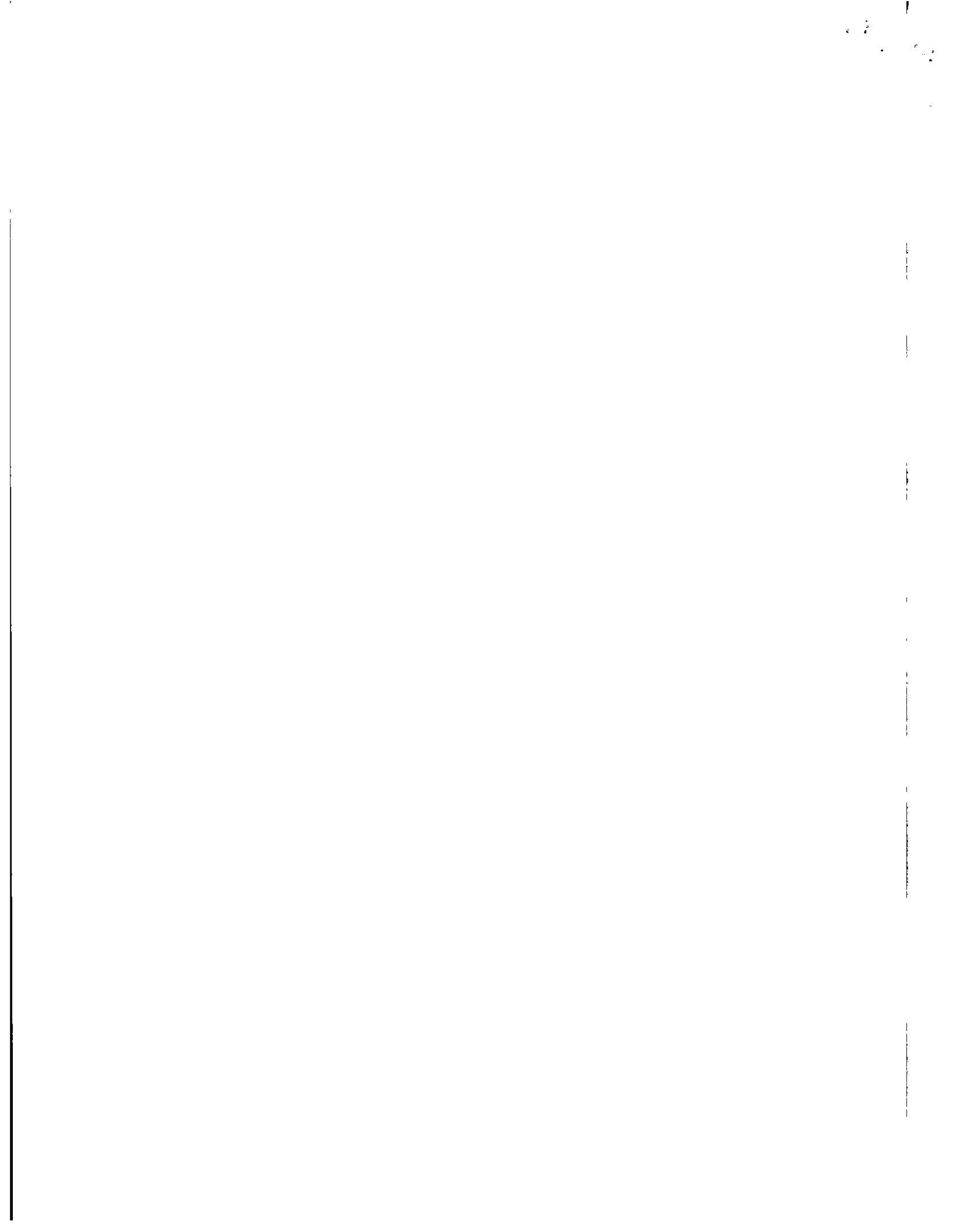
ARTICLE III.

Miscellaneous

Section A. Reliance. The City and the County irrevocably acknowledge and affirm that the Authority, its bond trustees and underwriters shall be relying upon the provisions of this Agreement in connection with either the issuance of bonds or the provision of other financing to effect the Phase 3 Extension. Notwithstanding the foregoing, the City and the County acknowledge and agree that the Authority, after evaluating the feasibility of the Phase 3 Extension in accordance with the provisions of the Turnpike Act, may be unable to, or otherwise may elect not to, construct same.

Section B. Design. Except as otherwise expressly provided in this Agreement, the Authority's determination of the design, alignment, location, grade, composition, and construction methods employed for the Phase 3 Extension or any components thereof shall be made in its discretion and shall be final.

Section C. No Agency. This Agreement does not in any way create a principal/agent relationship between the parties hereto and under no circumstances shall the City, the County, or the



Authority be considered as, or represent itself to be, an agent of any other party hereto.

Section D. Entire Agreement. This Agreement 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 hereto.

Section E. Successors and Assigns. This Agreement shall bind the City, the County, the Authority, and their successors and assigns.

Section F. Headings. The article and section headings used herein are for reference and convenience only, and shall not enter into the interpretation hereof.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed as of the day above stated.

THE CITY:

CITY OF FRISCO

By: Bob Warren

Bob Warren,
Mayor

ATTEST:

nan Parker
City Secretary

City Controller

APPROVED AS TO FORM:

Robert W. Riden
City Attorney

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THE COUNTY:

COUNTY OF COLLIN

ATTEST:

Linda R. James
Name: Linda R. James
Title: Administrative Secretary

By:

Rex Harris
Name: Rex Harris,
County Judge

APPROVED AS TO FORM:

County Attorney

THE AUTHORITY:

TEXAS TURNPIKE AUTHORITY

ATTEST:

Harry Kabler
Harry Kabler,
Secretary-Treasurer
[Seal]

By:

Luther G. Jones, Jr.
Luther G. Jones, Jr.,
Chairman

APPROVED AS TO FORM:

Locke Purnell Rain Harrell
(A Professional Corporation),
General Counsel

By:

Frank C. Jones