

WHEREAS, the City, local governing bodies and private sector interests presented their study to the Texas Transportation Commission (the "Commission") in July, 1995, and requested TxDOT's participation in the development and funding of some portion of the Southwest Parkway, and pursuant to Resolution dated February 25, 1999, the Commission committed to support the development of the Southwest Parkway; and

WHEREAS, public funding of major transportation projects continues to face significant obstacles, and the Southwest Parkway is competing for funding with many other worthwhile transportation projects; and

WHEREAS, pursuant to the provisions of Senate Bill 370 passed by the 75th Texas Legislature and codified, in part, as Chapter 366 of the Texas Transportation Code (the "Regional Tollway Authority Act"), the Authority is authorized to build and operate "turnpike projects," as that term is defined in the Regional Tollway Authority Act, throughout Collin, Dallas, Denton and Tarrant Counties, Texas; and

WHEREAS, there exists the potential for expediting the completion of the Southwest Parkway by financing a portion of that project's design and construction costs through the use of turnpike financing if the Authority can establish that all or a portion of the Southwest Parkway is a feasible turnpike project; and

WHEREAS, TxDOT (i) has determined that the Southwest Parkway is necessary to alleviate congestion and ameliorate air quality, and (ii) supports the development of the Southwest Parkway as a turnpike project if the applicable legal requirements and other conditions can be satisfied; and

WHEREAS, pursuant to Transportation Code, §201.113, the Authority has proposed to provide for improvements to the Southwest Parkway, including surveying and parcel

identification, and development of schematic designs, plans and specifications, and right-of-way maps, in order to facilitate the project's potential development as a turnpike project; and

WHEREAS, the Fort Worth City Council and the Tarrant County Commissioners Court have adopted resolutions requesting that the Authority take such actions and conduct such studies as may be necessary to determine the viability of jointly developing and financing the Southwest Parkway with a combination of turnpike revenue bonds, City funds, and federal and/or state transportation funds;

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

1. **City's and TxDOT's Support for Turnpike.** The City and TxDOT acknowledge their support for the financing, design, construction, operation and maintenance by the Authority of the Southwest Parkway as a turnpike project pursuant to the Regional Tollway Authority Act, provided the applicable legal requirements and other conditions can be satisfied. The City and TxDOT will take all actions reasonably requested by the Authority which are consistent with this Agreement in furtherance of the purposes of this Agreement. Unless and until the Authority determines that the design, construction and operation of the Southwest Parkway as a turnpike project is not feasible, neither the City nor TxDOT shall advance any alternative to or conflicting proposal for the development of the Southwest Parkway. Notwithstanding the foregoing, TxDOT may engage in project development activities necessary for a state highway improvement project prior to any conveyance or other transfer of the Southwest Parkway to the Authority.

2. **Status of Authority's Evaluation.** The Authority has provided for the preparation of a preliminary rate and revenue evaluation for the Southwest Parkway which indicates potential feasibility as a turnpike project for that portion of the Southwest Parkway extending from its interchange with IH 30 to the intersection with Alta Mesa Boulevard (the "Initial Turnpike Portion"), assuming a design of two (2) lanes in each direction within a right-of-way of approximately 220 feet in width. The City and TxDOT accept and approve the foregoing design assumptions, as may be modified in response to the requirements of the EIS as described and defined in Section 6 below and by the design features and procedure described in Section 7 below, and acknowledge that the Authority may utilize those assumptions as it and its consultants further evaluate the feasibility of the Southwest Parkway as a turnpike project.
3. **Estimated Costs.** The total estimated cost of the Initial Turnpike Portion is approximately \$180 million, inclusive of right-of-way costs and the interchanges at IH 30 and Interstate Highway 20. Based on the preliminary rate and revenue evaluation and assuming the design features described in Section 2 above, the Authority estimates that the Initial Turnpike Portion could generate sufficient revenues to support an issuance of \$65-70 million of turnpike revenue bonds. If the Authority commits to developing the Initial Turnpike Portion, the City hereby commits to acquire, or cause to be acquired, all right-of-way required for that project, save and except certain right-of-way at interchanges to be acquired by TxDOT as provided in Section 6 below, and to perform its other obligations set forth in Section 5 below. If the City elects to acquire right-of-way prior to the Authority making such commitment, said acquisition by the City shall be accomplished in a manner that complies with all federal guidelines and requirements applicable to projects receiving federal monies. TxDOT has indicated a willingness to

participate in the development of the Southwest Parkway by providing for the construction of interchanges and providing other support, all as set forth in Section 6 below and to be further specified in one or more subsequent agreement(s) between TxDOT, the City and the Authority described in the concluding paragraph of Section 7 below. The City, TxDOT and the Authority agree to work collaboratively to address any remaining funding shortfalls, including the investigation of funding from the North Central Council of Governments and/or the use of federal funds available under TEA-21.

4. **The Authority's Obligations.** The Authority, at its sole cost, agrees to provide for surveying and parcel identification along the entire length of the Southwest Parkway. Additionally, the Authority, at its sole cost, agrees to provide for the preparation of schematic design for the Southwest Parkway, including those structures to be constructed by TxDOT as provided in Section 6 below (the "Separate Structures"). The Authority, at its sole cost, will provide for the preparation of plans, specifications and estimate for the Initial Turnpike Portion, including the Separate Structures (the "PS&E"), provided that separate PS&E packages shall be prepared for the Separate Structures in order to facilitate the letting of those improvements by TxDOT, and further provided that the Authority shall provide for the reimbursement of TxDOT's construction costs for tolled features of the Separate Structures, as described in Section 6 below. The design standards to be utilized in the preparation of the schematic plans and the PS&E are set forth in Section 7 below. Additionally, the Authority, at its sole cost, shall provide for the preparation of a right-of-way map for SH 121 from the IH 30 interchange to its intersection with Farm-To-Market Road 1187. Lastly, the Authority agrees, to the extent permissible by law, to utilize its eminent domain powers in collaboration with the City's

acquisition of right-of-way, provided that the foregoing shall be at the sole cost of the City as provided in Section 5 below.

5. **The City's Obligations.** With respect to the Initial Turnpike Portion and all other portions of the Southwest Parkway that the Authority constructs as a turnpike project, the City agrees to:

- Acquire, or cause to be acquired, all right-of-way, other than right-of-way to be acquired by TxDOT as described in Section 6 below, required for the Initial Turnpike Portion, and to provide for the conveyance of said property to the Authority, subject only to such matters of title as are reasonably acceptable to the Authority;
- φ Assist and join with the Authority in obtaining the various approvals, permits and agreements required of the applicable counties, municipalities, councils of government, agencies, departments and subdivisions, both federal and state;
- φ Timely relocate City-owned utilities or, at the City's option, reimburse the Authority for the cost of relocating and adjusting all utilities owned by the City that are situated in the project right-of-way or are otherwise affected by, or in conflict with, the project, when applicable; the Authority, its engineer(s) and contractor(s), at the City's expense, shall design and undertake said relocation and the City shall provide, at its expense, quality assurance inspection services during said relocation and adjustment, all as more specifically set forth in the "Subsequent Agreement," as defined in Section 7 below;
- φ Facilitate the provision of utility services to the Southwest Parkway toll plazas and other facilities by extending, at no cost to the Authority, all City-owned utility

services to the outside boundary of the right-of-way adjacent to the proposed sites for said facilities within the corporate limits of the City;

- φ Permit the connection of storm water drainage systems built as part of the project to neighboring storm water systems belonging to the City, and the City shall provide any easements or other interests and make such enlargement or other betterment work required to effect the efficient discharge of project storm water in that manner; the City will assist the Authority in obtaining all required NPDES permits; and

φ - The City shall operate, maintain, police and regulate (including the provision of all landscaping and mowing, signalization, illumination, permits for connections and curb cuts, safety devices and signage) all service roads and other streets adjacent to, intersecting or crossing the Southwest Parkway within the corporate limits of the City in accordance with existing agreements or TxDOT policy.

The City acknowledges that the Authority is not subject to the zoning, building and development codes promulgated and enforced by the City with respect to the Authority's design and construction activities within the Southwest Parkway right-of-way and related easements, including those requirements pertaining to sound attenuation structures.

Further, in accordance with Section 366.176 of the Texas Transportation Code, the City shall not charge the Authority any development, impact, license, zoning, permit, building or construction fees of any kind with respect to the Southwest Parkway.

6. **TxDOT's Obligations.** TxDOT, subject to approval by the Texas Transportation Commission pursuant to the terms of a Minute Order, complying with all other applicable legal requirements, and entering into the Subsequent Agreement, agrees to:

- Construct, at TxDOT's sole cost, the Southwest Parkway interchanges at IH 30 and IH 20, together with all ramps and frontage roads within the limits of and serving said interchanges (the "Separate Structures"), provided, however, that the Authority shall reimburse TxDOT for the construction costs of tolled features of the Separate Structures in conformity with Title 23, §129(a)(7) of the United States Code, Article III, §52-b of the Constitution of the State of Texas and Section 366.301 of the Transportation Code, all as more particularly described in the Subsequent Agreement;
- Acquire, or cause to be acquired, all right-of-way required for the construction of the interchanges and frontage roads described above in accordance with existing TxDOT policy; and
- Prepare, at TxDOT's sole cost, Environmental Impact Statements for the Southwest Parkway (collectively, the "EIS"), which shall conform to all applicable federal and state laws, rules and policies and shall apply to separate segments of the Southwest Parkway utilizing logical termini and reasonable forecasts of potential turnpike feasibility, as reasonably determined by TxDOT, with appropriate input from the other parties to this Agreement.

7. **Design Standards.** It is the intent of the parties that the project design incorporate a high degree of aesthetic and urban design standards to the extent reasonably possible, which is consistent with and recognizes the environment of the corridor.

The Authority shall provide for the preparation of the schematic design of the Southwest Parkway as indicated in Section 4 hereof and submit it to the City and to TxDOT for review and approval. The schematic design will address the aesthetic elements of the Southwest Parkway to the extent reasonably necessary to (a) resolve any

design issues related to the matters addressed in the first paragraph of this Section 7 and (b) suitably assure the parties with respect to their funding obligations, including, without limitation, TxDOT's obligations regarding the Separate Structures. The City and TxDOT shall review the schematic design and shall respond to the Authority within forty-five (45) days following their receipt of that design. The City may propose additional amenities, design features and standards not incorporated in the initial schematic design submitted by the Authority. Further, the Authority shall not proceed to the preparation of the PS&E for the Initial Turnpike Portion until the schematic design has been approved in writing by the City and TxDOT. Once that approval has been obtained, no party may demand or effect any material change to the schematic design without the prior written consent of the other parties hereto, and the Authority and its consultants may rely upon that final schematic design in preparing the PS&E.

Except for the Separate Structures, which will be designed and reviewed in accordance with the following paragraph, the schematic design for the Southwest Parkway and the PS&E for the Initial Turnpike Portion and all connections and ramps to or from the Southwest Parkway to road facilities maintained by TxDOT shall be developed by the Authority consistent with the latest edition and revisions of the TxDOT's standards, which, specifically, will be the American Association of State Highway and Transportation Officials' (AASHTO) standards established in AASHTO's A Policy On Geometric Design of Highways and Streets, AASHTO's Guide for Design of Pavement Structures, AASHTO's Standard Specifications for Highway Bridges, including applicable interim specifications, TxDOT's Standard Specifications for Construction of Highways, Streets and Bridges, and The Texas Manual on Uniform Traffic Control Devices (TMUTCD). Once approved by TxDOT, the Authority shall

provide TxDOT and the City with written notice of any subsequent modification of the revised schematic design resulting from a field change or otherwise. Any changes that result in the schematic design no longer complying with the standards and criteria set forth above shall require TxDOT's and the City's prior approval. Additionally, TxDOT shall review and approve, as part of its review of the revised schematic design, the location of all entrances and exits of the Southwest Parkway to or from road facilities maintained by TxDOT. The Authority shall provide TxDOT with written notice of any subsequent modification to said locations, and TxDOT shall respond to the Authority within forty-five (45) days following receipt by TxDOT's District Office of schematic designs therefor if, in its reasonable judgment, any proposed location is detrimental to the safe and efficient operation of any road facility.

The PS&E for the Separate Structures (the "Separate Structures PS&E") shall be developed by the Authority consistent with the latest edition and revisions of AASHTO's Standard Specifications for Highway Bridges, including applicable interim specifications, TxDOT's Highway Design Division Operations and Procedures Manual, TxDOT's Standard Specifications for Construction of Highways, Streets and Bridges, TxDOT's Foundation Exploration Manual, TxDOT's Bridge Design Guide, and The Texas Manual on Uniform Traffic Control Devices (TMUTCD). For all items not discussed in the above-referenced documents, AASHTO's A Policy On Geometric Design of Highways and Streets shall be referenced for guidance. TxDOT shall review the Separate Structures PS&E and shall respond to the Authority within forty-five (45) days following receipt of those materials by TxDOT's District Office. TxDOT and the Authority shall utilize to the maximum practical degree the Technical Work Group process described and defined

in Section 8 below to facilitate and expedite the preparation and review of the Separate Structures PS&E and the construction of the Separate Structures.

Prior to the commencement of construction of any portion of the Southwest Parkway, the parties shall negotiate and sign one or more subsequent agreements (collectively, the "Subsequent Agreement") which shall specify (i) the procedure by which the Authority shall reimburse TxDOT for the construction costs of tolled features of the Separate Structures, (ii) the precise location and limits of the Separate Structures, and (iii) an approved design and construction schedule for the Initial Turnpike Portion, including the Separate Structures (the "Schedule"). TxDOT shall agree to use best efforts to construct and complete those portions of the Separate Structures necessary to open the Southwest Parkway to traffic on or before the date(s) indicated on the Schedule.

8. **Technical Work Group.** The City, TxDOT and the Authority shall form the Southwest Parkway Technical Work Group (the "Technical Work Group"). The Technical Work Group shall be composed of representatives from the City, TxDOT, the Authority, and the Federal Highway Administration, together with such other members representing affected governmental or quasi-governmental bodies as the City, TxDOT or the Authority designates. The Technical Work Group and the individuals serving as representatives thereto shall be responsible for review and comment on proposed standards, design features and aesthetic design of the Southwest Parkway to be incorporated into the schematic design prior to its final approval by the parties. It is understood and agreed that any other members designated by the City, TxDOT or the Authority shall be selected for the purpose of providing technical and other assistance to the Technical Work Group, and shall not have the authority to make or implement final actions or decisions binding on the Technical Work Group, the City, TxDOT, or the Authority. The Authority will

chair and host regularly scheduled meetings of the Technical Work Group which are intended to (a) encourage open and continuous dialogue between the various participants, (b) facilitate and expedite the City's and TxDOT's review of the schematic design for the Southwest Parkway, including all connections and ramps, and any subsequent changes thereto, and of the Separate Structures PS&E and the PS&E for the Initial Turnpike Portion, (c) facilitate the Authority's preparation of the Separate Structures PS&E and the monitoring of both the projected milestones and completion date for same, and (d) propose, discuss, and implement specific project design features for the Southwest Parkway prior to the final approval by the parties of the schematic design. The goal of the Technical Work Group is to provide a streamlined review and information disseminating process that is both accelerated and fully responsive to appropriate design changes submitted by the City and TxDOT. To that end, the City, the Authority and TxDOT agree to distribute in advance the materials to be discussed and reviewed by the Technical Work Group at any meeting. Once approved by the Technical Work Group, the Separate Structures PS&E and, as applicable, the PS&E for the Initial Turnpike Portion shall be deemed complete and ready for submission. The representatives designated by TxDOT, the City, and the Authority to the Technical Work Group shall be responsible for conveying project information to their respective organizations and securing all necessary authorizations as promptly as possible.

9. **Construction Obligations of the Authority; Control of Work.** Except as otherwise provided herein, and provided all legal requirements and other conditions are met, including any necessary conveyance or other transfer of the Southwest Parkway, or any portion thereof, by TxDOT to the Authority, the Authority shall be responsible for the design and construction of the Southwest Parkway, and shall have sole authority and

responsibility for (a) the design of the Southwest Parkway and all features thereof, (b) the selection of underwriters, investment bankers, financial advisors, legal counsel, consultants, construction managers, engineers, architects, surveyors, testing engineers and laboratories, inspecting engineers, geotechnical engineers and scientists, suppliers, contractors, subcontractors, vendors, sureties, and other parties retained in connection with the financing, design, construction, maintenance or operation of the Southwest Parkway, (c) the commencement, sequencing and timing of design and construction activities and other work, (d) the acceptance or rejection of work or other deliverables, and (e) the negotiation, bidding, and letting of contracts. Upon completion by the Authority, the Southwest Parkway (or applicable portion thereof) shall be operated, maintained, policed, and regulated by the Authority in compliance with the Regional Tollway Authority Act and relevant provisions of any trust agreement(s) or similar documentation evidencing or securing the Financing, as defined in Section 11 below.

10. **Public Involvement.** Without limiting the provisions of Section 1 above, any future public meetings or hearings involving the Southwest Parkway will be conducted with the City's and TxDOT's support and involvement, working in full cooperation with the Authority toward expediting the evaluation and, if appropriate, subsequent construction by the Authority of the Initial Turnpike Portion or other portion of that project. If requested by the Authority, any such meeting or hearing shall be jointly hosted and led by the City, TxDOT and the Authority. The Authority shall participate in informal public meetings and City Council briefings as reasonably requested by the City, provided that it is the shared intent of the City and the Authority that there shall not be more than five (5) such meetings, hearings and briefings described in this Section 10 in any calendar year.
11. **The Financing.** The Authority intends to finance, in part, the design and construction of

the Southwest Parkway with proceeds from the issuance and sale of one or more series of revenue bonds, which bonds also may include amounts for refunding all or certain Dallas North Tollway System revenue bonds previously issued by the Authority (collectively, the "Financing"). All of the Authority's obligations regarding the construction of the Southwest Parkway are contingent and conditioned upon the successful issuance and sale of said revenue bonds and the Authority's receipt of the proceeds from the Financing. If reasonably requested by the Authority, the City and/or TxDOT shall promptly cooperate with the Authority by providing assurances or other information necessary for obtaining the Financing, including assurances and information contained in the Official Statement issued for the Financing, provided that said assurances and/or information are, in the City's or TxDOT's reasonable judgment (as applicable), consistent with the provisions of this Agreement. Copies of this Agreement will be provided to, and reviewed and relied upon by, underwriters, investment bankers, brokerage firms and similar parties in connection with the provision of the Financing.

12. **Term of Agreement; Termination.** The term of this Agreement shall begin on the date of its execution by all parties and end on the earlier to occur of (a) the complete performance by the parties hereto of all provisions of this Agreement, or (b) the termination of this Agreement by written agreement of all parties hereto.
13. **Notices.** All notices or other communication required or permitted hereunder shall be presumed given when hand-delivered, or three (3) business days after being mailed by U.S. Mail and postage prepaid, addressed as follows:

If intended for the City, to:

Hugo A. Malanga, P.E.
Director, Transportation/Public Works
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

If intended for TxDOT, to:

Steven E. Simmons, P.E.
District Engineer
Texas Department of Transportation
P. O. Box 6868
Fort Worth, Texas 76115

If intended for the Authority, to:

Jerry N. Hiebert
Executive Director
North Texas Tollway Authority
3015 Raleigh Street
P. O. Box 190369
Dallas, Texas 75219

Either party may change its address for notices and communications hereunder by providing notice pursuant to this Section 13.

14. General Provisions.

- a. 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.
- b. This Agreement shall bind the City, TxDOT, the Authority, and their successors and assigns.
- c. The headings used herein are for reference and convenience only, and shall not enter into the interpretation hereof.

- d. No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party having or being deemed to have drafted, prepared, structured or dictated such provision.
- e. This Agreement does not in any way create a partnership, joint venture, or principal/agent relationship between the parties hereto and under no circumstances shall the City, TxDOT, or the Authority be considered as, or represent itself to be, an agent of the other party hereto.
- f. This Agreement is entered into for the sole benefit of the Authority, the City and TxDOT, and their respective successors and assigns. Nothing contained herein, or in any approval subsequently provided or action taken by any 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.
- g. The City acknowledges that the Authority must establish the feasibility of the Southwest Parkway as a turnpike project before the Authority can commit to design, construct and operate that project in accordance with the Regional Tollway Authority Act. Consequently, unless and until said feasibility is established, this Agreement creates no obligations on behalf of the Authority with respect to the ultimate construction, operation, and/or maintenance of the Southwest Parkway project.
- h. 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.

- i. The Authority agrees that, with respect to billboards or similar outdoor signs within the right-of-way that will constitute the Southwest Parkway, it will follow the policy, expressed in Resolution No. 98-048, dated July 24, 1998, to remove existing billboards and similar outdoor signs from purchased right-of-way and terminate existing billboard/sign leases to the greatest extent practical and permissible under applicable law, and further agrees that it will not allow billboards or similar outdoor signs on the Southwest Parkway right-of-way in the future. The City and the Authority agree to cooperate with one another in the City's development of a regulatory policy governing existing and future billboards and similar outdoor signs outside the Southwest Parkway right-of-way that would be within the view of the traveled portion of the facility. The intent of the parties under this subsection is to achieve a legal method to minimize or, if legally possible, to eliminate altogether the presence of billboards or similar outdoor signs that would or could be visible from the traveled portion of the Southwest Parkway.
- j. The parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver by either the City, the Authority or TxDOT of any immunities from suit or from liability that the parties may have by operation of law.
- k. This Agreement shall be construed and governed in accordance with laws of the State of Texas and the parties to this Agreement hereby stipulate that venue for

any and all causes of action between the parties and arising under this Agreement shall be State District Court in ^{TRAVIS CWH} ~~Farrant~~ ^{D-22-2000} County, Texas. ^{103/2001}

- l. The Authority and TxDOT acknowledge that the City Council of the City has not appropriated the funds to satisfy any financial obligations of the City under this Agreement. Because the City is a governmental entity and is subject to statutory, constitutional and city charter provisions, the Authority and TxDOT acknowledge and agree that the City's performance of the City's obligations under this Agreement is subject to and conditioned upon the City Council taking separate action at a later time to appropriate the funds necessary to satisfy such obligations.
- m. The City and the Authority acknowledge that because the Southwest Parkway is a designated route on the National Highway System, any contemplated use of federal funding for any portion of the project would establish certain approval and inspection rights and responsibilities in the Federal Highway Administration ("FHWA"), and would make TxDOT responsible for all coordination with the FHWA and for obtaining any necessary approvals from the FHWA for the Southwest Parkway. The City and the Authority also acknowledge that in the event of any Commission approval of TxDOT participation in the cost of the Southwest Parkway in accordance with this Agreement and the Subsequent Agreement, certain statutory and regulatory requirements must be complied with, which the parties expect will include: (1) acquiring right-of-way in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; (2) making project records and documents available to TxDOT, FHWA, and the U.S. Comptroller General; and (3) entering into a toll agreement containing the provisions required by 23 U.S.C. §129. The

City and the Authority finally acknowledge any new or revised access points to any Interstate Highway resulting from the development of the Southwest Parkway are subject to FHWA approval. The City and the Authority agree to address those and all related issues if and when the Subsequent Agreement described in Section 7 is negotiated between the parties.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the 28th of November, 2000.

CITY OF FORT WORTH

NORTH TEXAS TOLLWAY AUTHORITY

City Manager
By: Mike Broome
Assistant City Manager

By: Jerry M. Hiebert
Jerry M. Hiebert
Executive Director

ATTEST:
Gloria Perea
City Secretary *11-28-00*
C-17178
Contract Authorization
12-8-98
Date

APPROVED AS TO FORM:
LOCKE LIDDELL & SAPP LLP,
General Counsel
Frank E. Stevenson, II
Frank E. Stevenson, II

APPROVED AS TO FORM:
David L. Yett
Assistant City Attorney

**TEXAS DEPARTMENT OF
TRANSPORTATION**

Executed for the purpose and effect of activating and/or carrying out the orders, established policies, or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: Charles W. Heald
Charles W. Heald, P.E.
Executive Director

Date: 12-22-2000

STATE OF TEXAS §
COUNTY OF TRAVIS §

CITY SECRETARY
CONTRACT NO. 30547

AMENDMENT #1
TO THE
AGREEMENT BETWEEN THE CITY OF FORT WORTH,
THE NORTH TEXAS TOLLWAY AUTHORITY, AND
THE TEXAS DEPARTMENT OF TRANSPORTATION
CONCERNING THE DEVELOPMENT OF THE SOUTHWEST PARKWAY

THIS AMENDMENT IS MADE BY AND BETWEEN the State of Texas, acting through the Texas Department of Transportation, hereinafter called the State, and the City of Fort Worth, a home-rule municipal corporation, hereinafter called the City, and the North Texas Tollway Authority, a regional tollway authority and political subdivision of the State of Texas, hereinafter called the NTTA (the State, the City and the NTTA being sometimes collectively referred to as the Parties).

WITNESSETH

WHEREAS, on July 29, 1999 the Texas Transportation Commission passed Minute Order 107892, authorizing the State to construct SH 121/Southwest Parkway from IH 30 to Alta Mesa Boulevard; and,

WHEREAS, the State, the City, and the NTTA executed a contract as of November 28, 2000 to effectuate their agreement to develop SH 121/Southwest Parkway from IH 30 in the City for Fort Worth to US 67 in the City of Cleburne, such contract being identified as City of Fort Worth City Secretary Contract No. 26411 (the Original Contract); and,

WHEREAS, the North Central Texas Council of Governments Regional Transportation Council on January 8, 2004, approved Transportation Implementation Plan Modification 2004-093 allocating \$60,000,000 in funding to aid the City in the acquisition of right of way for the proposed SH 121/Southwest Parkway corridor; and,

WHEREAS, it has become necessary to amend the Original Contract; and,

WHEREAS, on June 8, 2004 the City Council of the City of Fort Worth approved Mayor & Council Communication C-20112, authorizing the City Manager to execute this Amendment, a copy of which is attached hereto and made a part hereof as Attachment A, for the acquisition of right of way along the SH 121/Southwest Parkway corridor; and,

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, the State, the City, and the NTTA do agree as follows:

AGREEMENT

Article 1.

Section 5, The City's Obligations, of the Original Contract, is hereby amended by adding the following to Section 5:

The City will acquire the right of way in accordance with Title II and III of the Uniform Relocation Assistance and Real Property acquisition Policies Act of 1970. All appraisals must be reviewed and approved by the State prior to acquisition of the right of way. The City will be reimbursed with federal funds by the State for eligible costs incurred during the right of way acquisition process, these cost include:

- Appraisal Services
- Environmental Site Assessments and Remediation Costs
- Attorney's Fees
- Land Agent Services
- Title Policies

- Relocation Expenses
- Land Purchases

Upon execution of this Amendment, the City will forward a check or warrant made payable to the Texas Department of Transportation in the amount of \$25,000. These funds will be utilized by the State for administrative costs during the right of way acquisition process.

Article 2

Section 14, General Provisions of the Original Contract is hereby amend to add the following to Section 14:

- n. **Cost Principles:** In order to be reimbursed with federal funds, the City shall comply with the Cost Principles established in OMB Circular A-87 that specify that all reimbursed costs are allowable, reasonable and allocable to the SH121/Southwest Parkway.
- o. **Inspection of Books and Records:** The Parties shall maintain all books, documents, papers, accounting records and other documentation relating to costs incurred under this Amendment and shall make such materials available to the State, the City, the NTTA and, if federally funded, the Federal Highway Administration (FHWA), and the U.S. Office of the Inspector General, or their duly authorized representatives for review and inspection at its office during the contract period and for four (4) years from the date of completion of work defined under the Original Contract, as amended by this Amendment (collectively, the Contract), or until any impending litigation, or claims are resolved. Additionally, the State, the City, the NTTA and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to the Contract for the purpose of making audits, examinations, excerpts, and transcriptions.
- p. **Compliance with Laws:** The Parties shall comply with all otherwise applicable federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner effecting the performance of the Contract. When required, the City shall furnish the State with satisfactory proof of this compliance.
- q. **Procurement and Property Management Standards:** The City shall adhere to the procurement standards established in Title 49 CFR §18.36 and with the property management standard established in Title 49 CFR §18.32.
- r. **Office of Management and Budget (OMB) Audit Requirements:** The City shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular A-133.
- s. **Civil Rights Compliance:** The Parties shall comply with the regulations of the Department of Transportation as they relate to nondiscrimination (49 CFR Chapter 21 and 23 CFR §710.405(B)), and Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60).
- t. **Disadvantaged Business Enterprise Program Requirements:** The Parties shall comply with the Disadvantaged/Minority Business Enterprise Program requirements established in 49 CFR Part 26.
- u. **Debarment Certifications:** The Parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." The Parties shall require any party to a subcontract or purchase order awarded under this contract to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification in accordance with Title 49 CFR Part 29 (Debarment and Suspension).
- v. **Lobbying Certification:** In executing this Amendment, the Parties certify to the best of their current, actual knowledge and belief, that:

- a. No federal appropriated funds have been paid or will be paid by or on behalf of the Parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The Parties shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

By executing this Amendment, the Parties affirm this lobbying certification with respect to the SH 121/Southwest Parkway and affirm this certification of the material representation of facts upon which reliance will be made. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352.

Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- w. **State Auditor:** The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under the Contract or indirectly through a subcontract under the Contract. Acceptance of funds directly under the Contract or indirectly through a subcontract under this Contract acts as acceptance of the authority of the state auditor; under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds.

A breakdown of the funding for the right of way acquisition is shown on Attachment B.

Article 3. Effect of Amendment.

All other provisions of the Original Contract that are not in conflict with this Amendment are unchanged and remain in full force and effect, including the general obligation of the City to acquire right-of-way as set forth therein.

Article 4. Signatory Warranty

The signatories to this Amendment warrant that each has the authority to enter into this Amendment on behalf of the organization they represent.

IN WITNESS WHEREOF, THE STATE, THE CITY, AND THE NTTA have executed triplicate counterparts to effectuate this Amendment, which will become effective on the date that the last party executes this Amendment.

THE CITY

ATTEST:

[Signature]
Sylvia Glover
Acting City Secretary
C-20112
Contract Authorization
Date: 6-8-2004

CITY OF FORT WORTH
[Signature]
Marc A. Ott
Assistant City Manager
Date: 7/1/04

APPROVED AS TO FORM AND LEGALITY:

[Signature]
Gary Steinberger
Assistant City Attorney
Date: 7/1/04

APPROVAL RECOMMENDED:

[Signature]
Doug Rademaker, P.E.
Director, Department of Engineering

NORTH TEXAS TOLLWAY AUTHORITY

By: *[Signature]*
Jerry Hiebert,
Executive Director
Date: 7/02/04

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: *[Signature]*
Janice Mullenix
Director of Contract Services Section
Office of General Counsel
Date: 8.2.04

APPROVED AS TO FORM:

LOCKE LIDDELL & SAPP LLP,
General Counsel
By: *[Signature]*

ATTACHMENT A
CITY RESOLUTION OR ORDINANCE

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COUNCIL ACTION: Approved on 6/8/2004 - Ordinance No. 15999

DATE:	6/8/2004	REFERENCE NO.:	C-20112	LOG NAME:	30NTTATXDOT#1
CODE:	C	TYPE:	NON-CONSENT	PUBLIC HEARING:	NO
SUBJECT:	Amendment #1 to the Agreement Between the City of Fort Worth, the North Texas Tollway Authority, and the Texas Department of Transportation for the Development of SH 121 Tollway (Southwest Parkway)				

RECOMMENDATION:

It is recommended that the City Council:

1. Authorize the City Manager to enter into Amendment #1 to the agreement between the City of Fort Worth, The North Texas Tollway Authority (NTTA), and the Texas Department of Transportation (TxDOT), in the amount of \$49,375,000. 20% of this total, in the amount of \$9,875,000, is the City's match; and
2. Approve the transfer of the City's 20% match in the amount of \$9,875,000 from the SH 121 Tollway (Southwest Parkway) Fund to the Grants Fund; and
3. Upon execution of the agreement, adopt the attached appropriation ordinance increasing estimated receipts and appropriations in the Grants Fund in the amount of \$49,375,000 from increased revenues to be received from reimbursements from TxDOT and the City's match; and
4. Authorize payment to TxDOT in the amount of \$25,000.00 for administrative costs related to this Grant.

DISCUSSION:

On January 8, 2004, the North Central Texas Council of Governments Regional Transportation Council (RTC) approved the Transportation Implementation Plan Modification 2004-093, allocating \$39,500,000 in funding to aid the City in the acquisition of right of way for the proposed Southwest Parkway Corridor. The \$39,500,000 is inclusive of the \$20,000,000 in funding approved by the RTC finance in December of 2000. This funding is part of the overall funding strategy the City has developed to pay for its obligations under the original tri-party agreement for the Southwest Parkway.

This funding is in the form of an 80%/20% reimbursement agreement whereby the City will be reimbursed for 80% of all eligible Right-of-Way expenses. The City's match is \$9,875,000.

The Texas Department of Transportation (TxDOT), the City of Fort Worth, and the North Texas Tollway Authority (NTTA) executed a contract on December 22, 2000 to effectuate their agreement to develop Southwest Parkway from IH 30 in the City of Fort Worth to US 67 in the City of Cleburne. This agreement is the vehicle through which the three parties have developed Southwest Parkway to date. Staff is recommending that the proposed RTC funding agreement take the form of an amendment to the existing agreement executed on December 22, 2000.

Amendment #1 will allow for the City to seek an 80% reimbursement for all eligible right-of-way acquisition

expenses which include, but are not limited to, appraisal services, land agent services, legal services, environmental site assessments, remediations, title commitments, and land purchases. However, prior to the project obtaining environmental clearance, as promulgated by the issuance of a Record of Decision, all acquisitions must be approved by the State and the Federal Highway Administration prior to the expenditure of federal funds.

FISCAL INFORMATION/CERTIFICATION:

The Finance Director certifies that upon approval of the above recommendations and adoption of the attached appropriation ordinance, funds will be available in the current capital budget, as appropriated, of the SH121T Southwest Parkway Fund and the Grants Fund.

<u>TO Fund/Account/Centers</u>		<u>FROM Fund/Account/Centers</u>	
(2) GR76 472221 030302943000	\$9,875,000.00	(2)	\$9,875,000.00
(3) GR76 451942 030302943000	\$39,500,000.00	(4)	\$25,000.00
(3) GR76 541100 030302943010	\$45,625,000.00		
(3) GR76 531200 030302943010	\$3,750,000.00		

Submitted for City Manager's Office by:

Marc Ott (8476)

Originating Department Head:

A. Douglas Rademaker (6157)

Additional Information Contact:

A. Douglas Rademaker (6157)

ATTACHMENTS
30NTTATXDOT1.doc

ATTACHMENT B

PROJECT BUDGET ESTIMATE AND SOURCE OF FUNDS

Description	Total Estimated Cost	Authorized Amount	Federal Participation 80% of Authorized Amount	State Participation N/A	Local Participation (the City)		
					20% of Authorized Amount	Other Participation	Actual Participation
Right of Way Acquisition	\$60,000,000	\$49,375,000	\$39,500,000	\$0.00	\$9,875,000	\$10,625,000	\$20,500,000
TOTAL	\$60,000,000	\$49,375,000	\$39,500,000	\$0.00	\$9,875,000	\$10,625,000	\$20,500,000
Payment Due Upon Execution of Agreement							\$25,000

Total participation required from the local government = \$20,500,000

SWP3
3A

CITY SECRETARY
CONTRACT NO. 31117

**AMENDMENT #2 TO
AGREEMENT BETWEEN THE CITY OF FORT WORTH,
THE NORTH TEXAS TOLLWAY AUTHORITY, AND
THE TEXAS DEPARTMENT OF TRANSPORTATION
CONCERNING DEVELOPMENT OF THE SOUTHWEST PARKWAY**

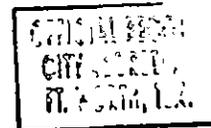
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

THIS AMENDMENT #2 (this "Amendment") is entered into as of the ____ day of December, 2004, by and between THE CITY OF FORT WORTH, a home-rule municipal corporation (the "City"), the NORTH TEXAS TOLLWAY AUTHORITY, a regional tollway authority and political subdivision of the State of Texas ("NTTA"), and the TEXAS DEPARTMENT OF TRANSPORTATION, an agency of the State of Texas ("TxDOT"), the City, NTTA and TxDOT being sometimes collectively referred to as the "Parties";

WITNESSETH:

WHEREAS, on July 29, 1999 the Texas Transportation Commission passed Minute Order 107892, authorizing TxDOT to construct SH 121/Southwest Parkway (the "Project") from IH 30 to Alta Mesa Boulevard; and

WHEREAS, TxDOT, the City, and NTTA executed that certain Agreement Between The City Of Fort Worth, The North Texas Tollway Authority, And The Texas Department Of Transportation Concerning Development Of The Southwest Parkway dated as of November 28, 2000 (the "Original Agreement") to effectuate their agreement to develop the Project from IH 30 in the City of Fort Worth to US 67 in the City of Cleburne, such contract being identified as City of Fort Worth City Secretary Contract No. 26411; and



WHEREAS, it became necessary to amend the Original ILA to address certain issues relating to the City's acquisition of right-of-way resulting from the allocation by the North Central Texas Council of Governments Regional Transportation Council of funds for that purpose, such amendment being effected by that certain Amendment #1 to the Original ILA executed by the Parties and dated to be effective as of August 2, 2004, the Original ILA as amended by said Amendment #1 being hereinafter referred to as the "ILA"; and

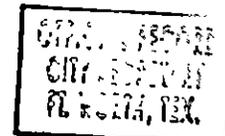
WHEREAS, it has become necessary to further amend the ILA; and

WHEREAS, the City Council of the City of Fort Worth approved Mayor & Council Communication C-20435 authorizing the City Manager to execute this Amendment; and

WHEREAS, the Board of Directors of NTTA passed Resolution No. 04114, authorizing the Executive Director to negotiate and execute this Amendment;

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

1. ILA, AS AMENDED HEREBY, REMAINS IN FULL EFFECT. The Parties acknowledge that all provisions of the ILA remain in full force and effect except as specifically modified by this Amendment.
2. ESTIMATED COSTS. Estimated costs for the Project are now \$300 million, inclusive of interchange costs but exclusive of right-of-way.
3. FUTURE AMENDMENT: THE FINAL FUNDING AGREEMENT. Prior to the award of any construction contract for the Project, the Parties shall enter into an additional amendment to the ILA that shall constitute the final funding agreement for the Project (the "Future



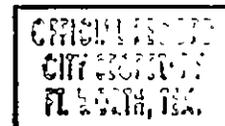
Amendment"); the Future Amendment shall allocate responsibility for anticipated construction and operation and maintenance costs for the Project, and responsibility for the payment of all timely submitted additions and change orders. Absent the agreement of the Parties to the contrary, the Future Amendment shall not conflict with, or place additional obligations on any of the Parties not described in, the ILA as modified by this Amendment

4. NTTA'S SWDG/THE CITY'S NATURE AND CHARACTER PLAN/THE PARTIES' SWP APPENDIX. NTTA has created System-Wide Design Guidelines ("SWDG") to be utilized in the design and construction of all NTTA projects. The City, through its use of a Citizens' Advisory Group (the "CAG"), has completed a Nature and Character Plan that addresses design features specifically related to the Project. After consultation among the Parties they agree that the attached "Southwest Parkway Appendix to the SWDG" (the "SWP Appendix") is an accurate reflection of desired nature and character elements of the Project that shall be incorporated into an adaptation of the SWDG for the Project. The SWP Appendix lists and generally describes the Project's features that will be designed and constructed in a manner at variance with the SWDG, provided that (a) the detailed design and development of those features will be achieved through the Master Plan process described in paragraph 6 below and (b) as indicated in the SWP Appendix, general issues regarding the placement of trees, and the use of a "splayed" coping (after due consideration of any additional engineering and construction costs that result, durability issues, and projected maintenance needs) also will be established through the Master Plan process.

5. **USE OF THE SWP APPENDIX.** The Parties agree that NTTA shall use the SWDG as amended by the SWP Appendix in its preparation of a "Corridor Master Plan" addressing nature and character elements of the Project (the "Master Plan") prior to NTTA initiating the preparation of plans, specifications and estimates for the Project (the "PS&E"); each of the Parties agrees that it will support the finalization, approval and implementation of the Master Plan provided it complies with the SWDG as amended by the SWP Appendix and will not withhold its approval for a reason or design feature at variance with or lacking from the SWP Appendix, subject to the qualifications provided in (a) the concluding sentence of paragraph 4 above and (b) in the following sentence. The Parties will not unreasonably withhold their approval during the Master Plan process of a variation from or addition to the Master Plan that (i) is proposed by a Party unconditionally agreeing to fund all additional costs associated therewith (including design, construction, right-of-way, permitting, utility adjustment, and future operational, maintenance and replacement costs) and (ii) does not result in decreased levels of safety or operational efficiency, performance and durability or otherwise conflicts with the provisions of the first or third sentence of subparagraph 6.(e) below.
6. **MASTER PLAN PROCESS.**
- (a) Prior to initiating the preparation of the PS&E, the Parties shall conduct a process that will result in the development of the Master Plan. The Master Plan will further define the appropriate nature and character elements, and the locations of those elements, including a master landscape plan, all in accordance and

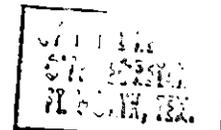
consistent with (i) the SWDG as amended by the SWP Appendix and (ii) the ILA as modified by this Amendment.

- (b) The Master Plan process team shall be composed of the Parties' staff and consultants selected to provide the necessary technical and other assistance and input to the team and authorized to make or implement final actions or decisions binding on the applicable Party after the necessary review and consultation with that Party's staff and officials. NTTA will operate as the lead agency in working with the City and TxDOT and develop a Master Plan process schedule that will require agreement by the Parties in time for the initial meeting in early February, 2005.
- (c) There will be three general collaborative planning meetings of the Parties held at the beginning, midpoint and end of the Master Plan process, as further described in the approved Master Plan process schedule. The beginning meeting is anticipated to run two days with NTTA presenting a graphic representation of the Project's nature and character elements in accordance with (i) the SWDG as amended by the SWP Appendix and (ii) the ILA as modified by this Amendment. This representation will constitute a graphic documentation that provides the Parties with a summary of items agreed upon to date, together with a listing of items that require further collaborative development by the Parties. This representation is meant to provide the Parties with a clear understanding of items that must be resolved as part of the Master Plan process. It is fully anticipated



that all of the Parties will provide additional input regarding items that require resolution during the initial two-day meeting.

- (d) The midpoint and end meetings are anticipated to be one day each. NTTA will provide documentation in advance of these meetings to facilitate a productive discussion of issues that must be resolved. The three general collaborative planning meetings discussed above are in addition to (and not in lieu of) technical meetings involving a smaller number of the Parties' representatives that are expected to occur during the Master Plan process. The City will be responsible for promptly communicating to the CAG the milestones of the approved Master Plan process schedule and receiving timely comments from the CAG. The Master Plan process will include a workshop to consider the "Trinity River Vision Master Plan" with respect to the design of the Trinity River bridges; the City may invite the Tarrant Regional Water District to attend and participate in that workshop.
- (e) The Parties agree to use best efforts to complete and fully approve the Master Plan prior to July 1, 2005. As provided in paragraph 5 above, NTTA must obtain the City's approval of the Master Plan, as evidenced by the passage of a resolution of its City Council, prior to NTTA initiating the preparation of the PS&E; NTTA also must obtain the City's approval of the PS&E as provided in paragraph 8 below. The Parties acknowledge that the Master Plan process is not intended or desired to revisit or change the geometrics of the Project or to result in any other modification that might reasonably be expected to delay or reopen the EIS process or to require a supplementation or reevaluation of the FEIS. The



Master Plan process shall build upon, and add the necessary detail to, the substantial progress previously achieved by the Parties toward finalizing the Project's design as reflected in the SWDG as amended by the SWP Appendix and in the ILA as modified by this Amendment.

7. **RIGHT-OF-WAY/UTILITY RELOCATION PLANS.** Except as otherwise explicitly provided in this Amendment, the Parties' performance of their respective obligations under the ILA shall not be postponed or suspended pending the completion and approval of the Master Plan, including without limitation the respective obligations of the City and TxDOT regarding the acquisition of right-of-way, the City's preparation of plans for the relocation of City-owned utilities and the City's relocation of those utilities.
8. **THE PS&E.** NTTA agrees that the PS&E shall document the nature and character elements contained within the Master Plan. Prior to the award of any construction contract for the Project, NTTA must obtain the City's approval of the PS&E, as evidenced by the passage of a resolution of its City Council, provided that the City shall not withhold or delay its approval if the other Parties have performed their obligations under this Amendment and the ILA (as it may be subsequently amended). NTTA also must obtain TxDOT's approval of the PS&E in accordance with the procedures typically utilized by TxDOT and NTTA regarding facilities similar to the Project and as further set forth in the ILA.
9. **ROADWAY POSTED SPEED AND DESIGN SPEED.** The Parties agree that the Project's posted speed shall be fifty miles-per-hour (50 mph) from Arborlawn to IH 30. Further, NTTA's staff shall promptly provide schematic level designs matching the Project's

design speed between Arborlawn and I35 with its 50-mph posted speed and, without limiting the foregoing, during the Master Plan process this feature will be accommodated to the greatest extent permitted under prudent engineering and project development practices.

10. **VENUE AND JURISDICTION.** NTTA agrees not to oppose federal or state court jurisdiction or venue in Tarrant County for actions brought by the City for enforcement of the terms of the ILA as amended by this Amendment (or as it may be subsequently amended).

11. **FIS COMMENT PERIOD.**

(a) This Amendment and/or the SWDG as amended by the SWP Appendix shall be referenced in the Record of Decision (the "ROD") using language identical to the following:

The City, NTTA and TxDOT have executed a document styled "Amendment #2 To The Agreement Between The City Of Fort Worth, The North Texas Tollway Authority, And The Texas Department Of Transportation Concerning Development Of The Southwest Parkway" that includes, among other things, certain nature and character elements for the project. Copies of this document are available from the City at its City Manager's Office and from NTTA at its Executive Director's office.

(b) Further, the Parties acknowledge that on October 27, 2004, the Federal Highway Administration, TxDOT and NTTA approved the final environmental impact statement ("FEIS") for the Project pursuant to the National Environmental Policy Act, 42 U.S.C. §§ 4321-4347. The FEIS contemplates an ongoing collaborative process in which various elements of the Project are to be further detailed. Included among the several agreements between the Parties that are reflected in

this Amendment are those that further the process described in Chapter 8 of the FEIS.

12. **FINANCIAL FEASIBILITY.** As provided in the ILA, NTTA must establish the feasibility of the Project as a turnpike project before NTTA can commit to design, construct and operate it in accordance with NTTA's enabling legislation. Consequently, unless and until said feasibility is established, neither the ILA, this Amendment nor any other document or communication creates any obligation on behalf of NTTA to construct, operate and/or maintain the Project.
13. **NOTICES.** The notice addresses for the Parties set forth in Section 13, Notices, of the Original ILA are hereby deleted and the following substituted in their place

If intended for the City, to:

Marc A Ott
Assistant City Manager
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

If intended for TxDOT:

by hand delivery:

Maribel P. Chavez, P.E.
District Engineer
Texas Department of Transportation
2501 SW Loop 820
Fort Worth, Texas 76133

or by mail:

Maribel P. Chavez, P.E.
District Engineer
Texas Department of Transportation
P. O. Box 6868
Fort Worth, Texas 76115

If intended for NTTA:

by hand delivery:

Jerry Hiebert
Executive Director
North Texas Tollway Authority
5900 West Plano Parkway
Suite 100
Plano, Texas 75093

or by mail:

Jerry Hiebert
Executive Director
North Texas Tollway Authority
P. O. Box 260729
Plano, Texas 75026

Any of the Parties may further change its address for notices and communications hereunder by providing notice pursuant to Section 13 of the Original ILA as amended hereby.

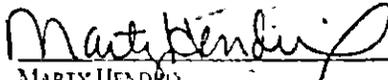
14. **MISCELLANEOUS.** The ILA, as amended by this Amendment, embodies the entire agreement between the Parties regarding the Project and there are no oral or written agreements between the Parties, or any representations made, which are not expressly set forth therein. Notwithstanding the foregoing, nothing contained in this Amendment should be construed as limiting, abrogating, superseding or otherwise amending the Parties' respective obligations arising under the ROD. The ILA, as amended by this Amendment, may be amended only by a written instrument executed by the Parties. Subsections b. through f., h. and j. of Section 14, **General Provisions**, of the Original ILA are restated and incorporated by reference herein with all references to "this Agreement" changed to "this Amendment" and to "the Authority" changed to "NTTA."

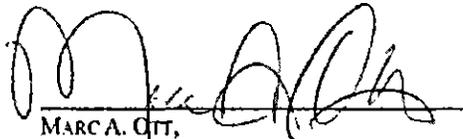
This Amendment may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, THE CITY, NTA AND TxDOT, have executed triplicate counterparts to effectuate this Amendment, which will become effective on the date that the last party executes this Amendment

ATTEST:

CITY OF FORT WORTH

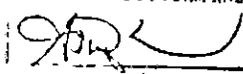

MARTY HENDRIX,
City Secretary

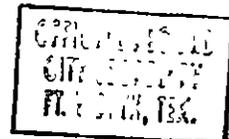

MARC A. OTT,
Assistant City Manager

C-20435
Contract Authorization

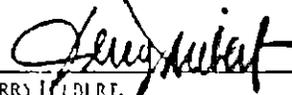
Date: December 29th, 2004

Date: December 7, 2004

... TO FORM AND LEGALITY.

Notary



NORTH TEXAS TOLLWAY AUTHORITY

By: 
JERRY I. LUDERT,
Executive Director

Date: December 29, 2004

APPROVED AS TO FORM:

LOCKE LIDDELL & SAPP LLP,
General Counsel

By: 

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: 
MICHAEL W. BEHRENS, P.E.
Executive Director

Date: December 30, 2004

