

**JOINT USE TERMINATION AGREEMENT
FOR INDUSTRIAL BLVD MAINTENANCE FACILITY**

THIS AGREEMENT is entered into between Texas Department of Transportation (**TxDOT**), formerly State Department of Highways and Public Transportation, and the North Texas Tollway Authority (**NTTA**), successor to the Texas Turnpike Authority (**TTA**).

WITNESSETH

WHEREAS, by Minute Order No. 73390 dated the 29th day of September 1977, and by Senate Bill 194 (Exhibit "A"), **TTA** transferred the Dallas Fort Worth Turnpike, now designated as IH-30, to **TxDOT**'s jurisdiction, control, maintenance and supervision; and

WHEREAS, **TTA** maintenance forces continued using the 2.3-acre **TxDOT** maintenance facility ("Area 1") located at 405 S. Industrial Boulevard, and a 1.2-acre parcel ("Area 2") located on S. Industrial Boulevard, both parcels being collectively referred to as the "Property" are situated beneath and just west of the IH-30/I-35E Interchange in Dallas, Texas (See Exhibit "B"); and

WHEREAS, **NTTA**, as successors to **TTA**, assumed the Property as its maintenance facility; and

WHEREAS, by this Agreement, **NTTA** is terminating its use of the Property as a maintenance facility removing all improvements as provided herein, and is returning the Property to **TxDOT**; and

WHEREAS, by this Agreement, the parties desire to establish their respective rights and obligations in the joint use of the Property.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

I.

The **NTTA** is returning said Property described above to **TxDOT** and is terminating its use of the Property as a maintenance facility.

II.

The **NTTA** agrees to remove all improvements on the Property such as, but not limited to, all concrete, buildings, construction materials, equipment, material, gates, asphalt and storage tanks, above or under ground. The **NTTA** may continue to maintain a storage bin for sand and other bulk material used for ice and snow removal through April 30, 2004. Under no condition, however, shall the sand or any other ice removal materials contain salt or be permitted to contact any structural concrete elements on the Property.

III.

Upon removal of all improvements and other properties, as defined in Paragraph II, the **NTTA** agrees to seed or sod Area 1 at its own expense. With respect to Area 1 only, the **NTTA** agrees to test for soil contaminants at its own expense and to remove any contaminated soil, if necessary, in accordance with applicable Texas law. **TxDOT** desires to assume immediate possession of Area 2, **TxDOT** agrees to accept Area 2 "AS IS" in its current condition with no expectation of the **NTTA** to seed or sod, or test Area 2 for soil contaminants.

IV.

TxDOT agrees to inspect the Property at its own expense to determine if all the conditions of this Agreement have been met. If additional measures are necessary, **TxDOT** and **NTTA** will discuss the situation and arrive at a mutual understanding. When the restoration and

remediation are completed, **TxDOT** will provide a Letter of Acceptance that will be made a part of this Agreement by reference.

V.

All improvements, including those listed above in Section II, will be removed and turf re-established not later than July 1, 2004. On that date **TxDOT** agrees to accept the Property, and will thereafter, exercises its jurisdiction, control, supervision and maintenance of the Property.

VI.

Responsibility for Actions. Each party acknowledges that it is not the agent, servant or employee of the other and that each party is responsible for its own acts and deeds and for the acts and deeds of its agents or employees.

VII.

General Provisions.

1. **Dispute Resolution.** In the event of any dispute between the parties regarding performance under this Agreement, the parties will attempt in good faith to reach a negotiated resolution.

2. **Preambles.** The preambles, together with all premises set forth herein, are hereby expressly made a part of this Agreement.

3. **Integration.** This Agreement contains the complete agreement between the parties and cannot be varied except by the written agreement of the parties. The parties agree that there are no oral agreements, understandings, representations or warranties which are not expressly set forth herein.

4. **Severability.** If any clause, sentence or provision hereof is found to be unenforceable, void or in violation of any law, then such clause, sentence or provision shall be inoperative and the remainder of this Agreement shall remain valid, binding, and in full force and effect.

5. **Applicable Law.** This Agreement shall be covered and construed under the laws of the State of Texas.

6. **Counterparts.** This Agreement may be executed in multiple counterparts, all of which taken together shall constitute a single document with the same force and effect as if all parties had signed the same copy of this Agreement.

7. **Amendment.** This Agreement may not be modified or amended, except in writing executed by the parties hereto, their successors or assigns.

8. **Notices.** For the purposes of giving notice under this Agreement, the addresses of the parties hereto, to which all notices hereunder are to be sent, are as follows:

NTTA

North Texas Tollway Authority
J.C. Wood, Jr., P.E.
Director of Maintenance
P.O. Box 260729
Plano, TX 75026

Physical Address:
5900 W. Plano Parkway, Suite 100
Plano, Texas 75093

TxDOT

Texas Department of Transportation
Dallas District
Mr. Gary Charlton, P.E.
Director of Maintenance
P. O. Box 133067
Dallas, TX 75313-3067
(214) 320-6111
(214) 320-6117 (Fax)

Physical Address:
4777 E. Hwy. 80
Mesquite, TX 75150-6643

All notices, approvals, and other communications required or permitted by this Agreement to be given to any of the parties shall be in writing and shall be delivered:


- (i) in person or by a courier service that provides receipt of delivery;

- (ii) by deposit in the U.S. mail, postage prepaid, by certified or registered mail, return receipt requested;
- (iii) by a nationally recognized overnight courier service; or
- (iv) by facsimile delivery confirmed by delivery in accordance with subparagraphs (i) or (iii) above; in each case addressed to the parties concerned at the address or facsimile numbers set forth above.

Communications sent by mail as set forth above shall be effective five (5) days after deposit in the U.S. mail.

THIS AGREEMENT becomes effective on the date last signed.

NORTH TEXAS TOLLWAY AUTHORITY

By: 
Jerry Hiebert
Executive Director
5/4/04
Date

TEXAS DEPARTMENT OF TRANSPORTATION

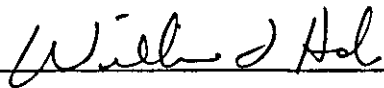
By: 
Dallas District Engineer
Title
4/20/04
Date

EXHIBIT A



3015 Raleigh Street • P.O. Box 190369
Dallas, Texas 75219
Phone 214/522-6200

May 22, 1989

State Department of Highways
and Public Transportation
P. O. Box 3067
Dallas, Texas 75221

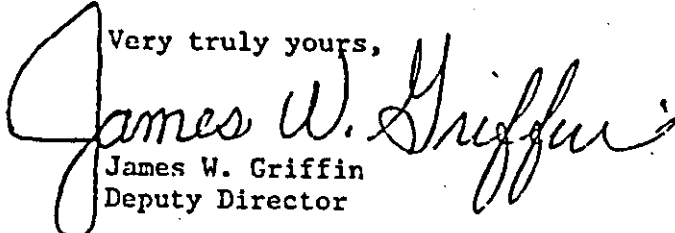
Attn: Mr. Thomas L. Kelley
District Maintenance Engineer

Gentlemen:

In response to your request, I have reviewed our Dallas/Fort Worth Turnpike transition files and have located the legislation related to the transition, the plan for the transition providing details of what would occur, and the Minute Order of the Commission adopting the plan. I believe these documents will fill the voids in your files.

If you have questions on any of this, please contact me.

Very truly yours,


James W. Griffin
Deputy Director

JWG:lc

Atchs.

MEMBERS: CLIVE RUNNELLS, CHAIRMAN, HOUSTON • CHARLES R. MATTHEWS, VICE CHAIRMAN, GARLAND
RAY C. STOKER, JR., ODESSA • ROBERT L. COLLINS, HOUSTON • R.E. "ED" PALM, FORT WORTH • ROBERT H. DEDMAN, DALLAS
JAMES N. MUNS, PLANO • JOHN R. BUTLER, JR., HOUSTON • RICHARD J. LINDLEY, JR., HOUSTON • ROYCE B. WEST, DALLAS
RICHARD L. BISCHOFF, HOUSTON • C.C. SMITHERMAN, HOUSTON • BOB NEELY, EXECUTIVE DIRECTOR • HARRY KABLER, SECRETARY—TREASURER

AN AGENCY OF THE STATE OF TEXAS

DALLAS & TARRANT

Counties

MINUTE ORDER

District No. 18 & 2

WHEREAS, in DALLAS AND TARRANT COUNTIES, Senate Bill 194, 65th Texas Legislature, Regular Session, requires a plan for orderly transition of the DALLAS-FORT WORTH TURNPIKE from the Texas Turnpike Authority to the State Department of Highways and Public Transportation; and

WHEREAS, the Texas Turnpike Authority has developed and adopted a transition plan;

NOW, THEREFORE, IT IS ORDERED that the State Highway and Public Transportation Commission hereby approves the plan for divestiture of the Dallas-Fort Worth Turnpike as adopted by the Texas Turnpike Authority on September 21, 1977, by Resolution No. 548.

The Engineer-Director is directed to enter into any necessary agreements with the Texas Turnpike Authority to implement the transition.

Submitted by:

Richard VanderStuten

(Title)

Program Engineer

Examined and recommended by

M. H. Grode

Assistant Engineer-Director

Approved

B. L. DeBerry

Engineer-Director

Approved:

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

Minute Number

73390

Date Passed

SEP 29 77

TEXAS TURNPIKE AUTHORITY

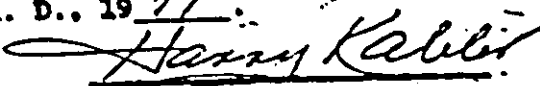
RESOLUTION NO. 548

"Resolved, that pursuant to Senate Bill 194, enacted by the 65th Legislature, Regular Session, 1977, the Authority hereby adopts the plan for divestiture of the Dallas-Fort Worth Turnpike by the Texas Turnpike Authority, presented to the Board, and made a part of the minutes of this meeting, and that the same be forwarded to the State Highway and Public Transportation Commission with the request that such plan be approved by said Commission.

'Further Resolved, that upon approval by the State Highway and Public Transportation Commission, said plan be effective in accordance with its terms and consummated with such changes as may be approved, both by the Authority and the State Highway and Public Transportation Commission."

STATE OF TEXAS
COUNTY OF TARRANT

I, Harry Kabler, Secretary-Treasurer of the Texas Turnpike Authority do hereby certify that the above and foregoing is a true and correct copy of a RESOLUTION (~~passed-adopted-approved~~) by the Board of Directors of the Texas Turnpike Authority on 9-21-77. WITNESSETH MY HAND AND THE SEAL OF THE TEXAS TURNPIKE AUTHORITY, this the 21st day of SEPTEMBER A. D., 19 77.


Secretary-Treasurer
Texas Turnpike Authority

6/17/77

PLAN FOR DIVESTITURE OF DALLAS-FORT WORTH TURNPIKE
BY THE TEXAS TURNPIKE AUTHORITY

Preamble

Plan

- I. Dallas-Fort Worth Turnpike "Transition Plan".
 - A. Broad "Transition Plan".
 - B. Details of "Transition Plan".
 - C. Budget for "Transition Plan".
 - D. Establishment of "Texas Turnpike Authority Feasibility Study Fund".
 - E. Contribution to State Department of Highways and Public Transportation.
 - F. Funding.

- II. Housing.
 - A. Temporary Housing.
 - B. Permanent Housing.

NOTE: THIS PLAN FOR DIVESTITURE OF THE DALLAS-FORT WORTH TURNPIKE
WILL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE STATE HIGHWAY
AND PUBLIC TRANSPORTATION COMMISSION.

6/17/77

PLAN FOR DIVESTITURE OF DALLAS-FORT WORTH TURNPIKE
BY THE TEXAS TURNPIKE AUTHORITY

PREAMBLE

In keeping with S. B. 194, "The Authority shall, with the approval of the State Highway and Public Transportation Commission, effectuate a plan for an orderly transition of the Dallas-Fort Worth Turnpike to the State Department of Highways and Public Transportation" on or about December 31, 1977. To attain an orderly and safe transfer, it was necessary to carefully devise a plan to accomplish the desired results.

The following items are of prime importance, and have been considered in the proposed plan, and are listed as broad concepts of the plan only. The detailed plan will have to be worked out consistent with the proposed concept after formal approval.

PLAN

I. Dallas-Fort Worth Turnpike "Transition Plan".

A. Broad "Transition Plan".

It is proposed that the "Transition Plan" for the orderly transfer of the Turnpike be accomplished by Texas Turnpike Authority personnel and agents, and Department of Public Safety personnel under contract to the Authority in concert with the Department of Highways and Public Transportation. It is expected that approximately six months will be required to accomplish the necessary ends by recommended means.

B. Details of "Transition Plan".

The following are the tasks envisioned to accomplish the desired

1 ults:

1. Continued activity of cadres from the Administration, Accounting, Data Processing and General Office Departments for approximately six months to accomplish the following:

- a. Complete payment of Turnpike obligations.
- b. Close books and assist in final audits.
- c. Collect outstanding accounts and close out credit and claims.
- d. Prepare final termination papers and make final salary and benefit payment to terminated employees.
- e. Continue payroll to close-out date.
- f. Prepare necessary documents by Attorneys to effect transfer of Turnpike and execute same.
- g. Other related activities.

2. Disassembly and storage of toll booths, canopy and related equipment including demolition of bunkers and islands and replacement of pavement at island take-outs will be performed under the supervision of Director of Engineering and Maintenance by Authority maintenance personnel and contractors. Demolition of buildings and appurtenances is not contemplated as an obligation of the Authority. Estimated time 4 months.

3. Continued Department of Public Safety Turnpike Detail protection of Authority property and protection of personnel during removal of toll booths, replacement of island pavement, etc. for a 4 month period. (This does not include formal traffic law enforcement which will be by the various cities)

4. Minimum activity by small force comprised of Toll Collection personnel to transfer and store toll collection equipment.

Estimated time 1 month.

5. Retention of funds for the following purposes:

- a. Vacation, sick leave, and unemployment compensation benefits for terminated employees.
- b. Monthly group insurance premiums for retired employees.
- c. Rental of warehouse for storage of equipment and supplies for one year.
- d. Contractual obligations.

C. Budget for "Transition Plan".

The budget for the "Transition Plan" is estimated at \$1,734,500.

D. Establishment of "Texas Turnpike Authority Feasibility Study Fund of \$1,000,000 for Authority's use in studying feasibility of other proposed toll projects as approved by the State Department of Highways and Public Transportation.

E. Contribution to State Department of Highways and Public Transport

The current prognosis indicates that approximately \$377,500 can be contributed. Any sums not used in the execution of the "Transition Plan" above the \$1,000,000 funding of the Feasibility Study Fund will be contributed to the Department. Conversely, the contribution may be eliminated or depleted by transition exp. beyond those anticipated for the activities described in the "Transition Plan" or unanticipated suits or additional actions required of the Authority by others.

F. Funding.

Funding for the above will be derived from available funds, such as the balances in the Operations and Maintenance Fund, Reserve Maintenance Fund, Special Reserve Maintenance Fund, and other Fu

II. Housing.

A. Temporary Housing.

1. It is anticipated that Authority personnel will occupy the

sent facilities in Arlington & 310 N. Watson Road until the "Transition Plan" has been accomplished and new housing has been provided, but no later than August 31, 1979.

2. It is anticipated that the maintenance facility located on Dallas-Fort Worth Turnpike property at S.H. 157 and the Turnpike will be occupied until all the transition has been completed.

3. It is anticipated that the Authority will occupy Parcel 5-9-, Tract B (near the corner of Remond Drive and Hampton Road in Dallas) for storage of equipment for no longer than five years after December 31, 1977 or until needed by the Department for road and right-of-way purposes, whichever is sooner, and as provided by a joint use agreement approved by both the Department and the Authority.

B. Permanent Housing for Authority Operation.

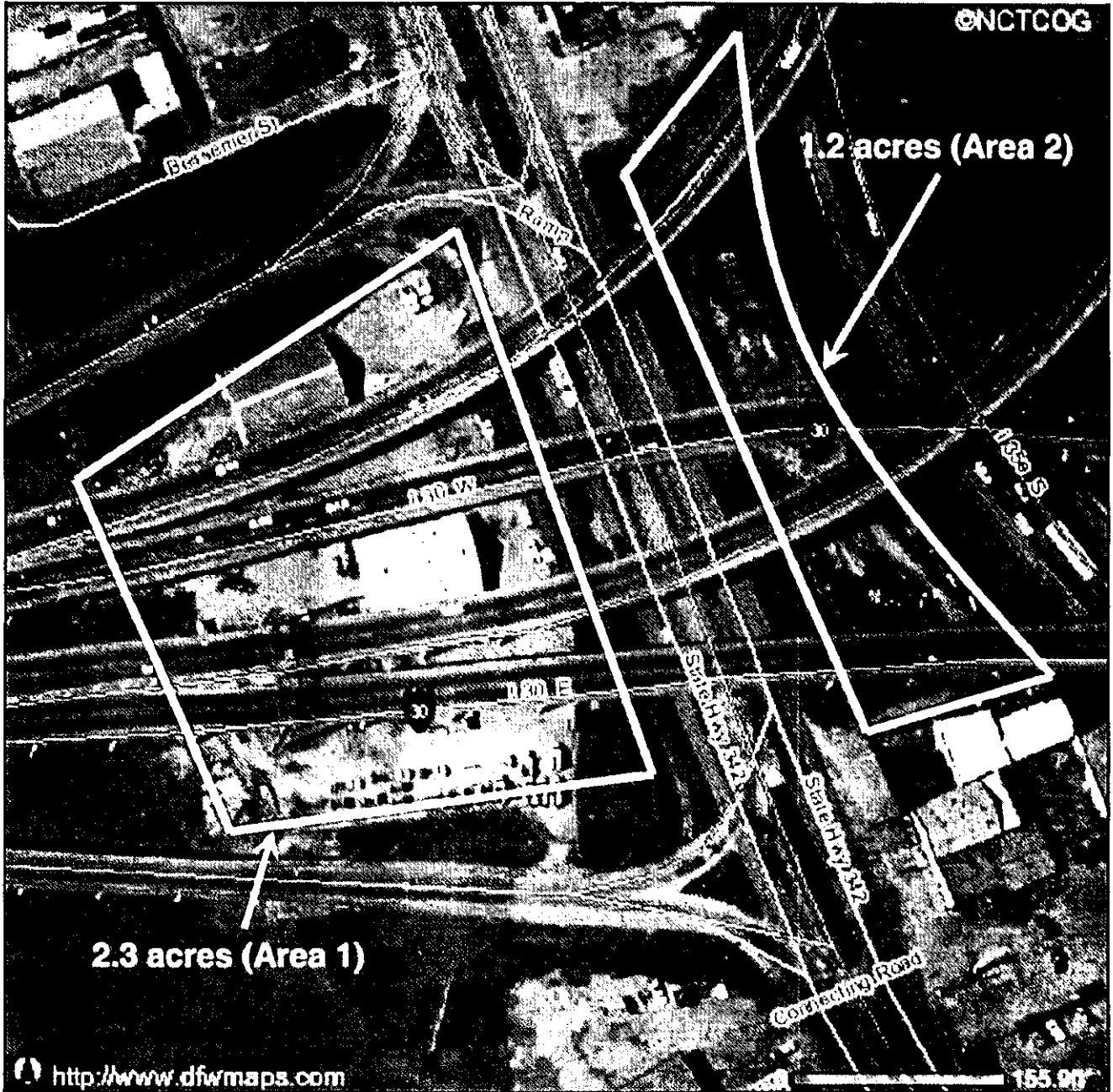
1. It is anticipated that an appropriate office building will be constructed from available funds from projects other than the Dallas-Fort Worth Turnpike.

2. It is anticipated that maintenance forces needed for the operation of the Tollway will continue to be permanently housed at the maintenance facility located in Dallas at the Turnpike and Industrial Boulevard, as provided by a joint use agreement approved by both the Department and the Authority.

This was never to our knowledge done.
JR

EXHIBIT B

Demolition of Maintenance Facility at Industrial Blvd.



Project Area