TEXAS TURNPIKE AUTHORITY - TOWN OF ADDISON

ADDISON AIRPORT TOLL TUNNEL COOPERATION AGREEMENT

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

TEXAS TURNPIKE AUTHORITY :

WHEREAS, the Texas Turnpike Authority (the "Authority"), an agency of the State of Texas, created and existing pursuant to Chapter 410, Acts of the 53rd Legislature of the State of Texas, Regular Session, 1953, as amended (Article 6674v Vernon's Texas Civil Statutes, the "Act") and the Town of Addison (the "Town"), a City duly organized and existing pursuant to the Constitution and laws of the State of Texas desire to enter into this Agreement to assist each other in carrying out their governmental functions; and

WHEREAS, the Authority owns and operates the Dallas North Tollway ("DNT") as a Turnpike Project under the Act and the DNT runs through a portion of the Town adjacent to the Town of Addison Airport ("Addison Airport"); and

WHEREAS, Keller Springs Road, a major east-west roadway through the Town crosses under the DNT and dead-ends on the east and west sides of Addison Airport; and

WHEREAS, the Town, Dallas County, the City of Farmers Branch, and the City of Carrollton have requested that the Authority construct a toll tunnel under the runway and associated taxiways at Addison Airport (the "Project") which will connect the segments of Keller Springs Road which dead-end on the east and west side of Addison Airport (the "Keller Springs Road Connection"); and

WHEREAS, the Texas Transportation Commission (the "Commission") has found that the construction of the missing segment of Keller Springs Road will provide a needed east-west thoroughfare in the rapidly growing area of North Dallas County; and

WHEREAS, the Commission has, in accordance with its authority and responsibility, reviewed the Project plans and further determined that:

(1) the Project is adjunct and complementary to the existing State highway system;

(2) in accordance with Article 6674v-6, Vernon's Texas Civil Statutes, it is feasible to integrate the Project into the State highway system; and

(3) as established by the Authority feasibility study, connecting roads from the State highway system to the Project are not required to generate sufficient traffic and revenues to support the Project and based upon such findings granted approval of the Project; and

WHEREAS, based upon the findings set forth above, the Commission granted approval of the Project; and

WHEREAS, the Project is adjacent to and will receive traffic from and feed traffic to the DNT and the Board of Directors of the Authority (the "Board") has determined to finance and construct the Project as an enlargement and extension of the DNT; and

WHEREAS, the Board has found, based upon the study of Wilbur Smith Associates, Traffic and Revenue Engineers, that the Project will not decrease DNT net revenues that DNT would otherwise receive were the Project not constructed and financed as a part of the DNT and that there will be no adverse effect on the toll collection operations of the DNT as a result of the operation of the Project; and

WHEREAS, pursuant to Section 7 of Article 6674v.1, Vernon's Texas Civil Statutes, the parties have agreed to cooperate with one another to assure the construction of the Project and the Town, in order to induce the Authority to construct the Project and to provide further assurance that the Project will not adversely affect the operations of the DNT, has agreed to make payments to the Authority, to the extent the net revenues of the DNT are insufficient, in amounts sufficient to pay the debt service on $2,500,000 in aggregate principal amount of the Authority's bonds issued to finance the cost of the Project; IT IS THEREFORE CONTRACTED AND AGREED BETWEEN THE AUTHORITY AND THE TOWN AS FOLLOWS:

Section 1. INCORPORATION OF PREMISES. The above and foregoing premises are true and correct and are incorporated herein in their entirety.

Section 2. DEFINITIONS. The terms and expressions used in this Agreement, unless the context shows clearly otherwise, shall have meanings as follows:

(a) "Board" and "Board of Directors" means the Board of Directors of the Authority.

(b) "Bonds" means any bonds issued by the Authority for acquiring and constructing the Project, whether in one or more series or issues, or any bonds issued to refund same or to refund any refunding bonds.

(c) "Bond Resolution" means any resolution of the Board of Directors authorizing the issuance of Bonds and providing for their security and payment, as such resolution(s) may be amended from time to time as therein permitted.

(d) "Engineering Report" means the engineering report dated September 1992 as prepared by Ginn Corporation, together with any amendments and supplements thereto.

(e) "Project" means the Addison Airport Toll Tunnel, an extension and enlargement of the Dallas North Tollway which will connect Keller Springs Road where it dead-ends at Addison Road to the point where it dead-ends at Midway Road by the Toll Tunnel under the runway and taxiways at the Airport as further described in the Engineering Report.

(f) "Secretary" means the person designated by the Authority to serve as and perform the duties of secretary of the Authority.

(g) "Treasurer" means the person designated by the Authority to serve as and perform the duties of treasurer of the Authority.

(h) "Trust Agreement" means the Trust Agreement dated as of July 1, 1989, between the Authority and NationsBank of Texas, N.A., as Trustee, and each supplement thereto securing the Authority's Dallas North Tollway Revenue Bonds.

(i) "Trustee" means NationsBank of Texas, N.A. or its successor as Trustee under the Trust Agreement.

Section 3. OBLIGATION OF AUTHORITY TO ACQUIRE AND CONSTRUCT PROJECT. The Authority shall pay, subject to the terms and provisions of this Agreement, all of the costs of acquiring and constructing the Project through the issuance of its Bonds to provide the money for such payment, all in the manner hereinafter described.

Section 4. AUTHORITY'S BOND RESOLUTION. The proceeds from the sale of the Bonds will be used for the payment of all of the Authority's costs and expenses in connection with the Project and the Bonds, including, without limitation, all financing, legal, printing, administrative, and other expenses and costs incurred in issuing its Bonds and acquiring and constructing the Project, and to fund a debt service reserve and other funds as required by the Bond Resolution and the Trust Agreement. It is now estimated that such Bonds will be issued by the Authority pursuant to the Trust Agreement, on a parity with the Authority's outstanding Dallas North Tollway Revenue Bonds, in the amount of approximately $25,000,000 (whether actually more or less), which amount is now estimated to be sufficient to cover all the aforesaid costs and expenses and other amounts required. Each Bond Resolution of the Authority shall specify the exact principal amount of the Bonds issued, which shall mature not more than 30 years from the date of such Bonds, and shall bear interest at a rate not to exceed the maximum legal rate. The Bond Resolution and supplemental Trust Agreement

shall provide for the maintenance of the funds established in the Trust Agreement, all in the manner and amounts as provided in each Bond Resolution and supplemental Trust Agreement. The Town agrees that if such Bonds are actually issued and delivered to the purchaser thereof, the Bond Resolution and such supplemental Trust Agreement authorizing the Bonds shall for all purposes be deemed to be in compliance with this Agreement in all respects, and the Bonds issued thereunder will constitute Bonds as defined in this Agreement.

Section 5. CONSULTING ENGINEERS. Ginn Corporation, as the Project Engineers, will work with the Authority's Consulting Engineers under the Trust Agreement in connection with preparation of the plans and specifications for the Project and the Project will be acquired, constructed and equipped, in substantial accordance with the plans and specifications prepared under the supervision of the Project Engineers.

Section 6. ACQUISITION AGREEMENTS. The Authority shall enter into such contracts as are necessary to provide for acquiring, by purchase and construction, the entire Project, and said contracts shall be executed as required by the laws applicable to the Authority. The Authority shall cause the amounts due under such contracts to be paid from the proceeds from the sale of its Bonds. The Authority shall deposit the proceeds from the sale of its Bonds into a special Project Construction Fund. Said Project Construction Fund shall be used for paying the Authority's costs and expenses incident to the sale of the Bonds and to the Project, and to pay all costs of acquisition and construction of the Project. Pending use as required by this Agreement, the Bond proceeds in the Project Construction Fund may be invested in accordance with law, provided that all investment earnings therefrom (excepting any which may be required to be rebated to the federal government to

prevent the Bonds from becoming "arbitrage bonds" under the Internal Revenue Code of 1986, as amended) shall be deposited in and become a part of the Project Construction Fund.

Section 7. PAYMENTS BY TOWN. (a) The Authority shall provide the Project and make it available to and for the benefit of the Town and its inhabitants. In consideration therefor, the Town agrees to make certain payments according to the terms set forth herein. The Town's obligation to make the said payments shall terminate when all of the Authority's Bonds have been paid in full.

(b) All payments of the principal of and interest on the Bonds shall be made from the Net Revenues, as defined in the Trust Agreement, of the DNT on deposit in the funds and accounts established in the Trust Agreement. However, if at any time the Net Revenues are not sufficient to make full payment of the principal and/or interest on the Bonds (a "Debt Service Payment") on any date on which such Debt Service Payment is due (a "Debt Service Payment Date"), the Town agrees, pursuant to the authority granted by Section 7 of Article 6674v.1, V.T.C.S., to make the payments described in Subsection (c) of this Section.

(c) In the event the Net Revenues will not be sufficient to make full payment of a Debt Service Payment on a Debt Service Payment Date, the Treasurer of the Authority shall provide, at least five (5) business days prior to the applicable Debt Service Payment Date, written notice (a "Deficiency Certificate") to the Town of the amount of deficiency between the amount of Net Revenues available to make the applicable Debt Service Payment and the amount of the Debt Service Payment. Upon receipt of a Deficiency Certificate, the Town shall transfer to the Trustee for deposit into the Tollway Interest and Sinking Fund established in the Trust Agreement, in immediately available funds not less than one (1) business day prior to the applicable Debt Service Payment Date, an amount of money equal to the lesser of (i) the amount of the deficiency between the amount of Net

Revenues available to pay the Debt Service Payment on the Bonds and the amount of the Debt Service Payment coming due on the Bonds and (ii) the Town's proportionate share of the Debt Service Payment. The Town's proportionate share of each Debt Service Payment on the Bonds shall be computed by first determining what percentage of the aggregate principal amount of the Authority's Bonds issued for the Project is represented by $2,500,000 and second by applying that percentage to the Debt Service Payment.

(d) In accordance with and as provided by Section 7 of Article 6674v.1, V.T.C.S., and for the purpose of making its payments under this Agreement, the Town hereby agrees to levy, and hereby pledges the proceeds of, an annual ad valorem tax upon all taxable property within the Town. The Town shall, to the extent permitted by law, make provision in each annual Town budget for the payment of the amounts required to be paid by the Town under this Agreement and the governing body of the Town shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money necessary to make the payments required to be made by the Town under this Agreement, and in every year said tax shall be sufficient to create a sinking fund of at least 2% as required by Article 11, Section 5 of the Texas Constitution. The Town agrees that said rate and amount of ad valorem tax is hereby pledged to such payments, to the extent so required, and such tax shall be assessed, levied, and collected against all taxable property in the Town for each such year. The Treasurer of the Authority shall deliver to the Town, not later than August 15 of each year, a written estimate of: (i) the anticipated Net Revenues of the DNT for the remainder of the Authority's then current Fiscal Year and for its succeeding Fiscal Year that are available to pay the Debt Service Payments that will come due during such period and (ii) the anticipated amount or amounts of deficiencies, if any, with respect to the Net Revenues estimated to be available to pay

Debt Service Payments during such period. In the preparation of its budget, the Town may take into consideration the estimates provided by the Treasurer of the Authority, however, to the extent that Net Revenues are not available at any time to make Debt Service Payments, the Town shall make such payments to the extent set forth in Subsection (c) of this Section, and the proceeds of the annual ad valorem tax prescribed above are hereby pledged for such payments, in accordance with Section 7 of Article 6674v.1, V.T.C.S. Reference is hereby made to the Ordinance passed by the governing body of the Town which authorizes the execution of this Agreement and also levies the tax, and orders the levying of the tax, as required by this Section. Notwithstanding the foregoing, the Town may, at its discretion, make its payments due hereunder from any other lawfully available funds, but any payment by the Town from funds other than ad valorem taxes shall not relieve the Town of its obligations hereunder to levy and collect an ad valorem tax sufficient to pay its obligations hereunder.

(f) In the event Net Revenues are received by the Authority to make payment of the portion of the debt service on the Bonds for which the Town had made payments, then the Authority shall return to the Town the excess, if any, of the payments made by the Town. Section 8. ACQUISITION AND CONSTRUCTION. The Town and the Authority agree to cooperate in the acquisition and construction of the Project. The Authority hereby covenants to make a diligent effort to complete such acquisition and construction as soon as practicable. The Authority does not anticipate any delays in completing the Project, but the Authority shall not be liable to the Town for any damages caused by any delays in completion of the Project. By these presents, the Town authorizes the use by the Authority of any and all public streets, alleys, easements and all other public rights-of-way for acquisition and construction of the Project. The Authority shall pay the cost of all

utility hook-ups and connections required by the Project but shall not be deemed to owe any development or impact fees with respect to the Project or its operations.

Section 9. CONDITIONS PRECEDENT. The obligation on the part of the Authority to acquire the Project shall be conditioned upon the following:

(a) sale of Bonds in an amount sufficient to assure the acquisition and construction of the Project; and

(b) the Authority's ability, or the ability of the contractors, to obtain all material, labor, and equipment necessary for the acquisition of the Project.

Section 10. OPERATION; SETTING OF TOLLS. Pursuant to the Trust Agreement, the Authority's Board of Directors shall operate and maintain the Project as a turnpike project and a part of the DNT and, accordingly, will establish a schedule of tolls and will collect such tolls for the use of the Project sufficient to pay the operating expenses of the DNT and all associated debt service payments and to make all required deposits into the funds and accounts established by the Trust Agreement.

Section 11. FORCE MAJEURE. If, by reason of Force Majeure, any party hereto shall be rendered unable wholly or in part to carry out its obligations under this agreement then such party shall give notice and full particulars of such Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemy, orders of any kind of the Government of the United

States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, tornadoes, storms, blue northers, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable to it in the judgment of the party having the difficulty. It is specifically excepted and provided, however, that in no event shall any Force Majeure relieve the Authority from its obligation to make Bond payments or the Town from its obligation to make payments to the Authority as required under Section 7 of this Agreement.

Section 12. REGULATORY BODIES. This Agreement and the Project shall be subject to all valid rules, regulations, and laws applicable thereto passed or promulgated by the United States of America, the State of Texas, including the State Highway and Public Transportation Commission, or any governmental body or agency having lawful jurisdiction or any authorized representative or agency of any of them.

Section 13. TERM OF AGREEMENT. That the term of this Agreement shall be for the period during which the Authority's Bonds or any interest thereon are outstanding and unpaid.

Section 14. ENTIRE AGREEMENT. This Agreement represents the entire and integrated agreement between the Authority and the Town and supersedes all prior negotiations, representations

and/or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Authority and the Town.

Section 15. SEVERABILITY. If any clause, paragraph, section or portion of this Agreement shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Agreement shall remain in full force and effect and the parties shall be deemed to have contracted as if said clause, section, paragraph or portion had not been in the Agreement initially.

IN WITNESS WHEREOF, the Authority and the Town, acting under authority of their respective governing bodies have caused this Agreement to be duly executed in several counterparts, each of which shall constitute an original, all as of the 20th day of October, 1994, which is the date of this Agreement.

TEXAS TURNPIKE AUTHORITY

By: _____
Chairman

ATTEST:

_____
Secretary

(AUTHORITY SEAL)

TOWN OF ADDISON, TEXAS

By: _____
Mayor

ATTEST:

_____
Town Secretary

(TOWN SEAL)

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