

**INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF CELINA AND  
THE COLLIN COUNTY TOLLROAD AUTHORITY  
REGARDING SEGMENT 3 OF THE COLLIN COUNTY OUTER LOOP**

**THE STATE OF TEXAS**                    §  
   §                    **KNOW ALL MEN BY THESE PRESENTS:**  
**COUNTY OF COLLIN**                   §

THIS AGREEMENT (herein "Agreement") is entered into effective as of the \_\_\_\_ day of \_\_\_\_\_, 2020 ("Effective Date"), by and among the CITY OF CELINA, TEXAS, a home-rule municipality existing under the laws of the State of Texas (the "City"), and the COLLIN COUNTY TOLLROAD AUTHORITY, a regional tollway authority and a political subdivision of the State of Texas (the "Authority");

**WITNESSETH:**

**WHEREAS**, the Authority is planning to make improvements to Segment 3 of Collin County Outer Loop ("CCOL") from U.S. Highway 75 west to the Collin/Denton County Line (Future Legacy Drive), said improvement, extension, and enlargement to ultimately include the construction of main lanes, service roads, approaches, interchanges, ramps, toll facilities, bridges, and buildings, all of said improvement, extension, and enlargement being known as Collin County Outer Loop, Segment 3 ("County Segment 3"), all in conformance with the provisions of the Regional Tollway Authority Act, Chapter 366 of the Texas Transportation Code, as amended (hereinafter referred to as the "Act"); and

**WHEREAS**, the City and the Authority have determined that the future construction of the CCOL will provide regional transportation benefits that are in the best interest of their citizens; and

**WHEREAS**, a portion of County Segment 3 between F.M. Highway 2478 (Custer Road) and the Collin/Denton County Line (Future Legacy Drive) is located within the incorporated limits or extraterritorial jurisdiction ("ETJ") of the City of Celina, as shown on Exhibit "A" hereto, which is hereby made a part hereof ("Segment 3"); and

**WHEREAS**, the Authority (1) has approved a Technical Alignment for the portion of Segment 3 located between F.M. Highway 2478 (Custer Road) and the Collin/Denton County line (Future Legacy Drive), attached hereto as Exhibit "A", (2) is in the process of preparing conceptual schematic design plans of Segment 3 (the "Project Schematic Design"), which the Authority will submit to the City, (3) is in the process of preparing legal descriptions and acquiring right-of-way for all of the property, including, but not limited to, fee parcels and easements, required for a five-hundred foot-wide (500'-wide) right-of-way, (4) has determined said right-of-way is of sufficient width to construct Main Lanes and Segment 3 Frontage Roads (as both are defined in Section 5.2) and (5) is currently developing engineering plans for construction of two lanes of an ultimate three lane southerly, future east bound service road between the Dallas North Tollroad (DNT) and State Highway 289 (Preston Road) (the "South Service Road"); and

**WHEREAS**, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes local governmental entities , and the Regional Tollway Authority Act, Chapter 366 of the Texas Transportation Code authorizes a tollroad authority, to contract with one another to perform governmental functions and services under the terms thereof, and the City and the Authority have determined that mutual benefits and advantages can be obtained by formalizing their agreement as to the separate and distinct issues of importance to them regarding Segment 3 and the matters addressed in this Agreement;

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

### **Article 1 - Obligations of the Authority**

**1.1 Surveying.** In accordance with applicable statutory requirements, the Authority, at no cost to the City, shall retain a professional surveying firm or firms reasonably acceptable to the Authority to prepare ground surveys, set or establish monuments and property corners, locate features (including all improvements of any kind), prepare survey plats, and prepare legal descriptions for all land which, in the reasonable determination of the Authority is required to be (a) acquired in fee to provide a five-hundred foot wide (500'-wide) right-of-way for this portion of Segment 3, or (b) encumbered with drainage, slope or embankment, temporary construction or detour, or other easement interests, to permit construction and operation of Segment 3, including, but not limited to, the South Service Road.

**1.2 Right-of-Way.** The Authority, at no cost to the City, has acquired or will acquire in whole or in part (a) fee simple ownership in and to all property required for a five-hundred foot wide (500'-wide) right-of-way strip as depicted in Exhibit "A" (the "Segment 3 ROW") and (b) the appropriate easement interests of suitable length and widths in and to all property as determined by the Project Schematic Design. The Authority shall, receive good and indefeasible fee simple title to all property required for Segment 3, and good title to all easement interests required for Segment 3, subject only to those matters of title reasonably acceptable to and approved by the Authority and free from all liens, rights of assessments, private easements, rights of reverter, and use restrictions. At its option, the City may acquire one or more right-of-way or easement parcels and convey them to the Authority on terms agreeable to the City and Authority. All property and easement interests shall be conveyed or granted to the Authority by such instruments and with such warranties of title as are required by the Title Company (hereinafter defined) as a condition to the issuance of the title insurance described below. The City, if applicable, shall cooperate with Authority's designated General Counsel (hereinafter defined) in (a) reviewing and, to the extent necessary, clearing the status of title to each fee and easement parcel that is to be conveyed or granted by the City to the Authority, and (b) preparing the conveyance instruments for such parcels conveyed or granted by the City to the Authority. The Authority shall review and approve the conveyance instruments and title to all right-of-way parcels before acceptance thereof by the Authority. The Authority shall select and retain one or more title insurance companies to issue, at no cost to the City, owner policies of title insurance insuring good and indefeasible title to the property conveyed to the Authority in fee and good title to easements granted to the Authority, said policies to be subject only to those matters of title reasonably acceptable to and approved by the Authority. Unless and until a right-of-way parcel is conveyed to the Authority, the City, if

applicable, shall operate, maintain, regulate, and police such parcel, and the Authority shall have no responsibility therefore; thereafter, the City's and Authority's respective obligations shall be governed by Article 5 below.

**1.3 Project Schematic Design.** The Project Schematic Design shall provide the design for the entire County Segment 3, up to the 30% design completion stage, and include, but is not limited to, designs for (a) the service roads, including but not limited to, the South Service Road for initial use as a two-lane, bi-directional service road, and, ultimately, as a three-lane eastbound service road, (b) the main lanes, and (c) all ramps, bridges, cross streets, and major drainable structures comprising County Segment 3. The City supports the Project Schematic Design to be provided to them by the Authority.

**1.4 Design Standards.** The Authority has ensured that the service roads, including but not limited to the South Service Road, conforms to the proposed design and location of the Main Lanes in Segment 3, is suitable for conversion to use as a service road for Segment 3, and is designed and constructed in accordance with the latest edition and revisions of the American Association of State Highway and Transportation Officials' (AASHTO) Standard Specifications for Highway Bridges, including applicable interim specifications, the Highway Design Division Operations and Procedures Manual of the Texas Department of Transportation ("TxDOT"), 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) (collectively, "Design Guidelines"). 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. The Project Schematic Design shall conform to the foregoing documents, as well as the Authority's Design Guidelines and the utility-clear requirements described in Section 2.3

**1.5 Technical Work Group.** All parties shall assist one another in the coordination of design and construction activities and in the efficient scheduling and sequencing of the construction of future components of Segment 3.

**1.6 Segment 3 Frontage Roads.** The Authority is obligated to design and construct at its sole expense service, frontage and access roads, including but not limited to the Segment 3 Frontage Roads in connection with Segment 3.

## **Article 2 - Obligations of the City**

**2.1 City Utilities.** The City agrees to direct and oversee the proper installation or relocation of all municipally franchised utilities located in or crossing the Segment 3 ROW so as to minimize conflicts and the necessity for future relocation to accommodate later expansion or other construction.

**2.2 Utility Relocation.** If the Authority elects to proceed with construction of the Segment 3 project, the Authority shall timely relocate City-owned utilities that, as of the Effective Date, are located in the Segment 3 ROW or are otherwise affected by, or in conflict with, the construction, operation or maintenance of Segment 3 ("Existing City Utilities") at the Authority's sole expense or, at the City's option, the Authority shall reimburse the City for the City's cost of

said relocation work. Should the City elect to complete the relocation work for the Existing City Utilities, City shall cause any and all necessary relocations to be completed in a timely manner so as to avoid any delay in any portion of the construction of Segment 3. If the City elects to have the Authority perform the relocation work for the Existing City Utilities, the Authority, its engineer(s) and contractor(s), at the Authority's sole expense, shall design and undertake said relocation, and the City provide, at the Authority's expense, quality assurance inspection services during said relocation and adjustment, all as may be more specifically set forth in a Subsequent Agreement (as defined in Section 6.4 of this Agreement). **The City shall, at its expense, relocate any City-owned utilities that are in conflict with the Segment 3 project that were placed after the Effective Date. The Authority will timely make available to the City any schematics or design plans that have been prepared to use in conjunction with future placement of City-owned utilities so as to facilitate the placement of utilities in locations that do not conflict with the Segment 3 project.** The Authority shall provide utility easements to the City, at no cost to the City, for each utility relocation within the Authority's right-of-way prior to the City relocating its utilities. The City shall not be responsible for the relocation work for any utility not owned and operated by the City.

**2.3 Utility-Clear Zones at CCOL Overpasses.** If the Authority elects to proceed with construction of the Main Lanes in Segment 3, the relocation of City-owned utilities during the design of the Main Lanes for Segment 3 shall be governed by Section 2.2. Relocations shall be made in such a manner to provide an unobstructed zone for the overpass bridge foundations at each location where Segment 3 crosses over existing or proposed City streets. This utility clear zone shall be located between four feet (4') and twelve feet (12') behind the back of curb of the through traffic lanes of the ultimate cross street width. The Authority will design the overpass bridges to accommodate the ultimate cross-street widths as determined by the City. The City has provided such widths to the Authority, which shall be incorporated into the Project Schematic Design. If the Authority determines that the Segment 3 bridge foundation elements are required in the center median of cross streets, an eight foot (8') wide utility clear zone shall also be provided by the City. Unless otherwise approved in the final construction plans, the utility clear zone shall extend not less than two hundred fifty feet (250') in either direction of the Segment 3 centerline (five hundred feet [500'] total). This clear zone is not intended to prohibit any city utilities that are located within and parallel to the ROW lines of the Outer Loop according to an agreement between the City and the Authority. The City shall cause any and all necessary relocations to be completed in a timely manner so as to avoid any delay in any portion of the construction of Segment 3.

**2.4 Specifications for Utility Lines.** Exhibit "B" attached hereto and made a part hereof contains the Authority's specifications and regulations for the placement of public utilities in or across the Authority's rights-of-way. The City agrees to comply with all applicable laws and such specifications and regulations in connection with any request to place utilities in or across Segment 3 ROW.

**2.5 Soundwalls.** It is the intent of the Authority to use Federal Highway Administration (FHWA) guidelines for the determination as to whether or not soundwalls (sometimes known as noise walls), screen walls, retaining walls or similar structures will be considered as a condition to operating Segment 3, or any portion thereof. If it is determined that sound walls will be constructed adjacent to residential properties or other properties eligible for protection under the FHWA guidelines that were zoned for a residential use, or other zoning use

eligible for protection under the FHWA guidelines, prior to the Effective Date, the Authority will pay the cost of the construction of the sound walls. For any residential properties eligible for protection under the FHWA guidelines that are zoned for residential use after the Effective Date, the City will determine whether or not sound walls are necessary and pay for any sound walls constructed in those areas. In either case sound walls will be located to maximize the effectiveness of the sound reduction to the adjoining properties, within the limits of what is allowed by the necessary geometric design of the Segment 3 project. The sound walls will be maintained by the Authority if the walls are located in the Main Lane Area, as defined by Section 5.2, or by the City if the walls are located in the Segment 3 Frontage Road Area, as defined in Section 5.2.

### **Article 3 – Additional Obligations of the Authority**

**3.1 Design of Main Lanes.** If the Authority proceeds with construction of the Main Lanes in Segment 3, the design of the Main Lanes shall be according to the Authority's design criteria and standards, including, but not limited to, its Design Guidelines. In such event, the Authority shall implement a technical work group similar to the one described in Section 1.5 to aid in communication, coordination, and review during the design process for the Main Lanes. The technical work group shall meet regularly during the development of the main-lane design. The City shall assign an active, qualified, and authorized decision-making member to the technical work group; provided, however, that except as expressly provided otherwise in this Agreement, the Authority's determination of the design, alignment, location, grade, composition and construction methods employed for the Segment 3 or any components thereof shall be made in its discretion and shall be final.

**3.2 Conveyance of Frontage Roads to the City.** The Authority shall convey to the City a permanent perpetual easement for street purposes and right-of-way within the corporate limits and ETJ of the City of Celina on which Segment 3 Frontage Roads have been constructed. The City thereafter shall operate, maintain, regulate and exercise its police powers over said Segment 3 Frontage Roads, and the Authority shall have no responsibility therefor.

**3.3 Annexation.** This Agreement constitutes the consent of the Authority to the City's full purpose annexation of the Segment 3 ROW between F.M. Highway 2478 (Custer Road) and the Collin/Denton County line (Future Legacy Drive) owned by the Authority. The Authority agrees to provide any voluntary petitions or other documentation requested by the City to facilitate the annexation of the Segment 3 ROW into the corporate boundaries of the City. The Authority hereby represents that it is the sole owner of the Segment 3 ROW.

### **Article 4 - Further Agreements**

**4.1 Support of Segment 3.** Each of the parties agrees to take all actions consistent with this Agreement that are reasonably necessary in the furtherance of the purposes hereof. Without limiting the generality of the preceding sentence, upon request by the Authority, the City agrees to (a) acknowledge its approval of and support for the Authority's financing, design, construction, operation and maintenance of Segment 3 as a freeway or turnpike project, (b)

acknowledges its support of the Authority in the necessary environmental clearance and review process for Segment 3, and (c) provide such information and administrative support as may be reasonably requested by the Authority, TxDOT, FHWA, or any other governmental or quasi-governmental entity in the environmental application and review process or with regard to the Studies. If the Authority elects to proceed with construction of Segment 3 as a freeway or turnpike project, the parties agree to coordinate and conduct all necessary public hearings and public participation efforts required to initiate and complete Segment 3. The City shall coordinate and assist the Authority with respect to such matters. The parties shall make every reasonable effort to maintain communication with the public and with their respective representatives regarding the progression of Segment 3 review process. In addition, the City agrees to administratively assist and join with the Authority in obtaining the various approvals, permits and agreements required of the applicable governmental entities and agencies, with federal, state or local jurisdictions, regarding Segment 3.

**4.2 Construction Staging Areas.** If the Authority elects to proceed with construction of Segment 3 as a project, the City shall, if requested by the Authority, provide on a temporary basis as described below any available, as determined solely by the City, right-of-way located along Segment 3 for the Authority's exclusive use as a staging area during the construction of Segment 3. Such areas may be used for the placement and operation of construction site trailers, temporary material disposal, temporary embankments or shoring structures, the operation of a concrete and/or asphalt batch plant, and for any other purpose related to the construction of Segment 3. During its use of the staging areas, the Authority shall use all reasonable efforts to maintain the property in an orderly condition, free from excessive debris and clutter. Upon completion of construction activities for Segment 3 or cessation of the Authority's use of the staging areas, whichever comes first, the Authority shall promptly return the staging areas to the City or the County, as applicable, in a condition comparable to when received for use by the Authority.

**4.3 Signalization.** If the Authority elects to proceed with construction of Segment 3 as a freeway project, the City (with respect to property within its corporate limits), shall, in conjunction with the design of Segment 3, design, prepare and issue construction plans and specifications, take bids, award contracts and purchase orders, and shall install, test, supervise and maintain (or cause the same to be done) any temporary or permanent traffic signalization systems at the intersections of the City's streets with Segment 3, and also shall relocate, at its sole expense, any traffic signals conduit, controllers or any other related facilities that may be required for the construction of Segment 3 (collectively, the "Signalization Work"). The City shall ensure that the design and performance of the Signalization Work (including all related relocation and installation activities) do not delay or impede the construction, opening to traffic or subsequent operation of Segment 3. To that end, the City shall submit plans and specifications for the Signalization Work to the Authority for its review and approval prior to commencing any of the Signalization Work, provided that the Authority's review and approval shall not impose any obligation or liability on the Authority with respect to the Signalization Work or alter or abrogate any of the City's obligations pursuant to this Agreement. The Authority shall cooperate with the City in providing and determining the location of the Signalization Work. Notwithstanding the foregoing, at the City's request, the Authority shall agree to undertake the installation and subsequent removal of temporary traffic signalization systems at the City's cost



upon terms set forth in a Subsequent Agreement (as defined below). Upon completion of the Signalization Work, the City agrees to operate and maintain the described traffic signalization systems at no cost to the Authority and to assume the responsibility for provision of all electrical power required for signal operations, including that required during construction and test periods. Nothing contained in this Agreement shall impose upon or create for the Authority any responsibility for (a) the proper design, operation or maintenance of traffic signalization along Segment 3 or (b) the police enforcement required for securing compliance with the traffic signals described in this Agreement.

**4.4 Drainage Map Revisions.** If the City determines that it is necessary or desirable to obtain a Letter of Map Revisions (“LOMR”) and/or Conditional Letter of Map Revisions (“CLOMR”) for the diversion of storm water runoff or the disturbance of any channel sections within its rights-of-way along Segment 3, the City agrees to submit all applications required to obtain a LOMR and/or CLOMR from the Federal Emergency Management Agency (“FEMA”) and the Authority shall reimburse the City for the City’s cost of obtaining a LOMR and/or CLOMR. The City shall be responsible for the permitting process, including design, field survey, print fees and any document revisions that are necessary to complete a LOMR and/or CLOMR, provided that the Authority shall reimburse the City for the City’s permitting costs and shall provide technical information and assistance required to prepare the application. The City agrees to use its reasonable efforts to secure approvals from FEMA and from any property owners affected by any proposed map revisions. The Authority and City shall take the steps necessary to expedite and avoid delays in the application process for the LOMR or CLOMR. The City agrees to promptly contact the Authority regarding technical and other matters requiring assistance from the Authority’s staff or agents. If easements across private property are required to effect a proposed map revision determined by the City to be necessary or desirable and to accommodate the drainage improvements related to and necessitated by Segment 3, the Authority shall be responsible for acquiring the easements at its sole cost. The City and Authority acknowledge and agree that if the map revisions indicate the passage on, over, through or under City-owned property, the City shall grant the necessary easements and the Authority shall pay the City market value for the City-owned property.

## **Article 5 - Maintenance**

**5.1 Conditions.** The provisions of this Article 5 are conditioned upon the Authority’s election to proceed with the construction of the Segment 3 project; provided, however, that all provisions regarding the Segment 3 Frontage Roads shall apply with respect to the South Service Road, regardless of whether the Authority elects to proceed with the other elements of the Segment 3 project.

**5.2 Summary of Terms and Maintenance Obligations.** The South Service Road and all other subsequent service or frontage roads comprising Segment 3 are hereinafter referred to as the “Segment 3 Frontage Road(s).” The eastbound and westbound main lanes, together with all ramps extending to or from said lanes up to their gore nose or intersection with the applicable Segment 3 Frontage Roads or other streets, are hereinafter referred to as the “Main Lanes”; the portion of the Segment 3 ROW on which the Main Lanes are situated is referred to as the “Main Lane Area”; and the remaining portion of the Segment 3 ROW is hereinafter referred to as the “Segment 3 Frontage Roads Area.” The Authority shall be responsible for the operation,

maintenance, policing, regulation and repair of the Main Lanes, and the City shall be responsible for the operation, maintenance, policing, regulation and repair of the Segment 3 Frontage Roads, all as more specifically set forth in Sections 5.3 and 5.4 below. The maintenance provisions of this Agreement shall apply to those portions of the Segment 3 Frontage Road Area comprising the portion of Segment 3 in the City's corporate limits.

**5.3 Authority Maintenance Responsibilities.** With respect to Segment 3, the City and the Authority acknowledge and agree that the Authority has the responsibility to do each of the following:

(a) Maintain all the Segment 3 improvements, including, but not limited to, the performance of all mowing, snow/ice control, and the collection and removal of debris, within the limits of Main Lane Area.

(b) Maintain all improvements constructed by the Authority as a part of the Segment 3 exit and entrance ramps within the limits extending from the Main Lane Area to the ramp gore nose at the applicable Segment 3 Frontage Road.

(c) Repair and maintain all soundwalls, screen walls, retaining walls and similar structures, if any, within the limits of the Main Lane Area.

(d) Maintain the fence and guardrail, if any, placed along and between the Main Lane Area and the Segment 3 Frontage Roads Area used to protect ramp entries.

(e) Maintain all the Segment 3 illumination structures, if any, including under-bridge luminaires, but specifically excluding all Segment 3 Frontage Road illumination and street intersection illumination.

(f) Maintain complete bridge structures that carry the Main Lanes over the City's streets.

(g) Maintain structural bridge components carrying the City's streets over the Main Lanes.

(h) Maintain all the Segment 3 trailblazers, "Left Lane Must Enter Turnpike," "No Pedestrians, Bicycles or Motor Driven Cycles," and similar signs regarding Segment 3 within the corporate limits of the City.

(i) License, permit, and regulate utility construction and maintenance along and across the Main Lanes.

**5.4 City Maintenance Responsibilities.** The City will maintain the elements listed below using an asset management system, that includes at a minimum (1) proactive preventive maintenance inspections conducted at intervals appropriate to the element being inspected and (2) standards by which decisions are made to make repairs or apply preventive maintenance processes. The asset management plan will be submitted to the Authority by the opening of the first Segment



3 Frontage Road, and updates to the plan will be submitted as they are prepared. The results of inspections and reports of repairs and preventive maintenance conducted in the prior five-year period will be submitted to the Authority by June 1 following the end of each five-year period. With respect to Segment 3, the City and the Authority acknowledge and agree that the City has the responsibility to do each of the following:

(a) Repair and maintain all the City's streets over and under the Main Lanes and all Segment 3 Frontage Roads, including all traffic signal systems, luminaires, other illumination structures, and foundations therefor, in substantial conformity with the City's roadway standards.

(b) Repair and maintain all storm water conduits and receivers, both open and closed, on, along and across the Segment 3 Frontage Roads Area and maintain any drainage, utility, right-of-way or other easements situated thereon for the purpose of serving Segment 3.

(c) Repair and maintain all soundwalls, screen walls, retaining walls and similar structures within the Segment 3 Frontage Roads Area, if any.

(d) Maintain all unpaved Segment 3 ROW not otherwise identified herein as a responsibility of the Authority.

(e) Keep the vegetation mown, maintain all landscaping and irrigation systems, and remove, collect and dispose of unauthorized signs, debris and trash accumulated in the Segment 3 Frontage Roads Area not otherwise identified herein as a responsibility of the Authority.

(f) Maintain and, as necessary, modify guardrail and fences, if any, along the Segment 3 Frontage Roads and the City's streets crossing over and under the Main Lanes.

(g) Maintain and, as necessary, modify or supplement all traffic regulatory and directional signs and all pavement traffic markings on the Segment 3 Frontage Roads and on the City's streets over and under the Main Lanes, except Segment 3 trailblazers, "Left Lane Must Enter Turnpike," "No Pedestrians, Bicycles or Motor Driven Cycles," and similar signs regarding Segment 3.

(h) Furnish all sweeping, flushing, snow/ice control services (as the City determines to be appropriate) and other public safety services on the Segment 3 Frontage Roads and on the City's streets crossing over and under the Main Lanes.

(i) License, permit, and regulate all driveway and street connections to the Segment 3 Frontage Roads, and otherwise maintain proper control of access in relation to ramps to and from the Main Lanes.

The City acknowledges and agrees that the Authority shall have no responsibility or obligation to operate, maintain, police, regulate and provide public safety functions for the Segment 3 Frontage Roads and/or with respect to the Segment 3 Frontage Roads Area.

**5.5 Emergency Services.** With respect to Segment 3, the City and the Authority acknowledge and agree that within the City's corporate boundaries, the City shall have the responsibility to provide police, fire, "haz-mat", and EMS services for Segment 3, including but not limited to the Main Lanes and Segment 3 Frontage Roads, in the same manner as such services are provided within the entire corporate boundaries.

## **Article 6 - General Provisions**

**6.1 Term of Agreement.** The term of this Agreement shall commence on the Effective Date and end on the earlier to occur of (a) the complete performance by the parties hereto of all provisions of this Agreement or (b) upon determination by the Authority that it is not going to construct Segment 3. If the Authority determines in its sole discretion that it is terminating the design or construction of Segment 3, the Authority shall notify the City in writing of its intent to terminate this Agreement, which shall become effective immediately upon the City's receipt of said notification. Notwithstanding the foregoing, the provisions of Article 5 and Section 6.8 hereof shall remain in full force and effect notwithstanding any such termination.

**6.2 Service Roads.** Subject to termination under Section 6.1 above, the Authority is obligated to design, construct the Segment 3 Frontage Roads, and immediately upon substantial completion of construction, transfer ownership thereof to the City. The Authority shall be responsible for designing and constructing at its sole expense any Segment 3 Frontage Road, and underpass U-turns and U-turn deceleration lanes along any Segment 3 Frontage Road, and that to the greatest extent practicable, the Authority shall design and construct bridges for Segment 3 so as to accommodate said lanes. The City agrees to maintain and operate at its sole expense any Segment 3 Frontage Road and underpass U-turns and U-turn deceleration lanes along any Segment 3 Frontage Road after the Authority designs, constructs and transfers said roads to the City. The City shall ensure that the operation and maintenance of such facilities will not delay or impede any phase of the construction of Segment 3 or the subsequent operation thereof. The City agrees that the Segment 3 Frontage Roads will not be operated or maintained in such a manner so as to impede access to or egress from the Main Lanes, and, without limiting the foregoing, in exercising its authority to license, permit and regulate driveway permits for the Segment 3 Frontage Roads, the City shall maintain control of access consistent therewith and with all other applicable terms of this Agreement.

**6.3 Cross Streets or Roads.** If the City desires at any time to construct or modify a cross street or road over or under Segment 3, it shall contact the Authority and thereafter take all steps the Authority reasonably deems necessary or desirable to ensure that the design, construction, maintenance, and operation of the cross street or road does not impair or interfere with the design, construction, operation, or maintenance of Segment 3. The City shall submit the plans for any such proposed cross street or road to the Authority for the Authority's review, which shall be completed within a reasonable time period so as to not the delay the City's construction, and the applicable construction contract shall not be let unless and until the Authority approves the plans in writing. Thereafter, the cross street or road shall be constructed in accordance with the approved plans and the Authority shall have the right to make such inspections and testing it desires to confirm same. Without limiting the foregoing, the City at its sole expense shall cause any cross

street or road to be designed and constructed to accommodate the profile grade design of Segment 3. The City also shall cause its staff and consultants to meet and communicate with the Authority regularly during the design and construction phases of any cross street or road, and the Authority shall reasonably cooperate and with the City in advancing the design and construction of any cross street or road complying with the provisions of this Section 6.3. The Authority shall provide any easements or rights-of-way needed by the City from the Authority for a cross street or road, at no cost to the City.

**6.4 Subsequent Agreements.** When the Authority determines, in its sole discretion, to construct any segment of Segment 3, the Authority and City agree to negotiate, in good faith, such agreement(s) as may be necessary related to the construction, operation and maintenance of Segment 3 and not addressed in this Agreement (whether one or more, the "Subsequent Agreements"). The Subsequent Agreements may, among other things, (a) specify the final alignment of and/or final schematics for Segment 3 and (b) more precisely delineate cost sharing between the parties, responsibilities for property acquisition and transfer, details and timing for the Authority's construction and City's operation and maintenance of the Segment 3 Frontage Roads, details and timing of interchanges and traffic control devices (including specific project limits), details and timing regarding the relocation of utilities, and such other terms as may be appropriate to ensure the physical integrity of Segment 3. Although the precise terms of the Subsequent Agreements shall be negotiated at a later time, none of those terms shall conflict with any provision of this Agreement, absent the specific agreement of the parties to the contrary, and all such Subsequent Agreements otherwise shall be consistent with the provisions hereof. Notwithstanding, nothing in this Agreement shall alter the legislative power of the governing body of the City.

**6.5 Control of Authority Facilities and Operations; Nonapplicability of Certain City Codes to Segment 3.** The City acknowledges and agrees that as to the construction and operation of Segment 3, the Authority is not subject to any zoning, building and development codes and/or ordinances promulgated and enforced by the City, except as set forth in Section 6.6, and that the City shall not assess against the Authority any development, impact, license, zoning, permit, building, connection or construction fee(s) of any kind with respect to the construction or operation of Segment 3. The City acknowledges that as a result of federal and/or state regulations, traffic control concerns, work sequencing or weather-related issues or general scheduling matters, the Authority may be required to perform construction activity at night, and the City agrees to accommodate and support such activity, if necessary, upon receiving reasonable prior notice thereof by the Authority.

**6.6 Storm Water Permitting.** The City will permit the Authority to connect to the City's municipal separate storm sewer and storm water drainage systems (the "MS4"), if any, and the City will provide easements and other interests and make such enlargement or other betterment work required for the efficient discharge of project storm water from Segment 3. If the Authority must seek permitting for storm water discharges or outfalls, the City agrees, at the Authority's option, to either (1) include the Authority as a co-permittee in the City's MS4 storm water permit applications or (2) provide the information and assistance necessary to allow the Authority to seek an individual permit for the MS4 operated by the Authority within the corporate limits of the City. If the Authority is unable to permit individually, the City will submit all permits and conduct all storm water quality testing and reporting, and the Authority shall promptly reimburse the City for

all additional actual costs that result. At the City's request, the Authority will provide the City with technical information and assistance required to prepare the applications. Whether an individual or co-permit is obtained, the City and the Authority agree as follows:

(a) The Authority shall comply with all City ordinances, requirements, regulations, and standards for storm water drainage, including but not limited to, debris separators to minimize first flush and sediment.

(b) The Authority will be responsible for the construction, operation, maintenance and inspection of the MS4s it owns within the Main Lane Area unless otherwise provided in a Subsequent Agreement with the City. The City shall be responsible for the construction, operation, maintenance and inspection of the MS4s it owns.

(c) Each party will submit its own proposed storm water management program as part of its MS4 permit application and will be responsible for implementing the program on the MS4 for which it is the operator and for complying with the conditions of its storm water permit relating to the program.

(d) Each party will implement procedures to investigate, detect and abate unlawful discharges and improper disposal into the MS4s that each party operates. If discharges to the MS4 operated by the Authority are involved, the City and the Authority shall consult with each other on water quality problems attributable to third parties, and will coordinate efforts to initiate a mutually acceptable response to minimize or eliminate the water quality problem. At the Authority's request, the City will enforce the City's regulations regarding the contribution of pollutants to the MS4 caused or occurring within the Authority's right-of-way, provided that the Authority's right to abate or otherwise regulate the same third-party conduct shall not be affected thereby.

(e) The Authority will use reasonable efforts to control pollution in storm water that originates on the Authority's right-of-way, as required by the conditions of its MS4 storm water permit. The City will use reasonable efforts to control pollution in storm water discharged onto the City's right-of-way, as required by the conditions of its MS4 storm water permit.

(f) Each party will promptly notify the other if it knows of a release of oil or a hazardous substance in an amount that may be harmful and that may be introduced into the other party's MS4.

(g) After reasonable notice to and approval by the Authority and subject to safety and traffic-control measures required by the Authority in response to such notice, the City may enter the Authority's right-of-way to conduct inspections reasonably related to monitoring compliance with storm water pollution laws by parties other than the Authority. Without limiting the foregoing, any activity performed by the City, its agents, employees or contractors on the Authority's right-of-way shall comply with all applicable, local, state and federal laws and regulations.

(h) The Authority may incorporate into its MS4 permit applications and reports the results of the City's tests conducted in connection with its MS4 storm water permits, including "wet-weather" monitoring results (whether under the wet-weather monitoring program coordinated by the North Central Texas Council of Governments or otherwise) and "dry-weather" field screening.

(i) The City and the Authority each may incorporate into its respective MS4 permit applications and reports information from the permit applications or reports filed by the other.

**6.7 Billboards.** With respect to billboards or similar outdoor signs within the Main Lane Area, the Authority shall follow its current policy removing all existing billboards and similar outdoor signs when acquiring real property and terminating all leases and other instruments pertaining thereto, to the greatest extent practical and permissible under applicable law. The City agrees to cooperate with the Authority to prohibit and eliminate the presence of billboards or other similar outdoor signs that would or could be visible from the traveled portion of Segment 3. The City shall be solely responsible for the removal of any billboards and similar outdoor signs situated within that portion of the Segment 3 ROW the City acquires and conveys to the Authority pursuant to Article 1. The Authority agrees that, to the extent permitted by law, it shall not consent to or permit the future construction or installation of billboards or similar outdoor signs on, or visible from, the Segment 3 ROW.

**6.8 No Liability.** Nothing in this Agreement shall be construed to place any liability on the City, the Authority, or any of the Authority's, the City's respective employees, consultants, contractors, agents, servants, directors or officers for any alleged personal injury or property damage arising out of the Segment 3 evaluation, design, construction or operation, or for any alleged personal injury or property damage arising out of the City's operation, policing, regulation, maintenance or repair of the Segment 3 Frontage Roads, the Segment 3 Frontage Roads Area or the City's streets connecting to or crossing Segment 3. Furthermore, it is not the intent of this Agreement to impose upon the City or the Authority any liability for any alleged injury to persons or damage to property arising out of any matters unrelated to the terms of this Agreement or with respect to any actions undertaken by any consultant or contractor employed or engaged by the Authority or the City. Nothing herein shall be construed as a waiver of any rights which may be asserted by the City, the Authority, and/or their officials, including the defense of governmental immunity, sovereign immunity, official immunity or qualified immunity.

**6.9 Financing.** The Authority intends to finance the design and construction of Segment 3 with proceeds from the sale of one or more series of municipal bonds and/or other financing, which bonds or other products also may include amounts for refunding all or certain Authority or Collin County bonds previously issued by the Authority (collectively, the "Financing"). All of the Authority's obligations regarding the construction of Segment 3 are contingent and conditioned upon the successful sale of said municipal bonds or other actions pertaining to the Financing and the Authority's receipt of the proceeds from the Financing. If reasonably requested by the Authority, the City shall promptly cooperate with the Authority by providing assurances or other information reasonably necessary for obtaining the Financing, including assurances and information contained in any official statement or similar document





**7.4 Severability.** If any provision of this Agreement, or the application thereof to any entity or circumstance, is rendered or declared illegal for any reason and shall be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other entities or circumstances shall not be affected thereby, but shall be enforced to the greatest extent permitted by applicable law.

**7.5 Written Amendments.** Any change in the agreement, terms and/or responsibilities of the parties hereto must be enacted through a written amendment. No amendment to this Agreement shall be of any effect unless in writing and executed by the City and the Authority.

**7.6 Limitations.** All covenants and obligations of the City and Authority under this Agreement shall be deemed valid covenants and obligations of said entities, and no officer, director, or employee of the City or the Authority shall have any personal obligations or liability hereunder.

**7.7 Sole Benefit.** This Agreement is entered into for the sole benefit of the City, the Authority and their respective successors, and nothing in this Agreement or in any approval subsequently provided 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.

**7.8 Authorization.** Each party to this Agreement represents to the other that it is fully authorized to enter into this Agreement and to perform its obligations hereunder, and that no waiver, consent, approval or authorization from any third party is required to be obtained or made in connection with the execution, delivery or performance of this Agreement. Each signatory on behalf of the City and the Authority, as applicable, represents that he or she is fully authorized to bind that entity to the terms of this Agreement.

**7.9 Choice of Law; Venue.** The provisions of this Agreement shall be construed in accordance with the laws and court decisions of the State of Texas and exclusive venue for any legal actions arising hereunder shall be in Collin County, Texas.

**7.10 Interpretation.** No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court, other governmental or judicial authority, or arbitrator by reason of such party having or being deemed to have drafted, prepared, structured or dictated such provision.

**7.11 Waiver.** No delay or omission by any party hereto to exercise any right or power hereunder shall impair such right or power or be construed as a waiver thereof. A waiver by any of the parties hereto of any of the covenants, conditions or agreements to be performed by any other party or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement herein contained.

**7.12 Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. There are no representations, understandings or agreements relative hereto which are not fully expressed in this Agreement.

**7.13 Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one single agreement between the parties.

**7.14 Headings.** The article and section headings used in this Agreement are for reference and convenience only, and shall not enter into the interpretation hereof.

**7.15 Expenses For Enforcement.** In the event either party hereto is required to employ an attorney to enforce the provisions of this Agreement or is required to commence legal proceedings to enforce the provisions hereof, the prevailing party shall be entitled to recover from the other, reasonable attorney's fees and court costs incurred in connection with such enforcement, including collection.

**7.16 Force Majeure.** No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including, without limitation: acts of God; flood, fire or explosion; war, invasion, riot or other civil unrest; actions, embargoes or blockades in effect on or after the date of this Agreement; or national or regional emergency (each of the foregoing, a "Force Majeure Event"). The specified time for performance shall be extended by the numbers of days of delay caused by the Force Majeure Event. The extension of time to perform allowed by this Section 7.16 shall not apply unless, upon the occurrence of a Force Majeure Event, the party needing additional time to perform notifies the other party of the Force Majeure Event, the detailed plan for handling the Force Majeure Event, and the amount of additional time reasonably required to resume performance within ten (10) business days of the occurrence of the Force Majeure Event.

**7.17 Payment from Current Revenues.** The obligations of each party under this Agreement will be paid from then- available current revenues or bond proceeds.

**7.18 Governing Bodies to Approve.** The governing body of the Authority and the governing body of the City each must approve this Agreement.

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

CITY OF CELINA, TEXAS

By: [Signature]

Printed Name: Jason Laumer

Title: City Manager

ACKNOWLEDGMENT

THE STATE OF TEXAS §

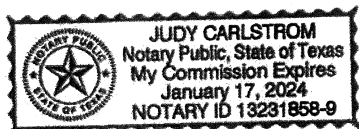
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COUNTY OF COLLIN §


§

This instrument was acknowledged before me on the 30 day of December, 2020, by Jason Laumer, of the City of Celina, Texas, on behalf of said city.

[Signature]  
Notary Public, State of Texas



**COLLIN COUNTY TOLLROAD AUTHORITY  
COLLIN COUNTY, TEXAS**

By:   
Printed Name: CHRIS HILL  
Title: COUNTY JUDGE

**ACKNOWLEDGMENT**

THE STATE OF TEXAS       §  
  §  
COUNTY OF COLLIN       §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_, \_\_\_\_\_ of Collin County, Texas, on behalf of said authority.

\_\_\_\_\_  
Notary Public, State of Texas

**AFTER RECORDING RETURN TO:**

**CITY OF CELINA  
142 N. OHIO STREET  
CELINA, TX 75009**

**Exhibit A**  
**PORTION OF SEGMENT 3 SUBJECT TO THIS AGREEMENT**

**EXHIBIT B**  
**COLLIN COUNTY TOLLROAD AUTHORITY**

**SPECIFICATIONS FOR PLACING WATER, SEWER, GAS AND  
OIL LINES AND CONDUIT WITHIN THE RIGHTS-OF-WAY OR  
CROSSING TURNPIKE PROJECTS**

1. All excavations within the right-of-way and not under surfacing shall be backfilled by tamping in 6" horizontal layers by approved hand-operated mechanical tamping equipment. All surplus material shall be removed from the right-of-way and the excavation finished flush with surrounding natural ground.
2. Where sodding is disturbed by excavation or backfilling operations, such areas shall be replaced by 100% Bermuda block sod, regardless of slope.
3. Crossing under surfaced roads and under surfaced cross roads within the Project shall be placed by boring. Boring shall extend from crown line to crown line. All lines under the Project carrying pressure shall be enclosed in satisfactory casing extending from right-of-way line to right-of-way line. All utilities under a tollway pavement shall be encased in a separate structure from the actual utility line. This can be steel, concrete or plastic, designed to support the load of the highway.
4. Operations shall be performed in such manner that all excavated material be kept off the pavements at all times, as well as all operating equipment.
5. Barricades and warning signs and flagmen when necessary shall be provided by the Contractor or Owner. No main lane, ramp lane closures, nor blocking of any portion of the roadway may be made without specific written approval of the Authority.
6. All excavations within the right-of-way and under the proposed roadway embankment, and/or proposed surfacing, will be backfilled by tamping in 6" horizontal layers by approved hand-operated, mechanical tamping equipment to the density at optimum moisture content required by the North Texas Tollway Authority.
7. Minimum cover above the top of pipe conduit or encasement shall be 2'-0" or as required by the Authority.
8. Any right-of-way fence shall be left undisturbed during construction and may not be cut or moved within the permission of the Authority. Any moving, cutting, or damage to the right-of-way fence by the Utility Company shall be replaced at the Utility Company's expense to the satisfaction of the Authority.

The cutting or mutilating of trees and shrubs will not be permitted without the written approval of the Authority.



**RESOLUTION NO. 2020-89R**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO DISCUSS ANNEXATION AND/OR NEGOTIATE CHAPTER 43 AND/OR CHAPTER 212 ANNEXATION/ETJ DEVELOPMENT AGREEMENTS WITH OWNERS OF PROPERTY IN THE CITY'S EXTRATERRITORIAL JURISDICTION AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Celina, Texas (the "City") is a home-rule municipality pursuant to Section 5, Article XI of the Texas Constitution and exercises powers granted by the Texas Constitution and the City's Charter; and

**WHEREAS**, Section 1.03 of the Charter of the City provides that the City may from time to time alter its boundaries by annexing any territory adjoining its present or future boundaries in any size or shape desired in any manner provided by State law; and

**WHEREAS**, the City Council of the City of Celina, Texas (the "City Council") has found it necessary and in the public interest to expand the city limits of the City, so that the City will grow in an orderly manner, ensure emergency services are available and that the residents both present and future, of the annexed area will be provided services; and

**WHEREAS**, the Texas Local Government Code Section 43.016 provides that the City may not annex property appraised for agricultural, wildlife management, or timber land use unless it first offers to make an agreement with a property owner pursuant to such section; and

**WHEREAS**, the Texas Local Government Code Section 212.172 provides that the City and property owners may make written agreements, to among other things, provide for the annexation of land and the terms of annexation; and

**WHEREAS**, the City Council acknowledges that offering annexation/ETJ development agreements as authorized by Texas Local Government Code Chapter 43 and/or 212 with the property owners of the Properties is the first step in the annexation process as established in Chapter 43 of the Texas Local Government Code; and

**WHEREAS**, Section 2.02 of the City Charter, as a home-rule municipality, grants the City the power to contract and be contracted with; and

**WHEREAS**, Section 4.03 of the City Charter grants the City Manager the power and duty to execute contracts on behalf of the City when authorized by ordinance or resolution of the City Council, and approved as to form by the City Attorney; and

**WHEREAS**, the City Council has determined that it is in the best interest of the citizens of the City to authorize the City Manager or his designee to discuss annexation and/or negotiate Local Government Code Chapter 43 and/or Chapter 212 annexation/ETJ development agreements with property owners of tracts of land located in the City's extraterritorial jurisdiction.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CELINA, TEXAS, THAT:**

**SECTION 1: Recitals Incorporated.** The findings recited above are incorporated as if fully set forth in the body of this Resolution.

**SECTION 2: Authorization to Proceed and Execute.** The City Manager is hereby authorized and directed, on behalf of the City Council of Celina, Texas, to negotiate and execute annexation/ETJ development agreements entered pursuant to the authority granted to the City under Texas Local Government Code Chapters 43 and/or 212 with the property owners located in the City's extraterritorial jurisdiction. Should the City Manager decline to execute any particular agreement, he may present such agreement to the City Council for consideration.

**SECTION 3: Effective Date.** This Resolution shall take effect immediately upon its passage.

**PASSED AND APPROVED** this the 8<sup>th</sup> day of December, 2020.

**Attest:**

**Approved:**

\_\_\_\_\_  
**Vicki Tarrant, City Secretary**

\_\_\_\_\_  
**Sean Terry, Mayor**