

EXECUTION COPY

**PROJECT AGREEMENT
SH 121 TOLL PROJECT**

**Between
Texas Department of Transportation
and
North Texas Tollway Authority**

Dated October 18, 2007

TABLE OF CONTENTS

	<u>PAGE</u>
1. Support for Turnpike	3
2. Transfer of Right-of-Way and Interests	3
3. The Retained Property	5
4. Delivery of Materials	6
5. Assignment of Rights.....	6
6. Project Right of Way	6
7. Design and Construction Obligations of TxDOT for TxDOT Structures.....	7
8. Design and Construction of the Remainder of the Project.....	8
9. Responsibility for Design.....	11
10. Environmental Permits, Issues, Commitments and Studies.....	14
11. Bidding Procedures; Insurance; BOPP; Contract Provisions.....	14
12. Project Schedule	15
13. Operation, Maintenance and Regulation of the Project	15
14. Frontage Roads.....	17
15. Term.....	18
16. Handback and Renewal.....	18
17. Maintenance of Records.....	23
18. Reports and Plans to TxDOT	23
19. The Financing	24
20. Concession Payments.....	24
21. Revenue Sharing	26
22. Tolls	28
23. Tolling Operations Before Service Commencement.....	29
24. Compliance With Applicable Laws.....	29
25. Termination of this Agreement	29
26. Defaults and Remedies	29
27. Successors and Assigns.....	31
28. Circulation of the Agreement	32
29. Severability.....	32
30. Written Amendments	32
31. Notices	32
32. Limitations	33
33. Sole Benefit	33
34. Relationship of the Parties	33
35. Authorization.....	33
36. Interpretation	33
37. Effective Date; Execution and Delivery	33

TABLE OF CONTENTS
(Continued)

Exhibit A	-	Description of the Project and Property Interests
Exhibit B	-	Delivered Materials
Exhibit C	-	Remaining Parcels
Exhibit D	-	TxDOT Structures
Exhibit E	-	Capacity Improvements
Exhibit F	-	[RESERVED]
Exhibit G	-	Design Exceptions
Exhibit H	-	Handback Definitions
Exhibit I	-	Contracts Relating to Warranted Improvements
Exhibit J	-	Milestone Schedule
Exhibit K	-	Operations and Maintenance Standards and Reporting Requirements
Exhibit L	-	NTTA/TxDOT Maintenance Limits
Exhibit M	-	Handback Requirements
Exhibit N	-	Handback Requirements Reserve Elements and Reserve Fund Mechanism
Exhibit O	-	Residual Life Table
Exhibit P	-	Benchmark Rates
Exhibit Q	-	Table 1 – Band Floors and Ceilings; Table 2 – TxDOT Revenue Share Applicable Percentages
Exhibit R	-	Toll Regulation

PROJECT AGREEMENT

SH 121 TOLL PROJECT

THIS PROJECT AGREEMENT (this "Agreement"), by and between the **TEXAS DEPARTMENT OF TRANSPORTATION**, an agency of the State of Texas, as authorized by the Texas Transportation Commission, hereinafter identified as "TxDOT," and the **NORTH TEXAS TOLLWAY AUTHORITY**, a regional tollway authority and a political subdivision of the State of Texas, hereinafter identified as the "Authority," is executed to be effective the 18th day of October, 2007 (the "Effective Date").

WITNESSETH

WHEREAS, the Authority is authorized to study, evaluate, design, acquire, construct, maintain, repair, and operate turnpike projects within the Counties of Collin, Dallas, Denton and Tarrant, pursuant to Chapter 366 of the Texas Transportation Code, as amended (the "Regional Tollway Authority Act"); and

WHEREAS, there has been an increasingly critical need for a continuous express lane facility within the SH 121 corridor extending from Business SH 121 in Denton County to US 75 in Collin County, a total length of approximately twenty-six (26) miles (the "Project"), and consisting of five (5) designated "Segments" as more fully described in Exhibit A attached hereto and made a part hereof (each a "Segment"), in order to better serve the traveling public, relieve unacceptable levels of traffic congestion on the existing state highway system, and improve mobility in the rapidly developing portions of Collin, Dallas and Denton Counties; and

WHEREAS, through its "Mobility 2025: The Metropolitan Transportation Plan, 2005 Update" (the "Mobility 2025 Plan"), the Regional Transportation Council (the "RTC") of the North Central Texas Council of Governments, the metropolitan planning organization for North Central Texas (the "NCTCOG"), identified the Project as an integral element of its regional transportation plan for the Collin, Dallas and Denton County areas; and

WHEREAS, the Authority (1) has constructed and operates (a) the Dallas North Tollway (the "DNT") which extends northerly approximately twenty-two (22) miles from the Dallas Central Business District to north of SH 121 in Frisco, Texas, (b) the President George Bush Turnpike (the "PGBT"), which extends approximately thirty (30) miles from West Belt Line Road in Irving, Texas, to SH 78 in Garland, Texas, (c) the Addison Airport Toll Tunnel (the "Tunnel") which connects and extends Keller Springs Road from Addison Road on the east to Midway Road on the west in Addison, Texas, and (d) the Mountain Creek Lake Bridge (the "MCLB") which extends approximately two (2) miles from the intersection of SH Spur 303 and S.E. 14th Street in Grand Prairie, Texas, east across Mountain Creek Lake to an intersection with SH Spur 303 (Kiest Boulevard) and Mountain Creek Parkway in Dallas, Texas, and (2) is constructing (a) the Phase 3 Extension of the DNT (the "Phase 3 Extension") extending approximately ten (10) miles from SH 121 northerly to US 380 in Frisco, Texas, (b) the Lewisville Lake Toll Bridge (the "LLTB") which will extend across Lewisville Lake connecting Swisher Road in Lake Dallas, Texas, to Garza Lane and Eldorado Parkway in Little Elm, Texas, in southeast Denton County, and (c) an extension of the PGBT extending approximately ten (10)

miles from a northern terminus of SH 78 to a southern terminus of I-30 in Garland, Texas (the "Eastern Extension"); and the DNT, the PGBT, the Tunnel, the MCLB, the Phase 3 Extension, the LLTB, and the Eastern Extension collectively constitute the Dallas North Tollway System (the "NTTA System"); and

WHEREAS, pursuant to Resolution No. 07-42 passed on May 7, 2007, the Board of Directors of the Authority (the "Board"), the Authority determined that the Project can be constructed and operated most effectively and economically as an integrated tollway project with the NTTA System, and resolved that the Project should be constructed as an extension and enlargement of the NTTA System; and

WHEREAS, pursuant to Section 228.151 of the Texas Transportation Code; the Commission may remove a segment of the state highway system and transfer it to a governmental entity that has the authority to operate a tolled highway; and

WHEREAS, TxDOT and the Authority intend that upon the Service Commencement Date (as hereinafter defined) for each Segment and subject to completion of the required public hearings pertaining to the transfer and approval of the Commission and the Governor, the main-lane portion of the applicable Segment (that is, exclusive of the portion required for Project frontage roads) shall be removed from the state highway system and transferred to the Authority; and

WHEREAS, on June 28, 2007, the Texas Transportation Commission (the "Commission") passed Minute Order 110968, approving the recommendation of the RTC that the Authority undertake the development, design, construction, financing, operation, and maintenance of the Project, and directed the Authority, the RTC and TxDOT to negotiate the terms of this Agreement and authorized other necessary actions to implement the Minute Order; and

WHEREAS, pursuant to Resolution No. 07-73 passed on July 25, 2007, the Board authorized the Authority's Executive Director to execute this Agreement, which contains the relevant provisions regarding TxDOT's and the Authority's rights and obligations pertaining to the Project; and

WHEREAS, on August 23, 2007, the Commission passed Minute Order 11030, cancelling Minute Order 110968, and authorizing the executive director of TxDOT, subject to environmental clearance of Segments 1-4 of the Project, to enter into this Agreement for the development, financing, design, construction, operation and maintenance of the Project; and

WHEREAS, TxDOT and the Authority have received all authorizations, consents and approvals, including the NEPA Approval (as hereinafter defined) required for the environmental reevaluation of tolling that portion of the Project situated in Collin County and all approvals for (1) the Project's connections to the state highway system and (2) the Authority to make improvements to the state highway system and to operate the Project as a turnpike project under the Regional Tollway Authority Act prior to the transfer of the applicable Segment as described above, and have otherwise complied with all applicable law required to enter into and perform under this Agreement and to support the construction and operation by the Authority of the Project.

AGREEMENT

NOW, THEREFORE, in consideration of these premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed as hereinafter set forth, TxDOT and the Authority agree as follows:

1. **Support for Turnpike.** TxDOT acknowledges its approval of and support for the financing, design, construction, operation and maintenance by the Authority of the Project as a turnpike project pursuant to the Regional Tollway Authority Act. Without limiting the provisions of this Agreement, TxDOT and the Commission will take all actions reasonably requested by the Authority which are consistent with this Agreement in furtherance of the purposes of this Agreement. Unless and until the Authority elects to abandon its efforts to construct and operate the Project, TxDOT shall not advance any alternative to or conflicting proposal for the development of the Project. Further, in its construction, operation and maintenance of the Retained Property (as hereinafter defined) or its consideration of any project that might affect the Project, TxDOT shall make best efforts to minimize or avoid any adverse impact on the Project or its operation.

Nothing contained in the previous paragraph or elsewhere in this Agreement in any manner constrains the ability of TxDOT or any other party (a) to perform any work or improvements on highway projects necessary for improved safety, maintenance or operational purposes or (b) to construct and operate any portions of US 75, US 380, I-35E, I-635 or the President George Bush Turnpike or the highway projects included in any of the following long-range transportation plans and programs:

- (i) 2006-2008 Statewide Transportation Improvement Program (STIP);
- (ii) Unified Transportation Program (UTP) (2006):
 - (A) 2006 Statewide Preservation Program (SPP); or
 - (B) 2006 Statewide Mobility Program (SMP);
- (iii) Mobility 2025 Plan; or
- (iv) Mobility 2030 Plan adopted by the RTC on January 11, 2007.

Pursuant to Sections 223.210(h), 228.002, 228.003, 366.033(g), 366.033(k) and 366.169 of Texas Transportation Code and all other applicable law, TxDOT hereby fully authorizes the Authority to acquire, design, finance, construct, operate and maintain the Project. The Project shall constitute a turnpike project for all purposes under the Authority's enabling legislation – that is, a highway facility owned or operated by the Authority – and the Authority intends to add it to the NTTA System for financing and all other purposes. With respect to its improvement of any portion of the state highway system pursuant to this Agreement, the Authority shall be governed by the provisions of the Regional Tollway Authority Act applicable to the performance of the same function for a turnpike project under that Act and the rules and procedures adopted by the Authority thereunder, in lieu of the laws, rules, or procedures applicable to TxDOT for the performance of the same function.

2. **Transfer of Right-of-Way and Interests.** It is the shared intent of TxDOT and the Authority that, after compliance with the applicable requirements of Subchapter D of Chapter 228 of the Texas Transportation Code (“Subchapter D”) and 43 TAC §§ 27.11-27.16

and as Segments of the Project are completed by TxDOT or the Authority, the Segment's main lanes and associated right-of-way shall be removed from the state highway system and transferred to the Authority as more specifically set forth in the following paragraph and pursuant to multiple agreements for the lease, sale, or conveyance of a toll project or system under Subchapter D (the "Transfer Agreements"). The frontage roads will not be transferred and shall remain on the state highway system. This process will continue until the main-lane portions of all five (5) Segments of the Project have been removed from the state highway system and transferred to the Authority. For purposes of Subchapter D, each Segment shall constitute a toll project, as defined in Section 201.001(b) of the Texas Transportation Code.

Except as expressly provided in Section 3 below and subject to (a) complete execution of the required Transfer Agreements, (b) completion of the required public hearings, (c) approval by the Commission and (d) approval by the Governor, all fee interests, permanent and/or temporary easements, rights of entry, licenses, leases, personal property (if any) and other interests of any kind, whether now or hereafter acquired by purchase, condemnation, dedication or any other means by TxDOT (or otherwise held by TxDOT) for the purpose of constructing and operating the main lanes of each Segment of the Project (the "Property Interests") described in the metes and bounds descriptions in Exhibit A attached hereto and made a part hereof shall be transferred by TxDOT to the Authority on the date of commencement of normal and continuous tolling operations and maintenance for the applicable Segment by the Authority after the occurrence of substantial completion of the work required to be performed by TxDOT or the Authority, as applicable, on such Segment (each a "Service Commencement Date"). The Property Interests shall be transferred to the Authority pursuant to the Transfer Agreements by order of the Commission reasonably acceptable to the Authority, which may reference or incorporate the provisions of subsections (a) and (i) of Section 16 hereof. To further evidence that transfer, one or more deed(s) without warranty shall be prepared and recorded as soon as reasonably possible after the Service Commencement Date for each Segment, utilizing the legal descriptions attached to the applicable Minute Order, including any corrections reasonably determined by TxDOT. The deed(s) without warranty may, at TxDOT's option, include reverter provisions consistent with the terms of this Agreement, including subsections (a) and (i) of Section 16. All costs of recordation shall be the responsibility of the Authority. The Property Interests are transferred "as is," without warranty of title, and subject to all matters of record. Except for the reversion and reconveyance to TxDOT upon the termination of this Agreement pursuant to Section 16 hereof, TxDOT shall assist the Authority in preventing any reversion, forfeiture, reconveyance, loss or diminution of any previously acquired or dedicated Property Interests, provided that the Authority shall reimburse TxDOT for all costs it incurs as a result of that assistance. The foregoing transfer of the Property Interests shall include all structures and improvements of any kind now or hereafter situated thereon, together with all stored materials and any items specially fabricated for the Project, if any. Without limiting the foregoing, TxDOT shall provide for the removal and transfer to the Authority of Segment 1 upon (i) the complete execution of the applicable Transfer Agreement and (ii) the Authority's payment of the Upfront Payment and the Additional Upfront Payment (as defined in Section 20 hereof) in accordance with this Agreement (the "Financial Close"), to be effective upon the Service Commencement Date for that Segment, estimated to be on or about July 1, 2008. Upon the removal and transfer of any Property Interests pursuant to this Section 2, the Authority shall accept those Property Interests for maintenance and operation in a safe and efficient manner, while protecting and preserving the State's investment in that facility.

The subsequent removal and transfer of Segments pursuant to this Section 2 neither adds to nor completes the Authority's authorization to construct and operate the Project provided in Section 1 above or elsewhere in this Agreement, but instead provides certain operational benefits to both TxDOT and the Authority, as well as tracks the successful approach used by those parties on previously partnered projects. If for any reason one or more of the Segment transfers described in this Section 2 fails to occur, the authorization provided in Section 1 or elsewhere in this Agreement, together with all rights conferred on the Authority pursuant to this Agreement, shall not be affected in any respect, including, without limitation, the rights of the Authority to acquire, design, finance, construct, operate and maintain the Project. Further, in no event shall this Agreement be deemed or construed as a Transfer Agreement.

3. **The Retained Property.** Notwithstanding anything to the contrary contained in Section 2 above, TxDOT shall retain full jurisdiction to and shall not transfer to the Authority the following structures and improvements and the land on which they are or will be constructed, *save and except* any portion of said structures and improvements constituting the main lanes of the Project over which the Authority has jurisdiction and any land on or above which said lanes are or will be constructed for which the Authority does hereby receive sufficient rights to use from TxDOT pursuant to Section 2 above:

- (a) I-35E Interchange;
- (b) FM 544 underpass structure;
- (c) FM 2281 underpass structure;
- (d) SH 121 Business NB ramp structure;
- (e) SH 289 north and south of SH 121 and SH 289 overpass structure;
- (f) FM 2478 overpass structure;
- (g) US 75 main lanes and frontage roads; and
- (h) FM 423 overpass structure.

The structures and property described under subsections (a) through (h) above constitute the "Retained Property." Additionally, upon reasonable request by TxDOT, the Authority shall grant TxDOT suitable easement interests to permit the construction by TxDOT across the main lanes of one or more utility bridges, which interest shall thereafter constitute a portion of the Retained Property. Notwithstanding any provision of this Agreement to the contrary, TxDOT and the Authority shall consult and cooperate with one another to ensure that the Retained Property is not modified, operated or maintained in any manner that interferes with access to and egress from, or with the safe and efficient operation of, the Project. TxDOT and the Authority jointly shall consult and approve the design of suitable signage and other structures on the Retained Property which are necessary or desirable for the proper operation of the Project (exclusive of the Retained Property), provided that said structures and their installation shall conform to all applicable safety codes and standards (including, without limitation, TMUTCD, as hereinafter defined) and shall not conflict with the operation of the Retained Property. The costs of installing and maintaining the signage, and other structures described in the preceding sentence, shall be borne solely by the Authority. It is understood and agreed that the operation of the main lanes of the Project may by necessity be curtailed temporarily in the event of damage to the Retained Property caused by flood, accidents, emergencies, or calamities. TxDOT will, in that event, do everything reasonably possible to provide for rapid and timely repairs to those portions of the Retained Property under its control which are damaged, in order that the Authority may

resume operation of the Project as soon as possible. TxDOT shall have no responsibility for the operation, maintenance, policing or regulation of the Property Interests. Except as otherwise provided in Sections 13 and 14, the Authority shall have no responsibility for the operation, maintenance, policing or regulation of the Retained Property except for the frontage roads and the ramps leading to and from the Project at the interchanges. If (i) TxDOT determines that the Authority's operation of the Project materially interferes with or adversely affects the operation or use of the Retained Property or (ii) the Authority determines that TxDOT's operation of the Retained Property materially interferes with or adversely affects the operation or use of the Project, TxDOT and the Authority shall consult with each other, and such modifications or remedial actions acceptable to both parties will be accomplished, and all resulting costs shall be allocated between TxDOT and the Authority as they reasonably determine.

4. **Delivery of Materials.** To assist the Authority in its design and construction of the Project and, specifically, to reduce the cost of completing the Project, TxDOT will, to the extent legally able, promptly provide the Authority with all original counterparts or, if originals are unavailable, copies of all materials prepared by or for TxDOT (or otherwise held by TxDOT) in connection with the Project, together with any and all other items or information in the possession of TxDOT and useful to or necessary for the Authority's completion of the Project, including all materials submitted by the proposers in the Comprehensive Development Agreement procurement process for the Project (including all Alternative Technical Concepts or "ATCs") as soon as possible following Financial Close and upon compliance with all legal requirements for transfer (the "Delivered Materials"). Without limiting the foregoing, the Authority has identified certain items comprising part of the Delivered Materials that it requires, which items are identified on Exhibit B attached hereto and made a part hereof.

5. **Assignment of Rights.** After reviewing the Delivered Materials provided by TxDOT pursuant to Section 4 above, the Authority, from time to time, may request that TxDOT either (a) assign, in writing, to the Authority and/or its consultants all of TxDOT's right, title and interest in any permit, agreement, contract, conveyancing instrument, plan or other Delivered Material or (b) provide the Authority with a royalty-free license to use any such Delivered Material, if in the reasonable determination of the Authority such assignment or license will result in a cost savings or otherwise benefit the development of the Project; the Authority shall reimburse TxDOT for all costs it incurs as a result of the foregoing assignment or license. TxDOT shall assist the Authority in obtaining any consents required to assign or license the foregoing items to the Authority so that, to the extent that TxDOT assigns its rights and interests to the Authority, the Authority shall have, to the greatest extent possible, the same rights under and interests in the assigned Delivered Materials as TxDOT held prior to that assignment; the Authority shall reimburse TxDOT for all reasonable costs it incurs as a result of that assistance. The foregoing assignment rights shall not apply to pending lawsuits, actions, condemnation and other proceedings related to the Project and involving TxDOT, if any.

6. **Project Right of Way.** TxDOT has completed, or shall undertake and complete at its own cost and expense, the acquisition of Project Right of Way (as defined below), including for Segment 5, in accordance with its customary practices but without the expenditure of any federal funds. TxDOT commits to proceed through the conclusion of all appeals to a final judgment in any eminent domain action, and to satisfy all resulting costs, awards, and settlements. Notwithstanding the foregoing, the Authority shall undertake and complete the

acquisition of those parcels of Project Right of Way set forth on Exhibit C attached hereto and made a part hereof, which parcels are the only parcels of the Project Right of Way for which TxDOT has yet to acquire full fee simple title or estate, right of procession, or such other interest necessary or desirable for the construction and operation of the Project (the “Remaining Parcels”). TxDOT shall pay at closing or into the registry of the applicable court the acquisition costs required to be paid to any interest holder in the Remaining Parcels and the Authority shall pay the other costs of the acquisition of the Remaining Parcels. The Authority shall place in the deeds for the Remaining Parcels, or if title is passed by a court judgment or other means otherwise file of record, provisions evidencing TxDOT’s rights in the Remaining Parcels upon the Scheduled Termination Date that are reasonably satisfactory to TxDOT. “Project Right of Way” means any real property (which term is inclusive of all estates and interests in real property), improvements and fixtures within the lines established by the NEPA Approval to delineate the outside limits of the Project, as such limits may be adjusted from time to time, and specifically includes all air space, surface rights and subsurface rights within the limits of the Project Right of Way. “NEPA Approval” means (a) each decision document issued by the Federal Highway Administration (“FHWA”), TxDOT, the Authority, or other authorized party for the Project or a portion of the Project, and all approved supplements and reevaluations pertaining to the Project as of the Effective Date, and (b) any decision document under the National Environmental Policy Act or other environmental policy substantially similar to or incorporating the provisions thereof (“NEPA”) that FHWA, TxDOT, the Authority, or other authorized party may issue for Segment 5.

7. Design and Construction Obligations of TxDOT for TxDOT Structures.

(a) TxDOT Structures. TxDOT, at its sole cost, shall be responsible for the timely development of the plans, specifications and estimate and construction of those portions of the Project specifically described on Exhibit D attached hereto and made a part hereof, including all required construction management and construction materials testing services, and all required and remaining utility relocation and/or adjustment (being collectively defined as the “TxDOT Structures”). TxDOT shall use its best efforts to construct and complete the TxDOT Structures by January 31, 2008. TxDOT has reviewed and approved the design and construction schedule for the TxDOT Structures and the completion date noted above and agrees that they are reasonable and achievable. TxDOT’s construction obligations for the main lanes, ramps, frontage roads and cross streets shall include all major items such as pavement, bridges and walls, as well as all columns; supports; curbs; headwalls; wingwalls; aprons; right-of-way fencing; guardrail and fencing; impact attenuators and other safety devices; junction boxes, inlets, manholes, culverts, channels, piping, containment and mitigation systems, conduits and other drainage structures; illumination devices; signage (with respect to TxDOT Structures in Segment 1); pavement markings and other delineation devices (with respect to TxDOT Structures in Segment 1); and other typical and necessary appurtenances. TxDOT shall permit the Authority to review, at mutually acceptable review intervals, any designs, plans, specifications, and construction records pertaining to TxDOT’s construction obligations under this Section 7 in order to ensure that said work is accomplished in a manner and to standards which, in the reasonable opinion of both TxDOT and the Authority, are consistent with the overall aesthetic guidelines, design and construction of the Project.

(b) Progress of TxDOT Structures. The Authority has utilized and relied upon the design and construction schedule for the TxDOT Structures and the completion date noted in the previous paragraph in structuring the Financing, as hereinafter defined. If during the construction of the TxDOT Structures, TxDOT has reason to believe that the completion date indicated in the preceding paragraph may be exceeded, TxDOT shall promptly notify the Authority and, working collaboratively, the parties shall evaluate all feasible alternatives for accelerating the progress of work on the TxDOT Structures. TxDOT and the Authority shall utilize to the maximum practical degree the expedited and fully joint/concurrent design review process described and defined in Section 8 to track progress of the contractor(s) toward completing the TxDOT Structures to prevent that progress from falling behind the completion date set forth above. TxDOT shall forward to the Authority its monthly construction reports for the TxDOT Structures, which the Authority may distribute to its underwriters and other interested parties.

(c) Existing Toll Collection System. The Authority acknowledges and agrees that TxDOT shall have the right to install and operate the existing toll collection system until the Service Commencement Date for Segment 1. TxDOT will commence removal of the existing toll collection system promptly after the Service Commencement Date for Segment 1 and will complete such removal within one hundred twenty (120) days after such date or, if TxDOT and the Authority enter into a tolling services agreement pursuant to Section 23 prior to the Service Commencement Date for Segment 1, within one hundred twenty (120) days after the Authority commences tolling under such agreement.

8. Design and Construction of the Remainder of the Project.

(a) Design and Construction. Except as provided in Section 7 above with respect to the TxDOT Structures and as hereinafter provided in this Section 8, the Authority, at its sole cost, shall be responsible for the design and construction of the Project, including all required and remaining utility relocation and/or adjustment. The Authority shall be fully responsible for (i) ensuring that all environmental permits, issues, and commitments are addressed in its project design, (ii) addressing field changes for potential environmental impacts and obtaining any necessary environmental permits, issues, and commitments for such field changes, and (iii) ensuring that all construction plans are signed, sealed and dated by a professional engineer licensed in the State of Texas. The Authority also will be responsible for securing construction oversight and inspection, and materials testing and inspection. Except as provided in Section 7 or as hereinafter provided, the Authority shall have sole authority and responsibility for (A) the design of the Project and all features thereof, (B) the selection of underwriters, investment bankers, financial advisors, legal counsel, consultants, construction managers, engineers, architects, surveyors, testing engineers and laboratories, inspecting engineers, geotechnical engineers and scientists, suppliers, contractors, subcontractors, vendors, sureties, and other parties retained in connection with the financing, design, construction, maintenance or operation of the Project, (C) the commencement, sequencing and timing of design and construction activities and other work, (D) the acceptance or rejection of work or other deliverables, and (E) the negotiation, bidding, and letting of contracts. TxDOT hereby grants and confirms all rights of entry, access and use in and to the Project Right of Way as may be necessary or desirable for the Authority to undertake and complete its construction and other obligations under this Agreement, which shall remain in full force and effect throughout the term of this Agreement as

set forth in Section 15 hereof irrespective of whether the applicable Segment was or will be transferred to the Authority pursuant to Section 2; provided that prior to the Service Commencement Dates for Segments 1 and 2 the Authority and its contractors will provide reasonable advance notification to TxDOT of any construction work on such Segments and will make best efforts to minimize or avoid any disruption to the construction or operation of such Segments. Pursuant to the requirements of Title 43, Texas Administrative Code, Chapter 27, TxDOT shall review and approve the design for the Project in the manner described in the remainder of this Section 8.

(b) Plans and Specifications. Except with respect to the TxDOT Structures, the Authority will provide for the preparation of the plans, specifications and estimate for all portions of the Project (the “PS&E”) in the following manner. The schematic design prepared for the Project has been approved by TxDOT, provided that any subsequent changes proposed by the Authority shall be reviewed by TxDOT until, in the reasonable opinion of TxDOT, it is approved (the “Approved Schematic”), and the PS&E shall conform to the Approved Schematic. Except for the TxDOT Structures, which will be designed and reviewed in accordance with Section 7 hereof, the PS&E for the Project and all connections and ramps to or from the Project to road facilities maintained by TxDOT shall be developed by the Authority consistent with the latest edition and revisions of TxDOT’s standards as of the Effective Date, including the American Association of State Highway and Transportation Officials’ (“AASHTO”) Standard Specifications for Highway Bridges, including applicable interim specifications, TxDOT’s Highway Design Division Operations and Procedures Manual, TxDOT’s Standard Specifications for Construction of Highways, Streets and Bridges, TxDOT’s Foundation Exploration Manual, TxDOT’s Bridge Design Guide, and The Texas Manual on Uniform Traffic Control Devices (“TMUTCD”). For all items not discussed in the above-referenced documents, AASHTO’s A Policy On Geometric Design of Highways and Streets shall be referenced for guidance. TxDOT shall review the PS&E as set forth in subsection 8.(c) below. Notwithstanding anything herein to the contrary, TxDOT and the Authority agree that eight (8)-lane bridge structures may be constructed by the Authority as part of the initial construction of the Project.

(c) Joint/Concurrent Review. Due to the expedited delivery schedule for the Project and in order to maximize the benefit of the Project to North Central Texas, TxDOT and the Authority shall implement and adhere to a fully joint and concurrent design review process by which all materials subject to review by the parties, and regardless of whether they pertain to the TxDOT Structures or any other design feature of the Project, will be concurrently distributed to and reviewed by both TxDOT and the Authority. This joint/concurrent review has been intentionally selected by TxDOT and the Authority for the Project in lieu of the independent/serial review the parties have typically utilized on other partnered projects. Consequently, TxDOT and the Authority intend that the review periods afforded under previous project agreements will be significantly reduced for the Project. Without limiting the foregoing, TxDOT and the Authority shall use all reasonable efforts to maximize a teaming approach to complete their respective reviews of all materials concurrently. Each party shall complete its review of materials within thirty (30) days following their receipt by that party’s designated recipient, except that TxDOT shall have seven (7) weeks to complete its review if such material also requires a “Letter of Authority” to be issued by FHWA. Additionally, TxDOT and the Authority may agree to form and utilize a technical work group, similar to the process used on their other partnered projects, for one or more elements of the Project delivery process.

(d) Capacity Improvements. The Authority shall make capacity improvements to the Project as and when provided in Exhibit E, attached hereto and made a part hereof, to this Agreement. Required capacity improvements will be based on the level of service criteria, requirements and provisions set forth in Exhibit E. For the avoidance of doubt, occurrence of the first trigger event described in Section 4 of Exhibit E signifies a failure to meet the minimum required levels of service. The Authority shall bear the burden of proving that its proposed capacity improvements will restore minimum required levels of service for a reasonable period of time. Except as provided in Exhibit E, all the provisions of this Agreement shall apply, with only minor modifications as are necessary in points of detail, to capacity improvements.

The Authority will provide for the preparation of the PS&E for the capacity improvements to Project in the following manner. The schematic design prepared by the Authority for the capacity improvements shall be reviewed at mutually acceptable review intervals by TxDOT until, in the reasonable opinion of TxDOT and the Authority, it is approved, and the PS&E for the capacity improvements shall conform to such approved schematic. The PS&E for the capacity improvements shall be developed by the Authority consistent with the latest edition and revisions of TxDOT's standards as of the date such PS&E is developed.

(e) Renewal Work. The Authority shall perform renewal work as and when necessary to maintain compliance with the Performance Requirements (as defined in Exhibit H). Prior to the end of each calendar year during the term hereof following the first anniversary of the first Service Commencement Date, the Authority shall prepare a schedule for the renewal work expected to be performed during the following calendar year. Not later than ninety (90) days after the end of each calendar year, the Authority shall make available to TxDOT a report of the renewal work performed in the immediately preceding calendar year. The report shall describe by location, element and other component the type of work performed, the construction start and completion dates and the cost of design, construction and inspection for each element included in the renewal work, as well as the total cost of all renewal work performed during the calendar year. During the period the Handback Requirements Reserve (as hereinafter defined) is in effect, the report also shall set forth the total draws from the Handback Requirements Reserve in the immediately preceding calendar year and the date, amount and use of each draw (including any use for safety compliance work).

(f) Existing Improvements.

(i) The Authority is not required to renovate or otherwise reconstruct existing improvements to accommodate current design criteria.

(ii) At least sixty (60) days before the Service Commencement Date for each Segment, the Authority shall establish the asset condition score for the existing improvements in such Segment by initiating audit inspections of such existing improvements. TxDOT will make available to the Authority any maintenance records in its possession that will assist in establishing the asset condition.

(iii) If the asset condition scores for each element category of existing improvements in any Segment indicate that the Performance Requirements are not being met, then prior to Service Commencement for such Segment the Authority shall prepare

and submit to TxDOT for its review and comment a renewal work schedule for the existing improvements that indicates that the Performance Requirements for each element will be fully met within the timeframes detailed in the table set forth below. The baseline date is the Service Commencement Date for the Segment and the mean element compliance score is the mean condition score across all elements in each element category.

Minimum Asset Condition Score and Minimum Mean Element Compliance Score for Existing Improvements

Minimum Asset Condition Score				
Baseline Date	+ 6 months	+ 12 months	+ 24 months	+ 36 months
6	6	6	6	6
4	4	4	6	6
2	2	4	4	6
Minimum Mean Element Compliance Score				
Baseline Date	+ 6 months	+ 12 months	+ 24 months	+ 36 months
2.5 - 3.5	6	7	7	7
1.5 - 2.5	5	6	7	7
1.0 - 1.5	3	5	6	7

(iv) Notwithstanding the foregoing timeframes, all safety hazards are to be corrected within reasonable timeframes corresponding to the Authority’s standard operating procedures for such matters.

(g) Highway Reference Marker Signage. The Authority and TxDOT jointly shall consult and approve the installation of a highway reference marker signage system for the main lanes and frontage roads in conformity with TxDOT’s standards for reference marker signage for the state highway system.

9. Responsibility for Design.

(a) Responsibility. Except as otherwise provided in the following sentence or in subsection 9.(c) or Section 14 below, the Authority acknowledges and fully accepts its responsibility for the design, construction, maintenance, regulation, signage, illumination and overall operation of the Project, and hereby accepts said responsibility, and releases TxDOT from responsibility therefor, in any litigation. Nothing, however, contained in this Agreement or elsewhere shall impose any liability on the Authority for or with respect to (i) the operation of the Retained Property or (ii) without limiting the foregoing, for the design and construction of the TxDOT Structures. Neither TxDOT nor the Authority waives, relinquishes, limits or conditions its governmental immunity or any other right to avoid liability which it otherwise might have to third parties. Nothing in this Agreement shall be construed as creating any liability in favor of any third party or parties against either TxDOT or the Authority, nor shall it ever be construed as relieving any third party or parties from any liabilities of such third party or parties to TxDOT or the Authority, but the Authority shall become fully subrogated to TxDOT and shall be entitled to maintain an action over and against any third party or parties (but not TxDOT) legally liable for having caused the Authority or TxDOT to pay or disburse any sum of money in connection with any previously completed portion of the Project.

(b) Exceptions. TxDOT hereby agrees to the design exceptions for the Project listed on Exhibit G attached hereto and made a part hereof. The Authority may implement the Authority's "System-wide Design Guidelines" for landscaping and aesthetics, which the Authority shall review with the cities through which the Project extends (the "Project Cities") and TxDOT.

(c) Warranted Improvements. Notwithstanding anything to the contrary in subsection 9.(a) above, TxDOT hereby provides to the Authority a limited warranty of any and all portions of the Project which have been completed or are under construction by TxDOT's contractors (the "Warranted Improvements"), except that the Warranted Improvements shall not include the electronic toll collection system installed or to be installed by TxDOT on Segment 1. Such limited warranty is given on the following terms and conditions:

(i) TxDOT warrants that the Warranted Improvements shall be free of latent defects in design, materials, equipment and workmanship, as measured from the requirements, criteria, standards and specifications in the relevant contracts under which the Warranted Improvements are or were constructed. A defect shall be considered latent only if it is not known or disclosed to the Authority as of May 18, 2007 and would not normally be discovered upon reasonable inspection and investigation in accordance with standard industry practice. This limited warranty does not apply to work of design and construction performed by any Utility Owner on its own Utilities (as such terms are defined in Exhibit H attached hereto and made a part hereof).

(ii) This limited warranty is the sole warranty from TxDOT of the Warranted Improvements, and all other warranties, express or implied, are hereby disclaimed, including any warranty of suitability or fitness for a particular purpose.

(iii) TxDOT's liability under this limited warranty is limited to the direct cost (A) to correct latent defects covered by this warranty and (B) to correct physical loss or harm to the Project resulting from such latent defects, but only to the extent such loss or harm is not insured and not required to be insured under this Agreement (the "Resulting Uninsured Physical Loss"). TxDOT shall have no other obligation or liability to the Authority arising out of or relating to latent defects in the Warranted Improvements, including for loss of toll revenues and for third party damage, harm, injury, loss, cost or expense.

(iv) This limited warranty shall expire three (3) years after the date TxDOT issued or issues written acceptance of each portion of the Warranted Improvements under each contract pursuant to which a portion of the Warranted Improvements were or are constructed. TxDOT represents that Exhibit I attached hereto and made a part hereof accurately lists all such contracts and, if applicable, the date TxDOT accepted the work thereunder. For Warranted Improvements not yet accepted as of the Effective Date, TxDOT shall deliver to the Authority a copy of TxDOT's written acceptance within ten (10) days after TxDOT issues it. No warranty is given for Warranted Improvements accepted more than three (3) years prior to the Effective Date.

(v) TxDOT shall have no liability under this limited warranty unless it receives from the Authority, prior to the applicable expiration date of the warranty, written notice asserting a warranty claim and setting forth the nature and location of the latent defect in reasonable detail.

(vi) If TxDOT receives any such written notice prior to the applicable expiration date of this limited warranty, then within thirty (30) days of receipt TxDOT and the Authority shall mutually agree when and how TxDOT shall correct such latent defect and the Resulting Uninsured Physical Loss; provided, however, that in case of an emergency or threat to safety requiring immediate corrective action, TxDOT shall implement such action as it deems necessary and shall notify the Authority in writing of the urgency of such action. TxDOT shall prepare and furnish to the Authority, with its recommendation for corrective action, data and reports applicable to any correction required, including revision and updating of all affected documentation. Where Resulting Uninsured Physical Loss consists only of the cost of corrective work under a deductible or self-insured retention, TxDOT may elect to pay such cost to the Authority in lieu of performing the corrective work itself.

(vii) If TxDOT does not use diligent efforts to proceed to correct the latent defect and Resulting Uninsured Physical Loss within the agreed time, or should TxDOT and the Authority fail to reach agreement within such 30-day period (or immediately in the case of emergency or unsafe conditions), the Authority, after written notice to TxDOT, shall have the right to perform or have performed by third parties the necessary corrective work, and TxDOT shall bear the reasonable costs thereof.

(viii) All work, supplies and parts furnished to correct the latent defect and Resulting Uninsured Physical Loss, and any services performed, shall comply with all applicable TxDOT standards required under this Agreement.

(ix) In correcting latent defects and Resulting Uninsured Physical Loss under this warranty, TxDOT shall coordinate and schedule activities to minimize interference with operation of the Project.

TxDOT shall provide the Authority with not less than 20 days' prior written notification of the date TxDOT determines it will achieve substantial completion of the Warranted Improvements. During such 20-day period, TxDOT and the Authority shall meet and confer and exchange information on a regular cooperative basis with the goal being TxDOT's and the Authority's orderly, timely inspection and review of the Warranted Improvements for substantial compliance with the plans, standards and specifications in the relevant construction contracts and for identification of patent defects and preparation of a punch list. TxDOT at its expense shall cause punch list items, including patent defects identified by the parties, to be diligently completed following substantial completion of the Warranted Improvements. If any patent defect is not eligible for treatment as a punch list item, TxDOT shall cause it to be rectified as a condition to achieving substantial completion of the Warranted Improvements.

(d) TxDOT Cooperation. In addition to the foregoing, TxDOT shall reasonably assist the Authority in the Authority's pursuit of any breach of contract, negligence or other claim

against any of TxDOT's contractors, which assistance may include TxDOT's assignment of its rights to the Authority, sharing of documentation, providing access to its employees and consultants, or, if necessary, joinder in any legal action, provided that the Authority shall promptly reimburse TxDOT for all costs it incurs as a result.

10. **Environmental Permits, Issues, Commitments and Studies.** For the purposes of this Agreement, environmental permits, issues and commitments ("EPIC") shall include any permit, issue, coordination, commitment, or mitigation obtained to satisfy social, economic, or environmental impacts of the Project, including, but not limited to, sole source aquifer coordination, wetland permits, stormwater permits, traffic noise abatement, threatened or endangered species coordination, archaeological permits, and any mitigation or other commitment associated with any of those issues.

Except as provided in the following sentence, the Authority assumes all liability and responsibility for existing and future EPIC with respect to the Project upon Financial Close.

Notwithstanding the foregoing, (a) TxDOT has received the NEPA Approval required for the environmental reevaluation of tolling that portion of the Project situated in Collin County, (b) TxDOT is seeking a categorical exclusion for Segment 5 (the fully directional SH 121/DNT interchange) and, at its cost, shall use best efforts to advance same to its conclusion (the "Segment 5 Environmental Clearance"), and (c) prior to their respective Service Commencement Dates, TxDOT shall retain all liability and responsibility for existing and future EPIC with respect to Segments 1 and 2, save and except for any EPIC pertaining to the Authority's construction activities on those Segments. TxDOT shall use best efforts to obtain the Segment 5 Environmental Clearance, and the Authority shall fully cooperate with and provide all reasonable assistance to TxDOT with respect thereto. TxDOT shall fully cooperate with and support the efficient transitioning of its environmental responsibilities to the Authority. Except as otherwise provided above, TxDOT received the environmental clearance for the Project (other than Segment 5), and has satisfied its obligations under this Section 10, unless a subsequent and significant design change warrants further action.

11. **Bidding Procedures; Insurance; BOPP; Contract Provisions**

(a) Bidding Procedures. The Authority shall use its bidding and procurement procedures with respect to all aspects of the Project that it is obligated to design and construct pursuant to this Agreement. If the Authority intends to use a Design-Build or Construction Manager at Risk procurement, the Authority shall submit its bidding procedures to TxDOT for a limited review prior to their use. TxDOT's review of such procedures shall be limited solely to ensure that such procedures comply with any agreements TxDOT has with Project Cities relating to the bidding of work on the Project.

(b) Encroachment. It is possible that the Authority's or TxDOT's construction activities may encroach periodically on property held or utilized by the other. The Authority and TxDOT shall address in a reasonable and cooperative manner any such encroachment and any consequences thereof.

(c) Additional Insureds. Additionally, either TxDOT or the Authority shall be entitled, after providing reasonable notice prior to bidding, to require that any construction contract of the other party bid after the Effective Date must obligate the applicable contractor to list the Authority, TxDOT, the State of Texas, the Texas Transportation Commission and their respective successors, assigns, officeholders, officers, directors, commissioners, consultants and employees as “additional insureds” with respect to any insurance for which the contractor must obtain an “additional insured” rider or amendment.

(d) BOPP. The Authority shall comply with its Business Opportunity Program and Policy so as to satisfy certain conditions to receiving federal financial assistance, including the creation of a Disadvantaged Business Enterprise Program, as well as the requirements in Section 366.184 of the Regional Tollway Authority Act.

(e) Incentive Payments and Liquidated Damages. The Authority shall include incentive payments for early delivery and liquidated damages for late delivery of the Project’s features in its construction contracts, which delivery schedule shall be tied to the Service Commencement Dates for the applicable Segments.

12. **Project Schedule**. The Authority hereby commits to develop and commence operations of the portions of the Project that it is obligated to design and construct in accordance with the milestones and time periods set forth in this Agreement and the Milestone Schedule set forth in Exhibit J attached hereto and made a part hereof, subject only to delays caused by Force Majeure events. Upon Financial Close, the Authority shall be authorized to proceed with all work hereunder for Segments 1-4 necessary to complete Segments 1-4, in addition to the advance work (including surveying and site investigations, such as geotechnical, hazardous materials and utilities investigations) underway as of the Effective Date and up to Financial Close, which TxDOT hereby acknowledges and authorizes. Upon receipt of the Segment 5 Environmental Clearance, the Authority shall be authorized to proceed with all work hereunder for Segment 5 necessary to complete Segment 5. The Authority is authorized to enter the Project Right of Way TxDOT owns in order to conduct surveys and site investigations, including geotechnical, hazardous materials and utilities investigations. “Force Majeure” means actual delay or permanent or temporary inability to perform due to events beyond the Authority’s reasonable control, including fire, flood, earthquake, hurricane, inclement weather, epidemic or other unavoidable casualties or acts of God, freight embargo, strikes or general inability to obtain labor or materials, civil commotion, sabotage, terrorism or enemy action, and TxDOT’s failure to timely construct and complete the TxDOT Structures, provided that such events (or the effects of such events) could not have been avoided by the exercise of caution, due diligence or reasonable efforts by the Authority.

13. **Operation, Maintenance and Regulation of the Project**.

(a) Transition. TxDOT shall be responsible for operation and maintenance for each of Segments 1 and 2 until the respective Service Commencement Date for each such Segment. TxDOT will be responsible for operation and maintenance for the frontage roads in Segment 3 until the Service Commencement Date(s) for Segments 1 and 2. During the period TxDOT retains operation and maintenance responsibility for any portion of the Project, TxDOT shall maintain such portion in accordance with TxDOT’s current maintenance standards and conduct

traffic management activities on such portion in accordance with TxDOT's standard traffic management practices and procedures. Upon the Service Commencement Date(s) for Segments 1 and 2, the Authority shall assume full responsibility for operation and maintenance for Segments 1 and 2 and the frontage roads in Segment 3 and all other then-existing and operating portions of the Project and all the Project Right of Way, provided that TxDOT shall provide certain periods of additional time for specified Project features to be brought into compliance with the applicable operation and maintenance standards as set out in subsection 13.(b) below and the exhibit referenced therein.

(b) Standards, Inspections and Reporting. The Authority shall conduct its operations and maintenance of the Project in accordance with the operations and maintenance standards set forth on Exhibit K attached hereto and made a part hereof. The Authority shall carry out general inspections of the Project in accordance with the inspection program the Authority uses on the NTTA System, as modified by mutual agreement between the Authority and TxDOT, as described in Exhibit K.

(c) Toll Collections. Commencing on the Service Commencement Date for each Segment and continuing throughout the term of this Agreement, the Authority shall be responsible for toll collection, violation processing, revenue handling and accounting, and customer service and support for the relevant Segments.

(d) Frontage Roads Access and Utility Permitting. Notwithstanding anything to the contrary in subsection 13.(a) above, TxDOT shall at all times be solely responsible, at its expense, for handling requests and permitting for (i) adjacent property access to frontage roads of the Project and (ii) utility placement within the frontage roads. TxDOT will keep the Authority regularly informed of access and utility permit applications and will deliver to the Authority a copy of each issued access and utility permit within ten (10) days after it is issued. The Authority at its expense shall cooperate and coordinate with permit holders to enable them to safely construct, repair and maintain access improvements allowed under their access or utility permits.

(e) Speed Studies and Speed Limits.

(i) TxDOT at its expense shall conduct a speed study of the frontage roads and main lanes in each Segment between six (6) to eight (8) weeks after the Service Commencement Date for the Segment (to allow time for traffic patterns to stabilize). TxDOT will conduct the speed study in accordance with applicable law and TxDOT's standards, procedures and methodology. TxDOT will work with local governments on ordinances enacting the appropriate posted speeds on the Project's frontage roads based on the study. TxDOT will keep the Authority informed of study schedules and provide the Authority a copy of the study results. Notwithstanding the foregoing, the Authority shall maintain complete responsibility and authority for the promulgation and enforcement of safety and operational standards for the Project's main lanes, including the determination, posting and enforcement of speed limits.

(ii) Thereafter, in lieu of speed studies by TxDOT, the Authority shall have the right and obligation to conduct, at its expense, further speed studies of the frontage

roads and main lanes of the Project. The Authority shall conduct such studies in accordance with TxDOT's standards at intervals mutually agreed with TxDOT, but not more frequently than at three-year intervals or as otherwise provided by applicable law. In addition, the Authority will have the right to conduct a speed study of frontage roads or main lanes at earlier intervals if the Authority in good faith believes that significant changes have occurred in the interim that will or may affect posted speed limits, but in no event sooner than eighteen (18) months after completion of the immediately preceding speed study for the same portion of frontage roads or main lanes unless otherwise requested by a Project City or other governmental entity. The speed studies performed for the frontage roads will be provided by the Authority to TxDOT for its review and approval and implementation by the Project Cities.

(f) ITS Operations. The Authority will provide TxDOT with viewing command and control access to any vehicle detection systems placed on and data/video generated from the Project main lanes and frontage roads in accordance with the Regional Data and Video Communication System of the North Texas Regional Comprehensive ITS Program (the "RDVCS"). TxDOT and the Authority further commit to technical task force meetings to review existing infrastructure and systems in order to develop the required scope of work to complete the center to center link between TxDOT and the Authority as rapidly as reasonably possible.

Until the RDVCS has been implemented, the Authority will provide TxDOT with internet based access to view images from existing Authority ITS system cameras in a method to provide live streaming video. Upon request by TxDOT, the Authority will utilize the camera controls to provide views desired by TxDOT and further will contact TxDOT regarding issues on TxDOT facilities that are viewed and noted by the Authority's system operators. TxDOT and the Authority will cooperatively establish appropriate protocols and points of contacts to foster this initiative.

14. **Frontage Roads.** As provided in Section 2 above, TxDOT and the Authority intend for that portion of each Segment of the Project required for the main lanes to be removed from the state highway system and transferred to the Authority, such removal to be effective on the Service Commencement Date for the applicable Segments. TxDOT shall retain that portion of the SH 121 alignment required for the Project frontage roads on the state highway system and they will remain designated as "SH 121." In all events, and regardless of whether the aforesaid transfers occur, the Authority shall maintain and otherwise be responsible for the operational and maintenance requirements for the Project frontage roads and areas outside the main lanes except as otherwise set forth below or in Section 13 above, such responsibility to include the repair and maintenance of pavement, bridges and other certain structures constructed as part of the Project, and, specifically, safety lighting structures and foundations therefor; storm water conduits and receivers; soundwalls, screen walls, retaining walls and similar structures related to the frontage roads; and guardrail, attenuators and fences. The Authority shall furnish, or provide for the furnishing of, all sweeping, flushing, and snow/ice control services on the frontage roads, and shall provide all mowing, landscaping maintenance and litter collection, as well as comply with all permits related to storm sewer and storm water drainage systems. Notwithstanding the foregoing, (a) TxDOT shall maintain and otherwise be responsible for the repair, maintenance and operation of (i) the traffic signal systems, including related safety lighting, on the Project frontage roads and (ii) the frontage roads and main lanes of I-35E and US 75, and (b) the

Authority shall have no responsibility for (i) the repair, maintenance and operation of any non traffic signal-mounted luminaires and other illumination structures and foundations therefor, other than safety lighting not related to the traffic signal systems, for the Project frontage roads for which Project Cities or other governmental entities have responsibility as of the Effective Date and (ii) providing any policing, fire, ambulance, hazardous materials, and other emergency response for the Project frontage roads for which Project Cities or other governmental entities have responsibility as of the Effective Date.

The Authority shall maintain the frontage roads in good and fully operational condition. The Authority may assign any of its obligations under the preceding paragraph to any other third party, provided that the Authority shall retain ultimate responsibility for the proper maintenance of the frontage roads. The Authority shall obtain TxDOT's prior written approval before entering into an agreement with a Project City or other governmental entity concerning the maintenance of the Project's frontage roads; TxDOT's approval shall not be unreasonably withheld.

Access management and utility permitting will be handled by TxDOT under standard TxDOT practice, as set forth in subsection 13.(d) above.

The Authority shall be responsible for the maintenance requirements for both the Property Interests and the Retained Property areas except for the I-35E and US 75 main lanes and frontage roads as depicted on Exhibit L attached hereto and made a part hereof. To the extent of any conflict between the depiction of maintenance limits shown on Exhibit L and the terms of this Section 14, the latter shall control.

15. **Term.** This Agreement shall take effect on the Effective Date and shall terminate on the date (the "Scheduled Termination Date") that is fifty (50) years from the Service Commencement Date for Segment 1. Notwithstanding the foregoing, this Agreement shall automatically terminate if the Upfront Payment and the Additional Upfront Payment are not delivered to TxDOT on or before forty-five (45) days after the Effective Date.

16. **Handback and Renewal.**

(a) Handback Condition. On the Scheduled Termination Date, all of the Authority's rights under this Agreement shall terminate automatically and without any further notice, documentation or action of any kind or by any party, and title to the Project, including all improvements, shall be deemed to have reverted and been transferred to TxDOT, at no charge to TxDOT, and must be in the condition and meeting all of the requirements for Residual Life at Handback specified in the Handback Requirements. Without limiting the foregoing, TxDOT may require the Authority to execute and deliver upon or after the Scheduled Termination Date such forms of deed without warranty or quitclaim instruments, certificates or similar documents as TxDOT reasonably desires and TxDOT may exercise any rights under the escrow described in the concluding sentence of subsection 16.(i) (the "Handback Transfer Documentation") to further evidence or effect the termination and transfer described in the preceding sentence. Further, TxDOT may require the Authority to execute, deliver and escrow all or some of the Handback Transfer Documentation in accordance with subsection (i) of this Section 16. Definitions for the

initially capitalized terms used in this Section 16 and Exhibits H, M, N, and O attached hereto and made a part hereof and not otherwise defined in this Agreement are set forth in Exhibit H.

(b) Handback Inspections. TxDOT and the Authority shall conduct inspections of the Project at the times and according to the terms and procedures specified in the Handback Requirements for the purposes of (i) determining and verifying the condition of all Elements and their Residual Lives, (ii) adjusting, to the extent necessary based on inspection and analysis, Element Useful Lives, Ages, Residual Lives, estimated costs of Renewal Work and timing of Renewal Work, (iii) revising and updating the Renewal Work Schedule to incorporate such adjustments, (iv) determining the Renewal Work required to be performed and completed prior to reversion of the Project to TxDOT, based on the requirements for Residual Life at Handback specified in the Handback Requirements, the foregoing adjustments and the foregoing changes to the Renewal Work Schedule, (v) verifying that such Renewal Work has been properly performed and completed in accordance with the Handback Requirements, and (vi) adjusting the Authority's funding of the Handback Requirements Reserve so that it is funded according to the schedule and amounts required under Exhibit N.

(c) Renewal Work Under Handback Requirements. The Authority shall diligently perform and complete all Renewal Work required to be performed and completed prior to the transfer of the Project to TxDOT on the Scheduled Termination Date, based on the required adjustments and changes to the Renewal Work Schedule resulting from the inspections and analysis under the Handback Requirements.

(d) Establishment of Handback Requirements Reserve.

(i) Beginning five (5) full calendar years before the Scheduled Termination Date, the Authority shall establish and fund a reserve account (the "Handback Requirements Reserve") exclusively available for the uses set forth in subsection 16.(f). The Handback Requirements Reserve shall be established and held in a segregated account with a financial institution selected by the Authority and approved by TxDOT.

(ii) The Authority shall provide to TxDOT the details regarding the account, including the name, address and contact information for the depository institution and the account number. The Authority shall inform the depository institution of all TxDOT's rights and interests with respect to the Handback Requirements Reserve, including TxDOT's right to draw on the Handback Requirements Reserve upon the occurrence of an event of default by the Authority under this Section 16. The Authority shall deliver such notices to the depository institution and execute such documents as may be required to establish and perfect TxDOT's interest in the Handback Requirements Reserve under the Uniform Commercial Code as adopted in the State of Texas, including TxDOT's right to make direct draws against the Handback Requirements Reserve upon the occurrence of an event of default by the Authority under this Section 16.

(iii) In lieu of establishing the Handback Requirements Reserve, the Authority may deliver to TxDOT one or more Handback Requirements Letters of Credit, on the terms and conditions set forth in subsection 16.(h).

(e) Funding of Handback Requirements Reserve.

(i) The Authority shall make deposits to the Handback Requirements Reserve at the times and in the amounts set forth in Exhibit N.

(ii) Funds held in the Handback Requirements Reserve may be invested and reinvested only in Eligible Investments. Eligible Investments in the Handback Requirements Reserve must mature, or the principal of and accrued interest on such Eligible Investments must be available for withdrawal without penalty, not later than such times as shall be necessary to provide funds when needed for payment of draws to the Authority, and in any event not later than the Scheduled Termination Date. All interest earned or profits realized from the investment of funds in the Handback Requirements Reserve shall be retained therein.

(f) Use of Handback Requirements Reserve.

(i) The Authority will have the right to payments from the Handback Requirements Reserve to be used only for the following purposes, provided the Handback Requirements Reserve is not at any time reduced below the amount of funds then required under Exhibit N:

(A) Costs of Renewal Work for those Elements that have a number of years stated in the “Useful Life” column in the Residual Life Table attached hereto as Exhibit O (the “Residual Life Table”), to the extent such Renewal Work is to be performed prior to the Scheduled Termination Date;

(B) Costs of Renewal Work for those Elements that have a number of years stated in the “Residual Life at Handback” column in the Residual Life Table, to the extent such Renewal Work is necessary in order to return the Element to TxDOT on the Scheduled Termination Date with a Residual Life equal to or greater than such number of years; and

(C) Costs of safety compliance work.

(ii) Not later than five (5) years before the Scheduled Termination Date, TxDOT and the Authority shall establish reasonable written protocols and procedures for requesting and funding draws from the Handback Requirements Reserve.

(g) Disposition of Handback Requirements Reserve on Scheduled Termination Date.

(i) On the Scheduled Termination Date, all funds in the Handback Requirements Reserve (except as provided in subsection 16.(g)(ii)) shall automatically be and become the sole property of TxDOT, free and clear of all liens, pledges and encumbrances. Thereupon, the Authority shall deliver such transfers, assignments and other documents, and take such other actions, as TxDOT or the depository institution for the Handback Requirements Reserve shall require to confirm transfer to TxDOT of the Handback Requirements Reserve and funds therein, free and clear of all liens, pledges and encumbrances.

(ii) If the Handback Requirements Reserve at such time is different from the amount then required pursuant to Exhibit N, the Authority shall be obligated to pay any shortfall to TxDOT upon demand, or TxDOT shall authorize release to the Authority of any excess, as the case may be. TxDOT at its election may offset any excess to be released to the Authority by any amount the Authority still owes TxDOT for the cost of the independent inspections conducted pursuant to the Handback Requirements. For the avoidance of doubt, if on the Scheduled Termination Date the Authority has completed and paid in full all Renewal Work required on all Elements that have a number of years stated in the “Residual Life at Handback” column in the Residual Life Table and funds in the Handback Requirements Reserve exceed the total amount required under Section 2(a) of Exhibit N and the 10% contingency thereon required under Section 2(c) of Exhibit N, then TxDOT shall authorize release of such excess to the Authority, subject to the foregoing offset rights.

(h) Handback Requirements Letters of Credit

(i) In lieu of establishing the Handback Requirements Reserve, the Authority may deliver to TxDOT one or more letters of credit (each, a “Handback Requirements Letter of Credit”), on the terms and conditions set forth in this subsection 16.(h). If the Handback Requirements Reserve has been previously established, the Authority at any time thereafter may substitute one or more Handback Requirements Letters of Credit for all or any portion of the amounts required to be on deposit in the Handback Requirements Reserve, on the terms and conditions set forth in this subsection 16.(h). Upon receipt of the required substitute Handback Requirements Letter of Credit, TxDOT shall authorize the release to the Authority of amounts in the Handback Requirements Reserve equal to the face amount of the substitute Handback Requirements Letter of Credit. If the face amount of any Handback Requirements Letter of Credit falls below the total amount required to be funded to the Handback Requirements Reserve prior to expiry of the Handback Requirements Letter of Credit, the Authority shall be obligated to pay, when due, the shortfall into the Handback Requirements Reserve. Alternately, the Authority may deliver a Handback Requirements Letter of Credit with a face amount equal to at least the total amount required to be funded to the Handback Requirements Reserve during the period up to the expiry of the Handback Requirements Letter of Credit, or may deliver additional Handback Requirements Letters of Credit or cause the existing Handback Requirements Letter of Credit to be amended to cover the shortfall before deposits of the shortfall to the Handback Requirements Reserve are due.

(ii) At the beginning of each year, the Authority shall have the right and obligation (in lieu of funding the Handback Requirements Reserve) to adjust the amount of the Handback Requirements Letter of Credit to equal the maximum amount required to be funded in the Handback Requirements Reserve during the forthcoming year under Exhibit N, taking into account the most recent Renewal Work Schedule and Renewal Work performed to date under the Handback Requirements.

(iii) TxDOT shall have the right to draw on the Handback Requirements Letter of Credit (A) on the Scheduled Termination Date, (B) if the Authority has failed to perform its obligations hereunder relating to the funding or use of the Handback

Requirements Reserve or (C) if the Authority for any reason fails to deliver to TxDOT a new or replacement letter of credit, on the same terms, or at least a one (1) year extension of the expiration date of the existing letter of credit, by not later than forty-five (45) days before such expiration date, unless the Handback Requirements Letter of Credit is no longer required hereunder, in each case as necessary to obtain the Handback Requirements Reserve funds to which TxDOT is then entitled under subsection 16.(g). If TxDOT receives proceeds of a draw in excess of the Handback Requirements Reserve, TxDOT shall promptly refund the excess to the Authority.

(iv) If TxDOT draws on a Handback Requirements Letter of Credit, TxDOT shall have the right to use and apply the proceeds of such drawing as provided in subsection 16.(f). Notwithstanding the foregoing, if TxDOT draws on the Handback Requirements Letter of Credit due to the Authority's failure for any reason to deliver to TxDOT a new or replacement Handback Requirements Letter of Credit, on the same terms, or at least a one (1) year extension of the expiration date of the existing Handback Requirements Letter of Credit, not later than forty-five (45) days before such expiration date, TxDOT shall deposit the proceeds from drawing on the expiring Handback Requirements Letter of Credit into the Handback Requirements Reserve.

(v) Any Handback Requirements Letter of Credit shall:

(A) Be a standby letter of credit;

(B) Be issued by a financial institution with a credit rating of "A" or better according to Standard & Poor's and with an office in Austin, Dallas, Houston, or San Antonio at which the letter of credit can be presented for payment;

(C) Be in form approved by TxDOT in its good faith discretion;

(D) Be payable immediately, conditioned only on written presentment from TxDOT to the issuer of a sight draft drawn on the letter of credit and a certificate stating that TxDOT has the right to draw under the letter of credit in the amount of the sight draft, up to the amount due to TxDOT, without requirement to present the original letter of credit;

(E) Provide an expiration date not earlier than one year from date of issue;

(F) Allow for multiple draws; and

(G) Name TxDOT payee.

(vi) The Authority shall obtain and furnish any Handback Requirements Letter of Credit and replacements thereof at its sole cost and expense, and shall pay all charges imposed in connection with TxDOT's presentment of sight drafts and drawing against any Handback Requirements Letter of Credit or replacements thereof.

(i) **Compulsory Meeting.** Within ninety (90) days after the fortieth (40th) anniversary of the Service Commencement Date for Segment 1, authorized representatives of TxDOT, the Authority and the RTC shall meet to discuss and evaluate possible future strategies for the Project, including, without limitation, the rebuilding of the Project, modification of the Handback Requirements, possible alternate uses of the Handback Requirements Reserve, the possible extension of the Scheduled Termination Date, or any other issues such representatives desire to discuss. The Authority shall be responsible for calling such meeting and establishing a mutually acceptable time and place for such meeting. The parties acknowledge that the obligation to meet to discuss the future of the Project as provided in this subsection 16.(i) shall in no way in and of itself alter, change or modify the Handback Requirements or the Renewal Work required under this Section 16 and the parties are under no obligation to enter into an agreement which alters, changes or modifies the Handback Requirements or such required Renewal Work. Unless a binding decision is reached between TxDOT and the Authority to extend the Scheduled Termination Date and this Agreement is amended accordingly, TxDOT may, at its option, require the Authority to execute and deliver all or some of the Handback Transfer Documentation, postdated to be effective upon the Scheduled Termination Date, which shall be escrowed and held on terms reasonably acceptable to TxDOT and the Authority.

17. **Maintenance of Records.** All records and documents prepared by the Authority under this Agreement or otherwise relating to the financing, design, and construction of the Project (including, without limitation, those pertaining to the Authority's obligations under Section 21 to pay the Revenue Share Amount, as therein defined) will be made available to authorized representatives of TxDOT and FHWA for purposes of review and audit during normal work hours. All records and documents prepared under this Agreement relating to the financing, design, and construction of the Project must be maintained by the Authority for three (3) years after final payment of construction costs incurred in connection with the Project. All records and documents prepared under this Agreement relating to any Revenue Share Amount must be maintained by the Authority for three (3) years after payment of such Revenue Share Amount. Without limiting the foregoing, the Authority shall comply with all applicable federal laws pertaining to the retention of records and the provision of access thereto.

18. **Reports and Plans to TxDOT.**

(a) **Progress Reports** The Authority shall deliver to TxDOT all semiannual progress reports for the Project and any capacity improvements thereto prepared by the Authority's consulting engineers. At the earliest possible date following completion of construction of the Project or any capacity improvements thereto, the Authority will deliver to TxDOT a final set of plans and specifications for the Project (to the extent designed and constructed by the Authority) or capacity improvements thereto, as applicable, signed, sealed and dated by a professional engineer, licensed in the State of Texas, certifying that the portion of the Project constructed by the Authority was, or the capacity improvements to the Project were, constructed in accordance with the approved plans and specifications and approved contract revisions.

(b) **Public Benefit Reports.** The Authority shall deliver to TxDOT and the RTC an annual report on the cash flow derived by the Authority from the ownership and operation of the Project, based on actual gross toll revenues of the Project less the actual expenses of the NTTA System that are estimated and apportioned to the Project. The Authority intends to continue to

evaluate, and potentially develop policies for, the application of cash flow from the Project in order to seek an ever-increasing role in meeting the region's mobility needs, working in close cooperation with the RTC and TxDOT.

(c) Capacity Improvements and Major Renovations. The Authority shall keep TxDOT and the RTC fully informed of any plans the Authority may have to make capacity improvements or major renovations to the Project.

19. **The Financing.**

(a) Financing by the Authority. The Authority intends to finance, in part, the acquisition, design and construction of the Project with (i) equity from the NTTA System, of which the Project is a part, (ii) proceeds from the issuance and sale of one or more series of bond anticipation notes and revenue bonds and notes secured by the revenues of the NTTA System, which securities also may include amounts for refunding all or certain NTTA System bond anticipation notes and revenue bonds and notes previously issued by the Authority, and (iii) use of other financing tools and financial products authorized for use by the Authority (collectively, the "Financing"). TxDOT shall have no rights or obligations regarding the provision of the Financing, provided, however, that if reasonably requested by the Authority, TxDOT shall promptly cooperate with and fully assist the Authority by providing assurances or other information reasonably necessary or desirable for obtaining the Financing, including assurances and information contained in any offering document prepared by the Authority in connection with the Financing, provided that said assurances and/or information are, in TxDOT's reasonable judgment, consistent with the provisions of this Agreement.

(b) Limited Review of Certain Bond Documents by TxDOT. The Authority's Trust Agreement and any bond resolution or offering document prepared by the Authority in connection with the Financing (collectively, the "Bond Documents") shall be submitted to TxDOT for a limited review prior to its issuance or use. TxDOT's review of the Bond Documents shall be limited solely to the description of the terms of this Agreement and the description of TxDOT's operations and to confirm that the Bond Documents do not contain any impediments to or conflict with the Authority's obligations under Section 16. TxDOT shall have seven (7) days after receipt of any Bond Document to object to the description of the terms of this Agreement or to any perceived impediments to or conflicts with the Authority's obligations under Section 16.

(c) Construction Financing. The Authority shall keep TxDOT apprised of the financing to be used by the Authority to finance the Authority's obligations to design and construct the Project and shall provide to TxDOT such information and documentation related thereto as TxDOT may reasonably request.

20. **Concession Payments.**

(a) Upfront Payment. Subject to adjustment as described in Section 20(c), within forty-five (45) days of the Effective Date, the Authority shall pay Two Billion Five Hundred Million Dollars (\$2,500,000,000) (the "Upfront Payment") in good funds to TxDOT.

(b) Additional Upfront Payment. Subject to adjustment as described in Section 20(d), in lieu of guaranteed annual payments, within forty-five (45) days of the Effective Date, the Authority shall pay Eight Hundred Thirty-Three Million Three Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars (\$833,333,333) (the “Additional Upfront Payment”) in good funds to TxDOT or as otherwise directed by TxDOT.

(c) Upfront Payment Market Interest Rate Adjustment. The amount of the Upfront Payment will be adjusted up or down at Financial Close based on the change of modeled interest rates under the Authority’s proposal for the Project from May 3, 2007 to the earlier of (i) one business day prior to the date the Authority prices its bond anticipation notes (or system revenue bonds if bond anticipation notes are not issued) to be used to finance the Upfront Payment (the “Pre-pricing Date”) or (ii) the date on which the Authority hedges its interest rate exposure with respect to the Upfront Payment (the “Hedge Date”). The interest rate adjustment will be based on the movement, if any, in the interest rates applicable to the Authority’s system revenue bonds (the “Bonds”) underlying its proposal for the Project as set forth in Exhibit P and the interest rates applicable to the Bonds as of 10:00 am on the Pre-pricing Date or Hedge Date, as applicable, based on the AAA Municipal Market Data Scale using 10 year callable triple-A insured rates, plus the applicable spread for each maturity as shown on Exhibit P. On the earlier of the Pre-pricing Date or the Hedge Date, the Authority and TxDOT will both adjust the Authority’s financial model to reflect the change in the applicable market interest rates and agree to the exact impact of such adjustment (highlighting specifically the positive or negative change in the Upfront Payment), and the actual Upfront Payment to be paid by the Authority shall be adjusted accordingly. Notwithstanding the foregoing, in no event will the negative change, if any, in the Upfront Payment exceed \$40,069,000.

(d) Additional Upfront Payment Market Interest Rate Adjustment. The amount of the Additional Upfront Payment will be adjusted up or down at Financial Close based on the change of modeled interest rates under the Authority’s proposal for the Project from May 3, 2007 to the earlier of (i) the date on which the Authority hedges its interest rate exposure with respect to the Additional Upfront Payment (the “Additional Hedge Date”) and (ii) one business day prior to the date the Authority prices its bond anticipation notes (or system revenue bonds if bond anticipation notes are not issued) to be used to finance the Additional Upfront Payment (the “Additional Pre-pricing Date”). The interest rate adjustment will be based on the movement, if any, in the interest rates applicable to the Bonds as set forth in Exhibit P and the interest rates applicable to the Bonds as of 10:00 am on the Additional Hedge Date or Additional Pre-Pricing Date, as applicable, based on the AAA Municipal Market Data Scale using 10 year callable triple-A insured rates, plus the applicable spread for each maturity as shown on Exhibit P. On the earlier of the Additional Hedge Date or the Additional Pre-pricing Date, the Authority and TxDOT will both adjust the Authority’s financial model to reflect the change in the applicable market interest rates and agree to the exact impact of such adjustment (highlighting specifically the positive or negative change in the Additional Upfront Payment), and the actual Additional Upfront Payment shall be adjusted accordingly.

21. **Revenue Sharing.**

(a) General. The Authority shall pay to TxDOT the amounts determined in accordance with this Section 21 (the “Revenue Share Amount”) so as to enable TxDOT to participate in the toll revenue being generated by the Project.

(b) Calculation of Revenue Share Amount.

(i) Subject to subsections 21.(b)(ii) and 21.(c), the Revenue Share Amount shall be calculated for each calendar year and shall equal the sum of:

(A) The portion of the calendar year toll revenues within Band 1, as shown in Table 1 of Exhibit Q attached hereto and made a part hereof, multiplied by the Applicable Percentage for such Band as shown in Table 2 of Exhibit Q; plus

(B) The portion of the calendar year toll revenues within Band 2, as shown in Table 1 of Exhibit Q, multiplied by the Applicable Percentage for such Band as shown in Table 2 of Exhibit Q; plus

(C) The portion of the calendar year toll revenues within Band 3, as shown in Table 1 of Exhibit Q, multiplied by the Applicable Percentage for such Band as shown in Table 2 of Exhibit Q; plus

(D) The portion of the calendar year toll revenues within Band 4, as shown in Table 1 of Exhibit Q, multiplied by the Applicable Percentage for such Band as shown in Table 2 of Exhibit Q.

(ii) The Band values are stated on a calendar-year basis, starting with the calendar year in which the Service Commencement Date for Segment 1 occurs. In the calculation of revenue sharing, if the operating period in the first or last calendar year is less than a full calendar year, the applicable amounts of the Revenue Band floors and ceilings will be adjusted pro rata based on the number of operating days. For the last calendar year of the term of this Agreement, Toll Revenues shall include those revenues that are accrued or earned but not yet received in such calendar year.

(c) Payment Procedures. The Revenue Share Amount shall be payable to TxDOT according to the following procedures.

(i) Within fifteen (15) days after the end of each calendar year or partial calendar year during the term of this Agreement, the Authority shall deliver to TxDOT (A) a written preliminary calculation of the Revenue Share Amount in accordance with subsection 21.(b)(i) and (B) full payment of the Revenue Share Amount as so calculated.

(ii) Within ten (10) days after completion of its annual NTTA System audit for a calendar year, the Authority shall deliver to TxDOT (A) a written final calculation of the Revenue Share Amount in accordance with subsection 21.(b)(i), (B) an audited financial statement prepared by a reputable independent certified public accounting firm

according to GAAP, consistently applied, setting forth the total toll revenues for the Project for the subject calendar year, and (C) either payment of any additional Revenue Share Amount as so calculated or a written request for any refund of any prior overpayment of the Revenue Share Amount for the subject calendar year, as so calculated.

(iii) TxDOT shall have up to one hundred twenty (120) days after receipt of the items set forth in subsection 21.(c)(ii) to dispute the Authority's calculation of the Revenue Share Amount or to request further reasonable clarification or amendment to the calculation. The Authority shall deliver to TxDOT such reasonable clarification or amendment within thirty (30) days after receipt of TxDOT's written request therefor. If TxDOT does not agree with the calculation of the Revenue Share Amount, the disagreement shall be resolved according to the dispute resolution procedures set forth in subsection 26.(g)

(iv) Upon final determination of the Revenue Share Amount, to the extent the result indicates an underpayment to TxDOT, the Authority shall immediately pay to TxDOT the additional amount owing, together with interest thereon, commencing ninety (90) days after the end of the calendar year or partial calendar year for which it was due until the date paid, at a floating rate equal to the LIBOR in effect from time to time. "LIBOR" means the offered rate per annum (rounded up to the nearest one one-thousandth of one percent (0.001%) for deposits in U.S. dollars for a one-month period which appears on the Telerate Page 3750 at approximately 11:00 a.m., London time, on the date of determination, or if such date is not a date on which dealings in U.S. dollars are transacted in the London interbank market, then on the next preceding day on which such dealings were transacted in such market.

(v) Upon final determination of the Revenue Share Amount, to the extent the result indicates an overpayment to TxDOT, TxDOT shall immediately refund the overpayment to the Authority, together with interest thereon, commencing thirty (30) days after TxDOT receives the written final calculation and audited financial statement pursuant to subsection 21.(c)(ii) until the date paid, at a floating rate equal to the LIBOR in effect from time to time.

(d) Reserve Account. If the Authority defaults in the payment to TxDOT of the Revenue Share Amount, then, in addition to curing such default, the Authority shall set up a separate reserve account to be used to pay the Revenue Share Amount. The Authority shall make monthly deposits into such account equal to one-twelfth of the Authority's projected Revenue Share Amount for the applicable calendar year. The Authority may stop making payments into such reserve account if the Authority has not defaulted with respect to the payment of the Revenue Share Amount for the prior two (2) calendar years.

22. Tolls

(a) Authorization to Toll

(i) As provided in Chapter 366, Texas Transportation Code, the Authority shall have the exclusive right to (A) impose tolls upon the users of the main lanes of each Segment of the Project, (B) establish, modify and adjust the rate of such tolls, and (C) enforce and collect tolls from the users of the main lanes of the Project. To the extent permitted by law, such right shall be exercised with respect to the Project in accordance with and subject to the terms and conditions contained in this Agreement, including those set forth in this Section 22 and in Exhibit R attached hereto and made a part hereof.

(ii) The foregoing authorization includes the right to fix, charge, enforce and collect incidental charges with respect to electronic tolling accounts and video transaction toll premiums in accordance with the Authority's system-wide policy for such items.

(iii) The Authority has no authority or right to impose any toll, fee, charge or other amount for the use of the frontage roads or the Toll-Exempt Sections or the ramps set forth in Section B.6. of Exhibit R. "Toll -Exempt Sections" means (x) the portion of the limited access lanes in Segment 1 from Stations 2253+00 to 2325+00, (y) the portion of the limited access lanes in Segment 2 from Stations 670+00 to 690+00 and (z) the portion of the limited access lanes in Segment 4 from Stations 1315+00 to the end of the Project.

(iv) The Authority shall implement toll collection systems that charge, debit and collect tolls only at or through the electronic tolling facilities physically located on the Project Right of Way or through global positioning system technologies or other remote sensing technologies that charge, debit and collect tolls only for actual vehicular use of the limited access lanes of the Project (excluding the Toll-Exempt Sections).

(b) Toll Rates.

(i) Except as provided in subsection 22(b)(ii), the toll rates in any year of the term of this Agreement shall not exceed the maximum rates for each user classification for such year determined according to the toll rate policy, schedule and methodology set forth in Exhibit R.

(ii) The toll rates in any year may not exceed the maximum rates for each user classification for such year determined according to the toll rate policy, schedule and methodology set forth in Exhibit R unless the Authority determines that it is necessary to (A) preserve the financial condition of the NTTA System, (B) comply with the provisions of any bonds, notes, trust agreements or other financial instruments or agreements secured by the revenues of the NTTA System, or (C) comply with law. Prior to establishing rates in excess of those contemplated by Exhibit R, the Authority shall increase the toll rate schedule for the remainder of the NTTA System (other than those portions for which a lower toll rate is projected to produce higher revenues) to a level substantially equivalent to the toll rate schedule for the Project. The Authority will explore the possibility of using peak period pricing on the remainder of the NTTA

System to minimize the impact of adjustment of the toll rates in excess of the maximum rates.

(c) Peak Period Pricing Study. If SH 161 becomes part of the NTTA System, the Authority agrees to reasonably cooperate with TxDOT and the RTC in conducting a peak period pricing study on SH 161 upon terms and conditions acceptable to the parties. TxDOT and/or the RTC shall bear the cost of any such study, and TxDOT and/or the RTC shall make the Authority whole with respect to any lost toll revenues incurred by the Authority in connection with such study. TxDOT, the Authority and the RTC desire for such study to be completed before December 31, 2012.

23. **Tolling Operations Before Service Commencement.** The Authority and TxDOT intend to enter into a mutually agreeable tolling services agreement prior to the Service Commencement Date for Segment 1, pursuant to which the Authority will (a) provide certain toll collection, enforcement and interoperability functions and services for the Project and (b) receive compensation in an amount necessary to cover its costs and expenses, plus a reasonable and mutually acceptable return, in providing such functions and services.

24. **Compliance With Applicable Laws.** The Authority and TxDOT shall comply with all federal, state and local laws applicable to them with respect to this Agreement.

25. **Termination of this Agreement.** Unless terminated in accordance with Section 15, this Agreement may be terminated only by written mutual agreement and consent of TxDOT and the Authority.

26. **Defaults and Remedies.**

(a) Authority Defaults. The Authority shall be in breach under this Agreement upon the occurrence of any one or more of the following events or conditions (each an "Authority Default"):

(i) The Authority fails to achieve Service Commencement for a Segment by the applicable Long Stop Date as set forth in Exhibit J, as the same may be extended by the parties hereto;

(ii) The Authority fails to make any payment due TxDOT under this Agreement when due, or fails to deposit funds to any reserve or account in the amount and within the time period required by this Agreement; or

(iii) The Authority fails to observe or perform any other covenant, agreement, term or condition required to be observed or performed by the Authority under this Agreement.

(b) Authority Cure Periods. For the purpose of TxDOT's exercise of remedies, the Authority shall have the following cure periods with respect to the following Authority Defaults:

(i) Respecting an Authority Default under subsection 26.(a)(i), no opportunity to cure.

(ii) Respecting an Authority Default under subsection 26.(a)(ii), a period of thirty (30) days after TxDOT delivers to the Authority written notice of the Authority Default.

(iii) Respecting an Authority Default under subsection 26.(a)(iii), a period of thirty (30) days after TxDOT delivers to the Authority written notice of the Authority Default; provided that if the Authority Default is of such a nature that the cure cannot with diligence be completed within such time period and the Authority has commenced meaningful steps to cure promptly after receiving the default notice, the Authority shall have such additional period of time, up to a maximum cure period of one hundred twenty (120) days, as is reasonably necessary to diligently effect cure.

(c) TxDOT Remedies for Authority Defaults.

(i) TxDOT shall be entitled on account of the occurrence of an Authority Default involving any payment due TxDOT under this Agreement to recover from the Authority said unpaid amounts, plus interest thereon at the floating rate equal to the LIBOR in effect from time to time plus 200 basis points from and after the date such payment becomes due to TxDOT until paid. The Authority shall owe any such interest that accrues after the occurrence of such Authority Default and the delivery of notice thereof, if any, required by this Agreement regardless of whether the Authority Default is subsequently cured.

(ii) TxDOT shall be entitled to seek an action in mandamus against the Authority on account of the occurrence of an Authority Default.

(d) TxDOT Defaults. TxDOT shall be in breach under this Agreement upon the occurrence of any one or more of the following events or conditions (each a “TxDOT Default”):

(i) TxDOT fails to make any payment due the Authority under this Agreement when due; or

(ii) TxDOT fails to observe or perform any other covenant, agreement, term or condition required to be observed or performed by TxDOT under this Agreement.

(e) TxDOT Cure Periods. For the purpose of the Authority’s exercise of remedies, TxDOT shall have the following cure periods with respect to the following TxDOT Defaults:

(i) Respecting a TxDOT Default under subsection 26.(d)(i), a period of thirty (30) days after the Authority delivers to TxDOT written notice of the TxDOT Default.

(ii) Respecting a TxDOT Default under subsection 26.(d)(ii), a period of thirty (30) days after the Authority delivers to TxDOT written notice of the TxDOT Default; provided that if the TxDOT Default is of such a nature that the cure cannot with diligence be completed within such time period and TxDOT has commenced meaningful steps to cure immediately after receiving the default notice, TxDOT shall have such additional period of time, up to a maximum cure period of one hundred twenty (120) days, as is reasonably necessary to diligently effect cure.

(f) Authority Remedies for TxDOT Defaults.

(i) The Authority shall be entitled on account of the occurrence of a TxDOT Default involving any payment due the Authority under this Agreement to recover from TxDOT said unpaid amounts, plus interest thereon at the floating rate equal to the LIBOR in effect from time to time plus 200 basis points from and after the date such payment becomes due to the Authority until paid. TxDOT shall owe any such interest that accrues after the occurrence of such TxDOT Default and the delivery of notice thereof, if any, required by this Agreement regardless of whether the TxDOT Default is subsequently cured.

(ii) The Authority shall be entitled to seek an action in mandamus against the TxDOT on account of the occurrence of a TxDOT Default.

(g) Dispute Resolution Procedures. The Authority and TxDOT will set up a formalized process to resolve any issues that arise in connection with this Agreement, including with respect to all payments of the Revenue Share Amount and the Handback Requirements Reserve. The process will include an issues resolution ladder to resolve questions at the appropriate organizational levels. Any questions that cannot be resolved by use of the issues resolution ladder will be referred to the Authority's Executive Director or his/her designee and TxDOT's Executive Director or his/her designee to resolve. If a dispute is processed under the issues resolution ladder and not resolved, the parties agree to use the procedures in the next following sentences. The party making a claim may advance it in accordance with the statutes and administrative rules applicable on the Effective Date, including all statutory provisions that effect a waiver, in whole or part, of sovereign immunity to suit for the purpose of adjudicating a claim for a breach under this Agreement, including Tex. Loc. Gov't. Code Chapter 271, Subchapter I. The parties agree to use any alternative dispute resolution procedure that is a part of the applicable claim procedure. The parties shall satisfy the requirement for alternative dispute resolution by participating in non-binding arbitration, unless otherwise agreed to by the parties. During the resolution of an issue the Authority and TxDOT will not hinder work under the Agreement and such work will proceed.

(h) Self-Help Rights. If in the good faith judgment of TxDOT an unforeseen event affects the frontage roads of the Project that causes or could reasonably be expected to cause a material threat to the public safety, and if, after reasonable notice, the Authority is not then diligently taking steps to rectify or deal with such threat, TxDOT shall have the right to take or caused to be taken such action as may be reasonably necessary to rectify such threat, in which event the Authority shall bear the reasonable costs thereof.

27. **Successors and Assigns.** This Agreement shall bind, and shall be for the sole and exclusive benefit of, the respective parties and their legal successors, including without limitation any successor public agency to the Authority. Other than as provided in the preceding sentence, neither TxDOT nor the Authority shall assign, lease, sublet, or transfer the Project or its interest in this Agreement without the prior written consent of the other party to this Agreement, unless otherwise provided by law.

28. **Circulation of the Agreement.** Copies of this Agreement will be provided to, reviewed and relied upon by underwriters, investment bankers, rating agencies, credit enhancers and similar parties in connection with the provision of the Financing.

29. **Severability.** If any provision of this Agreement, or the application thereof to any person 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 persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by applicable law.

30. **Written Amendments.** Any changes in the character, 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 Authority and TxDOT.

31. **Notices.** All notices to either party by the other required under this Agreement shall be delivered personally, sent by facsimile transmission, or sent by Certified or Registered U.S. Mail, postage prepaid, addressed to such party at the following respective addresses:

If to the Authority:

Delivered personally:

North Texas Tollway Authority
Attention: Executive Director
5900 W. Plano Parkway, Suite 100
Plano, Texas 75093

Delivered by mail:

North Texas Tollway Authority
Attention: Executive Director
P.O. Box 260729
Plano, Texas 75026

If to TxDOT:

Texas Department of Transportation
Dallas District Office
4777 East Highway 80
Mesquite, Texas 75150
Attention: District Engineer

All personally delivered notices shall be deemed given on the date so delivered. Notice by facsimile shall be deemed given on the date indicated by written confirmation of transmission to, in the case of the Authority, (214) 528-4826 or, in the case of TxDOT, (214) 320-6117. All mailed notices shall be deemed given three (3) days after being deposited in the mail. Either party hereto may change the above address or facsimile number by sending written notice of such change to the other in the manner provided for above.

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

33. **Sole Benefit.** This Agreement is entered into for the sole benefit of TxDOT and the Authority and their respective successors and permitted assigns. Nothing in this Agreement or in any approval subsequently provided by either 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.

34. **Relationship of the Parties.** Nothing in this Agreement shall be deemed or construed by the parties, or by any third party, as creating the relationship of principal and agent between TxDOT and the Authority, nor any joint enterprise.

35. **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 in accordance with its terms, other than those that have been obtained.

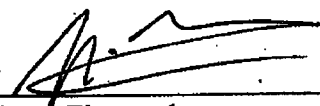
36. **Interpretation.** No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party having or being deemed to have drafted, prepared, structured, or dictated such provision.

37. **Effective Date; Execution and Delivery.** The Effective Date shall be the date on which the last party to execute this Agreement does so. Under no circumstances shall this Agreement be deemed executed and delivered for any purpose prior to its complete execution by both TxDOT and the Authority.

[Remainder of Page Intentionally Left Blank]

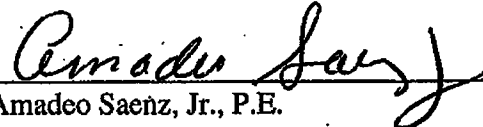
IN WITNESS WHEREOF, TxDOT and the Authority have executed this Agreement by six (6) multiple counterparts on the dates shown hereinbelow, effective on the Effective Date listed above.

**NORTH TEXAS TOLLWAY
AUTHORITY**

By: 
Jorge Figueredo,
Executive Director

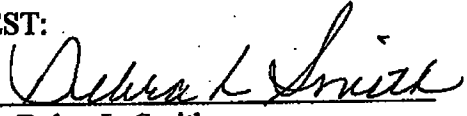
Date: 8-22-07

**TEXAS DEPARTMENT OF
TRANSPORTATION**

By: 
Amadeo Saenz, Jr., P.E.
Executive Director

Dated: 10/18/07

ATTEST:


Debra L. Smith,
Secretary

APPROVED AS TO FORM:

LOCKE LIDDELL & SAPP PLLC
General Counsel to the Authority

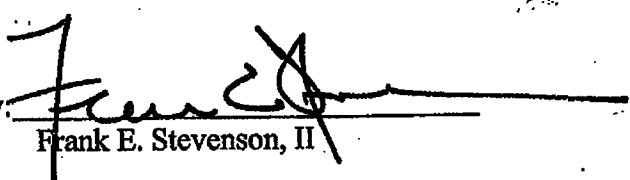
By: 
Frank E. Stevenson, II

Exhibit A

Description of the Project and Property Interests (Recitals and Section 2)

The Project

The Project consists of those portions of SH 121 extending from Business SH 121 to US 75 in Denton, Dallas, and Collin Counties. Certain portions of the Project have already been completed or are currently under construction. The Authority will have the obligation to design and construct certain additional improvements, including Project Segments 1 through 4, and Segment 5 if NEPA approval is timely obtained and substantially consistent with the preliminary design prepared by TxDOT. In addition, upon completion of required work in each segment, the Authority will be obligated to place each segment into operation and maintain the segment for the term of this Agreement. Maintenance and operations will include all frontage roads, tolled main lanes and entrance and exit ramps, and all Project Right of Way:

(a) Project Segment 1: From 0.23 miles east of Business 121 to the ramp pair on the west side of FM 2281. SH 121 CL Station 2085+00 to Station 2357+00. The work required for Project Segment 1 includes:

- (i) Design and install additional signing items;
- (ii) Design, install, and test permanent tolling system;
- (iii) Initiation of tolling operations and assumption of maintenance responsibility; and
- (iv) Design and construction additional noise abatement walls.

(b) Project Segment 2: From the ramp pair on the west side of FM 2281 to the ramp pair on the east side of the Hillcrest Road overpass. SH 121 CL Station 2457+00 to Station 832+00. The work required for Project Segment 2 includes:

- (i) Design and install pavement markings;
- (ii) Design, install, and test permanent tolling system including signing;
- (iii) Coordination of all on site work with contractors currently working for TxDOT so as to not interfere with their operations; and
- (iv) Initiation of tolling operations and assumption of maintenance responsibility.

(c) Project Segment 3: From the ramp pair on the east side of the Hillcrest Road overpass to the ramp pair on the west side of the Watters Road overpass. SH 121 CL Station 832+00 to Station 1195+00. The work required for Project Segment 3 includes:

- (i) Design and construct SH 121 main lanes; and
- (ii) Initiation of tolling operations and assumption of maintenance responsibility.

(d) Project Segment 4: From the ramp pair on the west side of the Watters Road overpass through the north, east, and south limits of the construction required to complete the US 75/SH 121 Interchange. SH 121 CL Station 1195+00 to Station 1315+00). The work required for Project Segment 4 includes:

- (i) Design and construct SH 121 main lanes, frontage roads, and US 75 Interchange; and
- (ii) Initiation of tolling operations and assumption of maintenance responsibility.

(e) Project Segment 5: Dallas North Tollway interchange. SH 121 CL Station 676+00 to Station 693+40. The work required for Project Segment 5 includes:

- (i) Work required in all directions to complete construction of all eight direct connect ramps for the interchange of the Dallas North Tollway and SH 121 and additional ramping modifications in order to maintain reasonable local access.
- (ii) Design and construction of tolling infrastructure, signing, and ITS systems; and
- (iii) Initiation of tolling operations and assumption of maintenance responsibility.

“Property Interests”

[See attached CAD-generated drawings, and accompanying metes and bounds descriptions]

Exhibit B

Delivered Materials (Section 4)

1. All materials (including all ATCs) submitted by proposers in connection with the proposed procurement of the SH-121 Toll Project through a Comprehensive Development Agreement to the extent legally available.
2. All reference information documents provided developers in connection with the proposed procurement of the SH-121 Toll Project through a Comprehensive Development Agreement.
3. As-built plans for the TxDOT Structures when available.

Exhibit C

Remaining Parcels
(Section 6)

Segment 4 (US 75/SH 121 Interchange):

Parcel	General Location	Property Owner	Area
0364-04-045 Parcel 1	Fronting US 75 NB Frontage Road in the Southeast Quadrant of the Proposed US 75/SH 121 Interchange	H. Roger Lawler	1.1610 acres
0364-04-045 Parcel 2	Fronting US 75 SB Frontage Road, South of Shelby Drive, in the Southwest Quadrant of the Proposed US 75/SH 121 Interchange	Texas Ten Enterprises, LP	0.8912 acres
0364-04-045 Parcel 3	Fronting US 75 SB Frontage Road, North of Shelby Drive, in the Southwest Quadrant of the Proposed US 75/SH 121 Interchange	Allen Retail Center	0.1114 acres
0364-04-045 Parcel 4	Southwest Quadrant of the Proposed US 75/SH 121 Interchange	Metroamerican Realty Partners, LP	9.262 acres

Segment 5 (SH 121/DNT Interchange):

Parcel	General Location	Property or Easement Owner	Area
Parcel A	Northeast Quadrant of the Proposed SH 121/DNT Interchange	City of Frisco	2.5447 acres*
Parcel B	Northwest Quadrant of the Proposed SH 121/DNT Interchange	City of Frisco	0.1500 acres*
Parcel C	Southwest Quadrant of the Proposed SH 121/DNT Interchange	J C Penney Co., Inc. #9900-2	3.86 acres*

*Approximate

Exhibit D

TxDOT Structures
(Section 7)

Limits	Structure
From FM 2281 to DNT	6 lane frontage roads and 6 lane main lanes
From DNT to Custer Road	6 lane frontage roads through project limits and 6 lane main lanes from DNT to west of Hillcrest Road
From Custer Road to West of US 75	6 lane frontage roads through project limits and grade separation at Custer Road
From West of Hillcrest Road to East of Hillcrest Road	6 main lanes through project limits

Exhibit E

Capacity Improvements (Section 8)

- 1. Principles** This Exhibit E sets forth the criteria, requirements and provisions in respect of capacity improvements to the System.
- 2. Minimum Required Level of Service** Whenever capacity improvements are required, they shall restore and maintain Hourly Speeds that are higher than five miles per hour below the posted speed limit for at least 95% of each calendar month for a reasonable period of time after the capacity improvement is completed. “Hourly Speeds” are the average speed of traffic on the Project in miles per hour (mph) in one direction, measured and reported by the Authority, for hour-long time periods commencing every 15 minutes of every hour, 24 hours a day.
- 3. Maximum Peak Period Toll Rate Triggers** The trigger events set forth in Sections 4 and 5 below shall first be applied for the purpose of triggering the Authority’s right to impose and charge Maximum Peak Period Toll Rates under Section B.9 of Exhibit R to this Agreement. The trigger events for capacity improvements set forth in Sections 4 and 5 below shall not be applied before the Authority’s right to impose and charge Maximum Peak Period Toll Rates commences under Section B.9 of Exhibit R to this Agreement. Accordingly, all time periods in Sections 4 and 5 below for trigger events run only from and after such date.
- 4. Capacity Improvement First Trigger** Whenever over the course of three consecutive months more than 5% of Hourly Speeds over any five-mile section in one direction, for each included calendar month, are more than five mph below the lesser of the free flow speed or the posted speed limit, this shall be the first trigger event for a capacity improvement. The free flow speed is the monthly average Hourly Speed of vehicles traveling during periods of Level of Service A as defined in the Highway Capacity Design Manual or update thereof. For avoidance of doubt, for the purpose of determining the first trigger event for a Capacity Improvement, Hourly Speeds affected by non-routine traffic management, occurrence of incidents, weather conditions or occurrence of events that temporarily increase or decrease flows shall be excluded. Within 90 days following the occurrence of a first trigger event for a capacity improvement, the Authority shall prepare a proposal for capacity improvement to restore the Hourly Speeds to higher than the first trigger level. Such proposals shall include the nature of the capacity improvement, and the schedule for its design, implementation and placement into normal operation. The schedule for any work to be performed after the date the second trigger occurs shall be tied to such date.
- 5. Capacity Improvement Second Trigger** Whenever over the course of three consecutive months more than 10% of Hourly Speeds over any five-mile section in one direction, for each included calendar month are more than ten mph below the lesser of the free flow speed or the posted speed limit, this shall be the second trigger event for a capacity improvement. For the avoidance of doubt, for the purpose of determining the second trigger event for a capacity improvement, Hourly Speeds affected by non-routine traffic management, occurrence of incidents, weather conditions or occurrence of events that temporarily increase flows shall be

excluded. Except as provided otherwise in Section 6 below, following the second trigger event, the Authority shall design, implement and place into normal operation the capacity improvement within the deadline therefor established pursuant to Section 4 above.

6. Exceptions The Authority shall have no obligation to undertake a capacity improvement if the same is subject to obtaining a separate record of decision or other separate action thereon under NEPA and a no action alternative is selected. The Authority shall have no obligation to undertake a capacity improvement beyond the addition of surface limited access lanes in each direction within the boundaries of the then-existing Project Right of Way. (The parties anticipate that a total of eight surface limited access lanes, with the potential of auxiliary limited access lanes in some locations, can be accommodated within such boundaries. For the avoidance of doubt, the Authority shall have no obligation to expand frontage roads, but may have to modify frontage roads to accommodate mandatory capacity improvements.) The Authority shall have no obligation to undertake any capacity improvements if all of the following circumstances exist: (a) the second trigger event occurs during the last 15 years of the Term; (b) the only type of capacity improvement that is not otherwise excepted and is reasonably likely to meet the level of service set forth in Section 2 above is construction of additional limited access lanes; (c) the costs incurred to implement such capacity improvement cannot be reasonably recovered (including a reasonable rate of return on amount invested) over the remaining term of this Agreement; (d) the Authority submits to TxDOT a reasonable analysis demonstrating items (b) and (c) above, and setting forth reasonably detailed cost and financial information for such capacity improvements, including information on cost subsidies from TxDOT, maximum toll rate increases and extensions of the term that the Authority determines would be necessary to enable it to recover such costs (including a reasonable rate of return on amount invested); and (e) the Authority does not receive from TxDOT, within 60 days after TxDOT receives such analysis, written notice under which TxDOT commits to subsidize such cost, to increase maximum permissible toll rates or to extend the term (or to do any combination of such measures), to the extent necessary to enable the Authority to recover such costs (including a reasonable rate of return on amount invested). TxDOT's commitment to subsidize such cost may take the form of a commitment to pay the costs of such improvements as they are incurred or to pay an up front lump sum payment, in either case to the extent necessary to enable the Authority to realize a reasonable rate of return on its own capital invested. The Authority shall have no obligation to undertake capacity improvements if the Authority reasonably demonstrates that the congestion is directly attributable to the inability of connecting facilities to meet traffic demands of vehicles exiting the Project, thus causing delays and reduced travel speeds along the Project. If there are other contributing causes of degradation in Hourly Speeds, including traffic volumes entering the Project from connecting facilities, the impacts of congestion directly attributable to a connecting facility's inability to meet traffic demands of vehicles exiting the Project shall be factored out in determining whether first and second trigger events occur.

7. Costs Capacity improvements required under this Exhibit E shall be at the Authority's sole cost and expense.

Exhibit F

[RESERVED]

Exhibit G

Design Exceptions (Section 9)

1. The Authority's System-wide Design Guidelines for landscaping and aesthetics.

Exhibit H

Handback Definitions (Sections 9 and 16)

Age means the elapsed time since an Element was first constructed or installed or, if applicable, last reconstructed, rehabilitated, restored, renewed or replaced.

Auditable Section means a defined section of the Project for the purpose of audit, inspection and measurement. An Auditable Section includes all travel lanes including main lanes, ramps and frontage roads of the roadway operating in one direction over a length of approximately 0.1 miles in length, together with all Elements of the Project and Related Transportation Facilities within the Project Right of Way associated with the relevant 0.1 mile length of roadway.

Construction Work means all Work to build or construct, make, form, manufacture, furnish, install, supply, deliver or equip the Project and/or the Utility Adjustments. Construction Work includes landscaping.

Element means an individual component, system or subsystem of the Project or of a Utility Adjustment included in the Construction Work, and shall include at a minimum a breakdown into the items described in the Performance and Measurement Table Baseline, further subdivided by Auditable Section where appropriate.

Eligible Investments means anyone or more of the following securities:

Direct obligations of, and obligations fully and unconditionally guaranteed by, (i) the United States of America or (ii) any agency or instrumentality of the United States of America the obligations of which are backed by the full faith and credit of the United States of America;

Demand or time deposits, federal funds or bankers' acceptances issued by any depository institution or trust company, provided that (i) any demand or time deposit or certificate of deposit is fully insured by the Federal Deposit Insurance Corporation or (ii) any commercial paper or the short-term deposit rating or the long-term unsecured debt obligations or deposits of such depository institution or trust company at the time of such investment or contractual commitment providing for such investment have been rated "A" or higher by a Rating Agency;

Commercial paper (including both non-interest-bearing discount obligations and interest-bearing obligations payable on demand or on a specified date not more than one year after the date of issuance thereof) which has been rated "A" or higher by a Rating Agency at the time of such investment;

Any money market funds, the investments of which consist of cash and obligations fully and unconditionally guaranteed by (i) the United States of America or (ii) any agency or instrumentality of the United States of America the obligations of which are backed by the full faith and credit of the United States of America and which have been rated "A" or higher by a Rating Agency; and

Other investments then customarily accepted by the State in similar circumstances;

provided, however, that no instrument or security shall be an Eligible Investment if such instrument or security evidences a right to receive only interest payments with respect to the obligations underlying such instrument or if such security provides for payment of both principal and interest with a yield to maturity in excess of 120% of the yield to maturity at par.

Existing Improvements means any and all portions of the Project which have been completed or are under construction by TxDOT's other contractors, except for the Existing Tolling Facilities. The Existing Improvements are more particularly described in the relevant contracts TxDOT issued prior to the Effective Date for the construction thereof.

Existing Tolling Facilities means the electronic toll collection system, including its components, systems and subsystems (including the VES and UCS), the hardware and physical infrastructure installed or to be installed by TxDOT on Segment 1.

Existing Utility Property Interest means any right, title or interest in real property (*e.g.*, a fee or an easement) claimed by a Utility Owner as the source of its right to maintain an existing Utility in such real property, which is compensable in eminent domain.

Handback Requirements means the terms, conditions, requirements and procedures governing the condition in which the Authority is to deliver the Project and Project Right of Way to TxDOT upon termination of this Agreement, as set forth in Exhibit M.

Handback Requirements Letter of Credit means a letter of credit delivered to TxDOT in lieu of the Handback Requirements Reserve, in accordance with Section 16(h) of this Agreement.

Handback Requirements Reserve has the meaning set forth in Section 16(d) of this Agreement.

NEPA Approval means (a) each decision document issued by the FHWA, TxDOT, the Authority, or other authorized party for the Project or a portion of the Project, and all approved supplements and reevaluations pertaining to the Project as of the Effective Date, and (b) any decision document under the NEPA that FHWA, TxDOT, the Authority, or other authorized party may issue for Segment 5.

Performance and Measurement Table Baseline means the performance and measurement table baseline set forth in Exhibit K.

Performance Requirements means, for each Element of the Project during the operating period, the requirements set forth in Exhibit K in the column headed "Performance Requirement."

Project means the transportation facilities and all related structures and improvements, used in connection with operation of such transportation facilities, to be financed, developed, designed, constructed, operated and maintained pursuant to the terms of the Project Agreement. The Project is divided into Segments 1, 2, 3, 4 and 5.

Project Right of Way or Project ROW means any real property (which term is inclusive of all estates and interests in real property), improvements and fixtures within the lines established by the NEPA Approval to delineate the outside limits of the Project, as such limits may be adjusted from time to time in accordance with the Project Agreement. The term specifically includes all air space, surface rights and subsurface rights within the limits of the Project Right of Way.

Rating Agency means any of Standard & Poor's Corporation, Moody's Investors Service, Inc., Fitch Investors Service, Inc or Duff & Phelps, Inc. or any other entity providing similar services and having comparable market recognition, or any of their respective successors.

Related Transportation Facility (ies) means all existing and future highways, streets and roads, including upgrades and expansions thereof, that are or will be adjacent to, connecting with or crossing under or over the Project.

Renewal Work means maintenance, repair, reconstruction, rehabilitation, restoration, renewal or replacement of any Element of a type that is not normally included as an annually recurring cost in highway maintenance and repair budgets. Annual Renewal Work hereunder is provided for under Section 8(e) of this Agreement.

Renewal Work Schedule means the schedule for Renewal Work to be prepared and updated by the Authority pursuant to Section 8(e) of this Agreement.

Replacement Utility Property Interest means any permanent right, title or interest in real property outside of the Project ROW (*e.g.*, a fee or an easement) which is acquired for a Utility being reinstalled in a new location as a part of the Utility Adjustment Work. The term specifically excludes any statutory right of occupancy or permit granted by a governmental entity for occupancy of its real property by a Utility.

Residual Life means, for an Element, the period remaining until the Element will next require reconstruction, rehabilitation, restoration, renewal or replacement. The Residual Life of an Element would be equal to its originally calculated Useful Life less its Age if (a) the Element has performed in service in the manner and with the levels of traffic and wear and tear originally expected by the Authority and (b) the Authority has performed the type of routine maintenance of the Element which is normally included as an annually recurring cost in highway maintenance and repair budgets, and as a result thereof the Element complies throughout its originally calculated Useful Life with each applicable Performance Requirement. The Residual Life of an Element would be different from its originally calculated Useful Life minus its Age if any of the foregoing conditions is not true.

Residual Life at Handback means the calculated duration that any Element of the Project, subject to the type of routine maintenance of the Element which is normally included as an annually recurring cost in highway maintenance and repair budgets, will continue to comply with any applicable Performance Requirement or standard after Handback, before Renewal Work is required, determined through the application of the Residual Life Methodology and Residual Life Inspections.

Residual Life Inspection means the inspection undertaken in accordance with the Residual Life Table (including any testing undertaken by an independent testing organization) to determine the Residual Life of all Elements of the Project.

First Inspection means the first Residual Life Inspection as set forth in Exhibit M, Handback Requirements.

Second Inspection means the second Residual Life Inspection as set forth in Exhibit M, Handback Requirements.

Final Inspection means the final Residual Life Inspection as set forth in Exhibit M, Handback Requirements.

Residual Life Methodology (RLM) means the evaluation and calculation methodology by which the Residual Life of any Element of the Project will be calculated at Handback and contains the method by which any necessary Renewal Work will be identified to ensure that each Element of the Project for which a minimum Residual Life at Handback is required under Exhibit M, Handback Requirements, meets such requirement.

Residential Life Table means the table attached as Exhibit O to this Agreement.

Service Line means (a) a Utility line, the function of which is to directly connect the improvements on an individual property to another Utility line located off such property, which other Utility line connects more than one such individual line to a larger system, or (b) any cable or conduit that supplies an active feed from a Utility Owner's facilities to activate or energize TxDOT's or a local agency's lighting and electrical systems, traffic control systems, communications systems and/or irrigation systems.

Useful Life means, for an Element, the period following its first installation, or following its last reconstruction, rehabilitation, restoration, renewal or replacement, until the Element will next require reconstruction, rehabilitation, restoration, renewal or replacement.

Utility or utility means a public, private, cooperative, municipal and/or government line, Project or system used for the carriage, transmission and/or distribution of cable television, electric power, telephone, telegraph, water, gas, oil, petroleum products, steam, chemicals, hydrocarbons, telecommunications, sewage, storm water not connected with the drainage of the Project, and similar substances that directly or indirectly serve the public. The term "Utility" or "utility" also includes radio towers and/or transmission towers, and excludes (a) storm water facilities providing drainage for the Project ROW, (b) street lights and traffic signals, and (c) ITS and IVHS facilities. The necessary appurtenances to each Utility Project shall be considered part of such Utility. Without limitation, any Service Line connecting directly to a Utility shall be considered an appurtenance to that Utility, regardless of the ownership of such Service Line.

Utility Adjustment means each relocation (temporary or permanent), abandonment, Protection in Place, removal (of previously abandoned Utilities as well as of newly abandoned Utilities), replacement, reinstallation, and/or modification of existing Utilities necessary to accommodate construction, operation, maintenance and/or use of the Project; provided, however, that the term "Utility Adjustment" shall not refer to any of the work associated with facilities owned by any railroad or with TxDOT's completion of the Existing Improvements or Existing

Tolling Facilities. For any Utility crossing the Project Right of Way, the Utility Adjustment Work for each crossing of the Project Right of Way by that Utility shall be considered a separate Utility Adjustment. For any Utility installed longitudinally within the Project Right of Way, the Utility Adjustment Work for each continuous segment of that Utility located within the Project Right of Way shall be considered a separate Utility Adjustment.

Utility Adjustment Work means all efforts and costs necessary to accomplish the required Utility Adjustments, including all coordination, design, design review, permitting, construction, inspection, maintenance of records, relinquishment of Existing Utility Property Interests, preparation of Utility Joint Use Acknowledgements, and acquisition of Replacement Utility Property Interests, whether provided by the Authority or by the Utility Owners. Any Utility Adjustment Work furnished or performed by the Authority is part of the Work; any Utility Adjustment Work furnished or performed by a Utility Owner is not part of the Work.

Utility Joint Use Acknowledgment or Utility Joint Use Agreement means an agreement between TxDOT and a Utility Owner that establishes the rights and obligations of TxDOT and the Utility Owner with respect to occupancy of the Project ROW by such Utility Owner's Utility.

Utility Owner means the owner or operator of any Utility (including both privately held and publicly held entities, cooperative utilities, and municipalities and other governmental agencies).

Exhibit I

Contracts Relating to Warranted Improvements (Section 9)

The Warranted Improvements described within the plan sets provided to the Authority and constructed under the contracts listed in the table below were or will be completed within three years prior to the date of this Agreement and therefore are included in the three year warranty.

Contract Number	Limits	Scope of Work	Acceptance Date
3547-01-008	From Business 121 to East of I-35E	Construct SH 121 Main lanes and Direct connect ramps at I-35E	7/21/06
3547-01-009	From Hebron Pkwy. to FM 2281	Construct Main lanes of SH 121	12/28/06
0364-03-066	From FM 2281 to DNT	Construct 6 lane frontage roads and 6 lane main lanes	*
0364-04-037	From DNT to Custer Road	Construct 6 lane frontage roads through project limits and 6 lane main lanes from DNT to west of Hillcrest Rd.	*
0364-04-022	From Custer Road to West of US 75	Construct 6 lane frontage roads through project limits and grade separation at Custer Road.	8/16/2006
0364-04-043	From West of Hillcrest Road to East of Hillcrest Road	Construct 6 main lanes through project limits.	*

*Denotes contracts for which the work thereunder has not yet been accepted by TxDOT.

Exhibit J

Milestone Schedule
(Sections 12 and 26)

<u>Milestone</u>	<u>Deadline</u>	<u>Long Stop Date</u>
Service Commencement Deadline for Segment 1	335 Days after the date of Financial Close	12 Months after the Service Commencement Deadline
Service Commencement Deadline for Segment 2	335 Days after the date of Financial Close	12 Months after the Service Commencement Deadline
Service Commencement Deadline for Segment 3	884 Days after the date of Financial Close	18 Months after the Service Commencement Deadline
Service Commencement Deadline for Segment 4	1,249 Days after the date of Financial Close	18 Months after the Service Commencement Deadline
Service Commencement Deadline for Segment 5	1,187 Days after the date of Segment 5 Environmental Clearance	18 Months after the Service Commencement Deadline

Exhibit K

Operations and Maintenance Standards and Reporting Requirements
(Section 13)

Operations and Maintenance Standards

Performance and Measurement Table						
Baseline						
ELEMENT CATEGORY	REF	ELEMENT	PERFORMANCE REQUIREMENT	INSPECTION AND MEASUREMENT METHOD*	MEASUREMENT RECORD*	TARGET
1) ROADWAY						
				Unless stated otherwise, measurements shall be conducted using procedures, techniques, and measuring equipment consistent with the Authority's Pavement Management Rating System.		
	1.1	Obstructions and debris	Roadway and clear zone free from obstructions and debris	Visual Inspection	Number of obstructions and debris	Nil
	1.2	Pavement	All roadways have an smooth and quiet surface course (including bridge decks, covers, gratings, frames and boxes) with adequate skid resistance and free from Defects.	a) Pavement Condition Rating System (CRS) Measurements and inspections necessary to derive Pavement Condition Score	Pavement Condition Score for 80% of Auditable Sections exceeding: <ul style="list-style-type: none"> • Mainlanes and ramps – CRS = 7.5 • Frontage roads - CRS = 6.8 Pavement Condition System Rating for each Auditable Section exceeding: <ul style="list-style-type: none"> • Mainlanes and ramps – CRS = 6.8 • Frontage roads - CRS = 6.6 	100% 100% 100% 100%
				b) Ruts – Mainlanes, shoulders & ramps Depth as measured using an automated device in compliance with TxDOT Standards. 10ft straight edge used to measure rut depth for localized areas.	Percentage of wheel path length with ruts greater than ¼” in depth in each Auditable Section Mainlanes, shoulders and ramps – 3% Frontage roads – 10% Depth of rut at any location greater than 0.5”	Nil Nil Nil
				c) Ride quality Measurement of International Roughness Index (IRI) according to TxDOT standard Tex-1001-S, Operating Inertial Profilers and Evaluating Pavement Profiles	For 80% of all Auditable Sections measured, IRI throughout 98% of each Auditable Section is less than or equal to: <ul style="list-style-type: none"> • Mainlanes, ramps – 95** inches per mile • Frontage roads – 120** inches per mile 	100% 100%

**Performance and Measurement Table
Baseline**

ELEMENT CATEGORY	REF	ELEMENT	PERFORMANCE REQUIREMENT	INSPECTION AND MEASUREMENT METHOD*	MEASUREMENT RECORD*	TARGET
	1.2 cont			<p>** To allow for measurement bias, an adjustment of -10 (minus ten) is made to IRI measurements for concrete pavements before assessing threshold compliance.</p>	<p>IRI measured throughout 98% of Auditable Sections of less than or equal to:</p> <ul style="list-style-type: none"> Mainlanes, ramps 120** inches per mile <p>Frontage roads – 150**inches per mile</p>	<p>100%</p> <p>100%</p>
				<p>3ft straight edge used to measure discontinuities</p>	<p>IRI measured throughout 98% of each lane containing a bridge deck in any Auditable Section, 0.1 mile average – 200** inches per mile</p> <p>Individual discontinuities greater than 0.75"</p>	<p>100%</p> <p>Nil</p>
				<p>d) Failures Instances of failures exceeding the failure criteria set forth in the NTTA Pavement Management System, including potholes, base failures, punchouts and jointed concrete pavement failures</p>	<p>Occurrence of any failure</p>	<p>Nil</p>
				<p>e) Edge drop-offs Physical measurement of edge drop-off level compared to adjacent surface</p> <p>f) Skid resistance ASTM E 274 Standard Test Method for Skid Resistance Testing of Paved Surfaces at 50 MPH using a full scale smooth tire meeting the requirements of ASTM E 524.</p>	<p>Instances of edge drop-off greater than 2"</p> <ul style="list-style-type: none"> Mainlanes, shoulders and ramps – Number of sections investigated as to potential risk of skidding accident and appropriate remedial action taken where average Skid Number for 0.5 mile section of mainlanes, shoulders, and ramps are in excess of mean Skid Number measured for TxDOT equivalent roads 	<p>Nil</p> <p>100%</p>
	1.2 con't.				<ul style="list-style-type: none"> Frontage roads –Number of sections investigated as to potential risk of skidding accident and appropriate remedial action taken where average Skid Number for 0.5 mile section of frontage roads is in excess of mean Skid Number measured for TxDOT equivalent roads When the Skid Number is below 25 and/or when required by the Wet Weather Accident Reduction Program, areas categorized as high risk, the Concessionaire shall perform a site investigation and perform required corrective action 	<p>100%</p> <p>100%</p>

**Performance and Measurement Table
Baseline**

ELEMENT CATEGORY	REF	ELEMENT	PERFORMANCE REQUIREMENT	INSPECTION AND MEASUREMENT METHOD*	MEASUREMENT RECORD*	TARGET
			Road users warned of potential skidding hazards	Skid resistance (as above)	Instances where road users warned of potential skidding hazard where remedial action is identified.	100%
	1.3	Crossovers and other paved areas	Crossovers and other paved areas are free of pavement or subgrade failures	a) Potholes b) Base failures	Potholes of low severity or higher (Number) Base failures of low severity or higher (Number)	Nil Nil
	1.4	Joints in concrete	Joints in concrete paving are sealed and watertight Longitudinal joint separation	Visual inspection of joints Measurement of joint width and level difference of two sides of joints	Length unsealed joints greater than ¼” Joint width more than 1” or faulting more than ¼”	Nil Nil
	1.5	Curbs	Curbs are straight	Visual inspection	Length out of alignment	Nil

2) DRAINAGE

	2.1	Pipes and Channels	Each element of the drainage system is maintained in its proper function by cleaning, clearing and/or emptying as appropriate from the point at which water drains from the travel way to the outfall or drainage way.	Visual inspection supplemented by CCTV where required to inspect buried pipe work	Length with less than 90% of cross section clear (feet)	Nil
	2.2	Drainage treatment devices	Drainage treatment and balancing systems, flow and spillage control devices function correctly and their location and means of operation is recorded adequately to permit their correct operation in Emergency.	Visual inspection	Devices functioning correctly with means of operation displayed (Number)	100%
	2.3	Travel Way	The travel way is free from water to the extent that such water would represent a hazard by virtue of its position and depth.	Visual inspection of water on surface	Instances of hazardous water build-up	Nil

3) STRUCTURES

	3.1	Structures having an opening	Substructures and superstructures are free of:	Inspection and assessment in accordance with the requirements of federal	Records as required in the TxDOT Bridge Inspection Manual	
--	-----	------------------------------	--	--	---	--

**Performance and Measurement Table
Baseline**

ELEMENT CATEGORY	REF	ELEMENT	PERFORMANCE REQUIREMENT	INSPECTION AND MEASUREMENT METHOD*	MEASUREMENT RECORD*	TARGET
		measured along the centre of the roadway of more than 20 feet between undercopings of abutments or springlines of arches or extreme ends of openings or multiple boxes	<ul style="list-style-type: none"> • graffiti • undesirable vegetation • debris and bird droppings • blocked drains, weep pipes manholes and chambers • blocked drainage holes in structural components • joint sealants failures • pedestrian protection measure failure • scour damage • corrosion of rebar • paint system failures • impact damage 	National Bridge Inspection Standards (NBIS) of the Code of Federal Regulations, 23 Highways – Part 650, the TxDOT Bridge inspection Manual, and the Federal Administration’s Bridge Inspector’s Reference Manual.	<p>Occurrences of condition rating below seven for any deck, superstructure or substructure</p> <p>All condition states to be one for all structure components</p>	<p>Nil</p> <p>100%</p>
	3.2	Structure components	<p>i) Expansion joints are free of:</p> <ul style="list-style-type: none"> • dirt debris and vegetation • non-functioning drainage systems • loose nuts and bolts • gasket failures <p>ii) The deck drainage system is free of all and operates as intended.</p> <p>iii) Parapets are free of:</p> <ul style="list-style-type: none"> • loose nuts or bolts • blockages of hollow section drain holes • graffiti • vegetation • accident damage <p>iv) Bearings and bearing shelves are clean.</p> <p>v) Sliding and roller surfaces are clean and greased to ensure satisfactory performance.</p> <p>Additional advice contained in bearing manufacturers' instructions in the</p>	Inspection and assessment in accordance with the requirements of federal National Bridge Inspection Standards (NBIS) of the Code of Federal Regulations, 23 Highways – Part 650, the TxDOT Bridge inspection Manual, and the Federal Administration’s Bridge Inspector’s Reference Manual..	<p>Records as required in the TxDOT Bridge Inspection Manual</p> <p>Occurrences of condition rating below seven for any deck, superstructure or substructure</p> <p>All condition states to be one for all structure components</p>	<p>Nil</p> <p>100%</p>

**Performance and Measurement Table
Baseline**

ELEMENT CATEGORY	REF	ELEMENT	PERFORMANCE REQUIREMENT	INSPECTION AND MEASUREMENT METHOD*	MEASUREMENT RECORD*	TARGET
			Structure Maintenance Manual is followed. Special finishes are clean and perform to the appropriate standards. vii) All non-structural items such as hoists and electrical fixings, operate correctly, are clean and lubricated as appropriate, in accordance with the manufacturer's recommendations and certification of lifting devices is maintained.			
	3.3	Non-bridge class culverts	Non-bridge-class culverts are free of: <ul style="list-style-type: none"> • vegetation and debris and silt • defects in sealant to movement joints • scour damage 	Visual inspection	Number with vegetation, debris and silt Number with defects in sealant and movement joints Number with scour damage	Nil Nil Nil
	3.4	Gantries and high masts	Sign signal gantries, high masts are structurally sound and free of: <ul style="list-style-type: none"> • loose nuts and bolts • defects in surface protection systems • graffiti 	Visual inspection	Number with loose assemblies Number with defects in surface protection Number with graffiti	Nil Nil Nil
	3.5	Load ratings	All structures maintain the design load capacity.	Load rating calculations in accordance with the Manual for Bridge Evaluation and the TxDOT Bridge Inspection Manual. Load restriction requirements as per the TxDOT Bridge Inspection Manual	Number of load restrictions for Texas legal loads (including legally permitted vehicles)	Nil

**Performance and Measurement Table
Baseline**

ELEMENT CATEGORY	REF	ELEMENT	PERFORMANCE REQUIREMENT	INSPECTION AND MEASUREMENT METHOD*	MEASUREMENT RECORD*	TARGET	
	4.1	Pavement markings	Pavement markings are: <ul style="list-style-type: none"> • clean and visible during the day and at night • whole and complete and of the correct color, type, width and length • placed to meet the TMUTCD and TxDOT's Pavement Marking Standard Sheets 	a) Markings - General Portable retroreflectometer, which uses 30 meter geometry meeting the requirements described in ASTM E 1710	Length meeting the minimum retroreflectivity 175 mcd/sqm/lx for white	100%	
						Length meeting the minimum retroreflectivity 125 mcd/sqm/lx for yellow	100%
				Physical measurement	Length with more than 5% loss of area of material at any point	Nil	
					Length with spread more than 10% of specified dimensions.	Nil	
			b) Profile Markings	Visual inspection	Length performing its intended function and compliant with relevant regulations	100%	
	4.2	Raised reflective markers	Raised reflective pavement markers, object markers and delineators are: <ul style="list-style-type: none"> • clean and clearly visible • of the correct color and type • reflective or retroreflective as TxDOT standard • correctly located, aligned and at the correct level • are firmly fixed • are in a condition that will ensure that they remain at the correct level. 	Visual inspection	Number of markers associated with road markings that are ineffective in any 10 consecutive markers. (Ineffective includes missing, damaged, settled or sunk)	Nil	
					A minimum of four markers should be visible at 80' spacing when viewed under low beam headlights Uniformity (replacement rpms having equivalent physical and performance characteristics to adjacent markers).	100%	
	4.3	Delineators & Markers	Object markers, mail box markers and delineators are: <ul style="list-style-type: none"> • clean and visible • of the correct color and type • legible and reflective • Straight and Vertical 	Visual inspection	Number of object markers or delineators defective or missing	Nil	

**Performance and Measurement Table
Baseline**

ELEMENT CATEGORY	REF	ELEMENT	PERFORMANCE REQUIREMENT	INSPECTION AND MEASUREMENT METHOD*	MEASUREMENT RECORD*	TARGET
	5.1	Guard rails and safety barriers	All guardrails, safety barriers, concrete barriers, etc.) are maintained free of Defects. They are appropriately placed and correctly installed at the correct height and distance from roadway or obstacles. Installation and repairs shall be carried out in accordance with the requirements of NCHRP 350 standards.	Visual inspection	Length of road restraint systems correctly installed Length free from defects Length at correct height Length at correct distance from roadway and obstacle	100% 100% 100% 100%
	5.2	Impact attenuators	All impact attenuators are appropriately placed and correctly installed	Visual inspection	Number correctly placed and installed	100%

6) TRAFFIC SIGNS

	6.1	General – All Signs	<p>i) Signs are clean, correctly located, clearly visible, legible, reflective, at the correct height and free from structural and electrical defects</p> <p>ii) Identification markers are provided, correctly located, visible, clean and legible</p> <p>iii) Sign mounting posts are vertical, structurally sound and rust free</p> <p>iv) All break-away sign mounts are clear of silt or other debris that could impede break-away features and shall have correct stub heights</p> <p>v) Obsolete and redundant signs are removed or replaced as appropriate</p> <p>vi) Visibility distances meet the stated requirements</p> <p>vii) Sign information is of the correct size,</p>	<p>a) Retroreflectivity Coefficient of retro reflectivity</p> <p>b) Face damage Visual inspection</p> <p>c) Placement Visual inspection</p> <p>d) Obsolete signs Visual inspection</p> <p>e) Sign Information Visual inspection</p> <p>f) Dynamic Message Signs Visual inspection</p>	<p>Number of signs with reflectivity below the requirements of TxDOT’s TMUTCD</p> <p>Number of signs with face damage greater than 5% of area</p> <p>Signs are placed in accordance with TxDOT’s Sign Crew Field Book including not twisted or leaning</p> <p>Number of obsolete signs</p> <p>Sign information is of the correct size, location, type and wording to meet its intended purpose</p> <p>Dynamic message signs are fully functioning</p>	<p>Nil</p> <p>Nil</p> <p>100%</p> <p>Nil</p> <p>100%</p> <p>100%</p>
--	-----	---------------------	--	---	---	--

**Performance and Measurement Table
Baseline**

ELEMENT CATEGORY	REF	ELEMENT	PERFORMANCE REQUIREMENT	INSPECTION AND MEASUREMENT METHOD*	MEASUREMENT RECORD*	TARGET
			location, type and wording to meet its intended purpose and any statutory requirements viii) All structures and elements of the signing system are kept clean and free from debris and have clear access provided. ix) All replacement and repair materials and equipment are in accordance with the requirements of the TMUTCD x) Dynamic message signs are in an operational condition			
	6.2	General - Safety critical signs	Requirements as 6.1, Plus: "Stop," "Yield," "Do Not Enter," "One Way" and "Wrong Way" signs are clean legible and undamaged.	Visual inspection	Number of damaged Safety critical signs	Nil
8) LIGHTING						
	8.1	Roadway Lighting – General	i) All lighting provides acceptable uniform lighting quality ii) Lanterns are clean and correctly positioned iii) Lighting units are free from accidental damage or vandalism iv) Columns are upright, correctly founded and structurally sound	a) Mainlane lights operable Night time inspection or automated logs b) Mainlane lights out of action Night time inspection or automated logs	Number of sections with less than 90% of lights functioning correctly at all times Instances of more than two consecutive lights out of action	Nil Nil
	8.2	Sign Lighting	Sign lighting is fully operational	Night time inspection or automated logs	Instances of more than one bulb per sign not working	Nil
	8.3	Electrical Supply	Electricity supply, feeder pillars, cabinets, switches and fittings are electrically, mechanically and structurally sound and functioning	Testing to meet NEC regulations, visual inspection	Inspection records showing safe installation and maintenance	100%

**Performance and Measurement Table
Baseline**

ELEMENT CATEGORY	REF	ELEMENT	PERFORMANCE REQUIREMENT	INSPECTION AND MEASUREMENT METHOD*	MEASUREMENT RECORD*	TARGET
	8.4	Access Panels	All access panels in place at all times.	Visual Inspection	Instances of missing access panels	Nil
	8.5	High Mast Lighting	i) All high mast luminaries functioning on each pole ii) All obstruction lights are present and working (if required) iii) Compartment door is secure with all bolts in place iv) All winch and safety equipment is correctly functioning and maintained without rusting or corrosion (for structural requirements refer to Element Category 3)	Yearly inspection and night time inspections or automated logs	Instances of two or more lamps not working per high mast pole Identification of other defects	Nil Nil

9) FENCES, WALLS AND SOUND ABATEMENT

	9.1	Design and Location	Fences and walls act as designed and serve the purpose for which they were intended	Visual Inspection	Inspection records showing compliance	100%
	9.2	Construction	Integrity and structural condition of the fence is maintained	Structural assessment if visual inspection warrants	Inspection records showing compliance	100%

12) EARTHWORKS, EMBANKMENTS AND CUTTINGS

	12.1	Slope Failure	All structural or natural failures of the embankment and cut slopes of the Facility are repaired	Visual inspection by geotechnical specialist and further tests as recommended by the specialist	Recorded instances of slope failure	Nil
	12.2	Slopes - General	Slopes are maintained in general conformance to the original graded cross-sections, the replacement of landscaping materials, reseeded and re-vegetation for erosion control purposes and removal and disposal of all eroded materials from the roadway and shoulders		Inspection records showing compliance	100%

13) ITS and ETCS EQUIPMENT

**Performance and Measurement Table
Baseline**

ELEMENT CATEGORY	REF	ELEMENT	PERFORMANCE REQUIREMENT	INSPECTION AND MEASUREMENT METHOD*	MEASUREMENT RECORD*	TARGET
	13.1	ETCS Equipment – Maintenance	All ITS and ETCS equipment is fully functional and housing is functioning and free of defects. i) All equipment and cabinet identification numbers are visible, sites are well drained and access is clear. ii) Steps, handrails and accesses are kept in a good condition. iii) Access to all communication hubs, ground boxes, cabinets and sites is clear,	Visual Inspection	Inspection records showing compliance	100%
	13.1 con't.		iv) All drainage is operational and all external fixtures and fittings are in a satisfactory condition. v) All communications cable markers, cable joint markers and duct markers are visible and missing markers are replaced. vi) Backup power supply system is available at all times	Visual Inspection	Inspection records showing compliance	100%
	13.2	VES Equipment - Maintenance	All VES equipment is kept clean, the identification numbers are visible.	Visual Inspection	Inspection records showing compliance	100%
	13.3	Dynamic Message Sign Equipment	Dynamic Message Signs are free from faults such as: i) Any signal displaying a message which is deemed to be a safety hazard ii) Failure of system to clear sign settings when appropriate. iii) 2 or more contiguous sign failures that prevent control office setting strategic diversions iv) Signs displaying an incorrect message.	Defect measurement dependent on equipment	Inspection records showing compliance	100%

**Performance and Measurement Table
Baseline**

ELEMENT CATEGORY	REF	ELEMENT	PERFORMANCE REQUIREMENT	INSPECTION AND MEASUREMENT METHOD*	MEASUREMENT RECORD*	TARGET
	13.4	CCTV Equipment	CCTV Systems are free from serious faults that significantly limit the availability of the operators to monitor the area network, such as: i) Failure of CCTV Systems to provide control offices with access and control of CCTV images ii) Failure of a CCTV camera or its video transmission system. iii) Failure of a Pan / Tilt unit or its control system. iv) Moisture ingress onto CCTV camera lens v) Faults that result in significant degradation of CCTV images	Defect measurement dependent on equipment	Inspection records showing compliance	100%
	13.5	Vehicle Detection Equipment	All equipment free of operational problems such as; i) Inoperable loops. ii) Malfunctioning camera controllers.	Defect measurement dependent on equipment Traffic Detector Loops: Loop circuit's inductance to be > 50 and < 1,000 micro henries. Insulation resistance to be > 50 meg ohms.	Inspection records showing compliance Instances of loops out of compliance	100% Nil

Reporting Requirements

The Authority maintains the NTTA System through an asset management approach that involves extensive, frequent evaluation of the condition of its assets and the appropriate responses to any deficiencies identified. The evaluations take the form of various inspections, testing and evaluations. The following is a description of those activities.

1. Maintenance Rating Program (MRP). The MRP requires monthly inspection of 10% of the system selected on a random sample basis. This is done by both the Authority's internal Maintenance Department and the Total Routine Maintenance Contractor. The Authority will continue to file the results of these inspections and to have those applicable to the Project readily available to TxDOT for review/auditing at any time. Information relative to the specified standards to be provided to the Authority by TxDOT per this Exhibit K that are not already included or are more stringent will be added to this MRP.

2. Bondholders' Letter. This is an annual communication from the Authority's General Engineering Consultant to the bondholders that provides an overview of the condition of the Authority assets. This letter is based upon the results of the Capital Asset Management and Inspection Report (CAMIR) which is described in paragraph 3. The assets will be scored on a GASB rating scale, or equivalent scale, and the scores will be included in the bondholders' letter. The Authority will provide TxDOT with a copy of this letter each year. The contents of this letter pertaining to the Project will be adjusted to include any information about the Project that is required by this Exhibit K.
3. Capital Asset Management and Inspection Report (CAMIR). This is an annual report of the inspections performed on the Authority's assets during the previous year. The Authority will submit a copy of this report annually to TxDOT. The contents of this report pertaining to the Project will be adjusted to include any information about the Project that is required by this Exhibit K.
4. Pavement Management Report. This report provides the result of the pavement evaluation conducted during the previous year. It includes information about the International Roughness Index (IRI) and the Authority's condition rating system (CRS) as well as skid test results. The report includes a ten-year plan for pavement maintenance and rehabilitation. The Authority will provide a copy of this report annually to TxDOT. The contents of this report pertaining to the Project will be modified to include any information about the Project that is required by this Exhibit K.
5. Overhead Sign Inspection Report. This report provides the results of the inspections of overhead sign structures conducted during the previous year. The Authority inspects every sign structure every five years, inspecting a portion of the current total of 224 structures each year. The inspection will be expanded to include the Project structures. Adjustments and minor repairs are made during inspections. The Authority will have this report available for review by TxDOT.
6. High Mast Illumination Pole Inspection and Treatment Report. This report provides the results of inspections, repairs and ultrasonic impact treatment (UIT) to restore the structural soundness of all poles. The Authority will have this report available for review by TxDOT. An initial inspection of the Project poles will be conducted in the first year of this Agreement and the failing poles will be restored within two (2) years. Once all poles have been brought up to standard, the cycle for re inspection will be four (4) years per the Authority's current procedure. New poles added to the Project system will be treated in a similar manner.
7. BRINSAP Reports. The Bridge Inspection and Appraisal Program (BRINSAP) reports are received biannually from TxDOT for each bridge. The bridge inspection results are included in CAMIR (see item 3 above).
8. Other Reports. These are reports of special inspections that are conducted in response to assets exhibiting signs of abnormal wear or fatigue. Environmental studies are also conducted when required to comply with various issues, such as the MS4 program. The Authority will notify TxDOT of the studies and provide a copy of the reports if requested by TxDOT.

Exhibit L

NTTA/TxDOT Maintenance Limits
(Section 14)

[See Attached]

Exhibit M

Handback Requirements (Section 16)

1. Residual Life Methodology

The Authority shall prepare and submit to TxDOT for approval a Residual Life Methodology, 60 months before the due date for Handback. This submittal shall contain the evaluation and calculation criteria to be adopted for the calculation of the Residual Life at Handback of all Elements of the Project. The scope of any Residual Life testing shall be included, together with a list of all independent Residual Life testing organizations, proposed by the Authority. These organizations shall be on TxDOT's approved list, have third party quality certification, and be financially independent of the Authority and not be an affiliate.

TxDOT's approval of the Residual Life Methodology, including the scope and schedule of inspections, shall be required before commencement of Residual Life Inspections.

2 Residual Life Inspections

Inspections and testing shall be performed with appropriate coverage such that the results are representative of the whole Project as described in the Residual Life Table.

TxDOT shall be given the opportunity to witness any of the inspections and/or tests and shall be provided with a minimum of ten business days notice prior to the performance of any such tests. The Authority shall deliver to TxDOT, within ten days after it is created, the output data arising from any testing and any interpretation thereof made by the testers.

If the Authority fails to undertake inspections within the relevant time periods described below, TxDOT shall be entitled to undertake or arrange the relevant inspections itself, following 30 days written notice to the Authority.

First Inspection

Between 57 and 60 months before the Scheduled Termination Date, the Authority shall perform a Residual Life Inspection (the "First Inspection"), including all Elements set forth in the Residual Life Table.

Within 30 days following performance of the First Inspection, the Authority shall submit to TxDOT the findings of the inspection, including Residual Life test results, the report of the independent testing organization(s), the Authority's Residual Life calculations and the Authority's calculation of Residual Life at Handback for each inspected Auditable Section.

Second Inspection

Between 15 and 18 months before the Scheduled Termination Date, the Authority shall perform a second Residual Life Inspection (the “Second Inspection”) including all Elements set forth in the Residual Life Table.

The Second Inspection shall be performed for all Elements of the Project whether or not the Authority has undertaken Renewal Work for a particular Element in the period since the First Inspection.

Within 30 days following the performance of the Second Inspection, the Authority shall submit to TxDOT the findings of the inspection, including Residual Life test results, the report of the independent testing organization(s), the Authority’s Residual Life calculations and the Authority’s calculation of Residual Life at Handback for all Elements of the Project.

Final Inspection

Not later than 90 days before the Scheduled Termination Date, the Authority shall perform a final Residual Life Inspection (the “Final Inspection”) including all Elements within the Project, whether or not the Authority has undertaken Renewal Work for a particular Element in the period since the First and Second Inspections.

Within 30 days following performance of the Final Inspection, the Authority shall submit to TxDOT for review and approval the findings of the inspection, including Residual Life test results, the report of the independent testing organization(s), the Authority’s Residual Life calculations and the Authority’s calculation of Residual Life at Handback for all Elements of the Project.

3 Renewal Work Schedule at Handback

The Renewal Work Schedule for each of the five years before Handback shall include, in addition to any other requirements specified in this Agreement:

1. The Authority’s calculation of Residual Life for each Element calculated in accordance with the Residual Life Methodology and taking into account the results of the inspections set forth above.
2. The estimated cost of the Renewal Work for each Element at the end of its Residual Life.

4 Residual Life and Useful Life Requirements

For any Element in the Residual Life Table:

1. Where a Residual Life at Handback is specified in years, the Residual Life at Handback shall be equal to or greater than the period set forth in the column entitled “Residual Life at Handback”.
2. Where a Useful Life is specified in years, the Useful Life created at the time of its last replacement, renewal, reconstruction, restoration or rehabilitation before the Scheduled Termination Date shall be equal to or greater than the period set forth in the column entitled “Useful Life”, and the Renewal Work Schedule shall estimate the cost of the next Renewal Work (after the Scheduled Termination Date) on the assumption that such Renewal Work will be performed in order to create a new Useful Life of the same duration.

The inspection requirements and Residual Life Methodology requirements identified in the Residual Life Table are minimum requirements.

Exhibit N

Handback Requirements Reserve Elements and Reserve Funding Mechanism (Section 16)

1. The Authority shall make deposits to the Handback Requirements Reserve by the last day of each calendar quarter, commencing with the first calendar quarter of the fifth full calendar year before Scheduled Termination Date, and continuing thereafter.
2. The Authority shall make quarterly deposits into the Handback Requirements Reserve so that by the beginning of each of the last four years during the term of this Agreement the Handback Requirements Reserve will contain an amount equal to:
 - (a) The summation across all Elements that have a number of years stated in the “Useful Life” column in the Residual Life Table of the following factors, as set forth in the most recent Renewal Work Schedule (as it may be revised pursuant to the Handback Requirements): the estimated cost to perform the Renewal Work on such Element at the end of its Useful Life multiplied by the lesser of (i) one or (ii) a fraction the numerator of which is the average Age each such Element will have as of the end of the current calendar year and the denominator of which is the total average Useful Life thereof, plus
 - (b) The summation across all other Elements (*i.e.* those Elements that have a number of years stated in the “Residual Life at Handback” column in the Residual Life Table) of the estimated cost to perform the Renewal Work on each other Element that is to be performed prior to expiration of the term of this Agreement in accordance with the Handback Requirements multiplied by a fraction the numerator of which is four minus the number of full calendar years until the year in which the Renewal Work is scheduled to be performed pursuant to the Renewal Work Schedule (as it may be revised pursuant to the Handback Requirements) and the denominator of which is four; plus
 - (c) 10% of the amounts under clauses (a) and (b) above as a contingency.
3. The Authority’s quarterly deposits in a year shall equal one-fourth of the amount required to be deposited in such year as described in Section 2 above, provided that if the Authority’s aggregate actual draws during the current calendar year exceed the planned draws by more than 10% (including draws to fund safety compliance work allowed under Section 16(f)(i) of this Agreement), the Authority shall adjust its quarterly deposits for the remainder of the calendar year in order to make up the excess draws.
4. In determining the amount of the Authority’s deposits to be made in the current calendar year, TxDOT and the Authority shall take into account the total amount in the Handback Requirements Reserve at the end of the immediately preceding calendar year and the

Authority's planned draws from the Handback Requirements Reserve during the current calendar year.

5. If at any time during the course of Renewal Work on an Element the actual incurred costs thereof are such that the balance in the Handback Requirements Reserve for such Element is less than the total amount required to be funded to the Handback Requirements Reserve for such Element, the Authority shall promptly increase its deposits in order to fully make up the difference.
6. If after completion of and payment in full for Renewal Work on an Element there remains an unused balance in the Handback Requirements Reserve for such Element during the term of this Agreement, the unused balance shall be reallocated and credited toward required balances in the Handback Requirements Reserve for other Elements.

Exhibit O

Residual Life Table
(Section 16)

Residual Life Table

Element Category	Residual Life at Handback (yrs)	Useful Life	Inspection Requirements	Residual Life Methodology (RLM) Requirement
Road Pavement				
Main lanes	A (Note 1)	10	Pavement inspections shall be undertaken by independent testing organizations. Inspections shall provide a continuous or near continuous record of Residual Life in each lane. Where the inspection method does not provide a continuous record of Residual Life, the number of valid measurements in each Auditable Section shall be sufficient to give a statistically valid result. Inspections shall be repeatable to an agreed level of accuracy and inspection contracts shall include an agreed proportion of inspections to verify accuracy. Inspections shall include ride quality, skid resistance and rutting.	RLM shall be capable of calculation of Residual Life for each 0.1 mile Auditable Section. For a nominal 10 year Residual Life at Handback, 85% of Auditable Sections shall have a Residual Life exceeding 10 years, and no Auditable Section shall have a calculated Residual Life of less than five years.)
Ramps/direct connectors	A (Note 1)	10		
Frontage/access roads	A (Note 1)	10		
Local/collector roads	A (Note 1)	10		
Structures				
Reinforced concrete	50	N/A	Inspections of structures shall be undertaken by independent testing organizations. Inspections shall follow the latest inspection guidelines (as they apply at the relevant date that the testing is undertaken) recognized by TxDOT. A close examination shall be made of all parts of each structure. Non-destructive tests shall be undertaken appropriate to the type of structure. These shall	RLM shall: Draw on historical asset maintenance records, inspection and test histories for each structure. Take account of TxDOT and FHWA records of other structures on the network with similar characteristics. Include an assessment of load carrying capacity based on the original structural design calculations, the as built drawings and results of
Pre-stressed concrete	50	N/A		
Structural steelwork	50	N/A		
Weathering steel	50	N/A		
Corrugated steel	50	N/A		
Corrosion protection for structural steelwork	A (Note 1)	5		
Deck surfacing	A (Note 1)	10		
Deck joints	A (Note 1)	5		

Residual Life Table

Element Category	Residual Life at Handback (yrs)	Useful Life	Inspection Requirements	Residual Life Methodology (RLM) Requirement
Bearings	A (Note 1)	30	include the measurement of structural deflection under calibrated load, the identification and measurement of de-lamination in bridge decks, the measurement of chloride and carbonation profiles from surface to reinforcement and/or tendon level, and the in-situ strength testing of concrete Elements. Testing of steel structures shall include the depth of corrosion and/or the measurement of remaining structural thickness for hidden and exposed parts. All lengths of weld shall be tested for cracking at key areas of structural steelwork.	load deflection tests where appropriate. Take account of any trends in asset deterioration to determine the rate of deterioration and to predict the future condition of individual Elements and the entire structure.
Railing	50	N/A		
Sign/signal gantries (structural elements)	50	N/A		
Retaining walls	50	N/A		
Traffic signal poles	A (Note 1)	8		
High mast lighting	A (Note 1)	8		
Building and Maintenance Facilities (structural elements)				
	50	N/A	Inspections shall comply with Good Industry Practice	RLM shall draw on historical asset maintenance records, inspection and test histories for each building and maintenance facility
Building Maintenance Facilities (installation and finishes)				
	25	N/A		
Toll Collection and Traffic Management Facilities				
			Inspections shall comply with Good Industry Practice	RLM shall be based on the manufacturer's or Supplier's recommended component life, together with records of the performance of similar equipment from The Authority or TxDOT records.
Drainage				

Residual Life Table

Element Category	Residual Life at Handback (yrs)	Useful Life	Inspection Requirements	Residual Life Methodology (RLM) Requirement
Underground storm sewer systems	50	N/A	Inspection of storm sewer systems shall include closed circuit TV inspection of all buried pipe work. Groundwater level monitoring at selected locations will be required to provide assurance through the RLM of a 10 year Residual Life for groundwater interceptor drains.	RLM shall draw on historical asset maintenance records, inspection and test histories for each Element of the drainage system. The Authority shall include a methodology to determine the Residual Life of filter drains designed to intercept groundwater.
Culverts	50	N/A		
Ditches	A (Note 1)	10		
Inlets	25	N/A		
Outfalls	A (Note 1)	10		
Ancillary				
Earthwork slopes	50	N/A	For embankment and cut slopes a risk based inspection procedure shall be adopted following Good Industry Practice. Deformation monitoring will be required to provide assurance through the RLM of a 50-year Residual Life. Inspections of all ancillary items shall be undertaken by personnel having adequate training on modes of failure, risk assessment and observational skills.	RLM shall draw on historical asset maintenance records, inspection and test histories for each ancillary Element.
Metal beam guard rail	A (Note 1)	10		
Concrete barrier	A (Note 1)	20		
Impact attenuators	A (Note 1)	20		
Lighting columns	A (Note 1)	10		
Overhead signs	A (Note 1)	5		
Traffic signals housings and mountings	A (Note 1)	8		
Fences	A (Note 1)	10		
Manhole covers, gratings, frames and boxes	A (Note 1)	10		
Curbs and gutters	A (Note 1)	10		
Luminaries	A (Note 1)	5		
Roadside traffic signs	A (Note 1)	5		
Pavement markings	A (Note 1)	5		
Delineators	A (Note 1)	5		

Note 1: Where designated by the letter “A”, a Useful Life created at the time of last replacement, renewal, reconstruction, restoration or rehabilitation before the Scheduled Termination Date is specified in place of a Residual Life at Handback

Exhibit P

BENCHMARK RATES

Market interest rate assumptions for the Bonds are based on the May 3, 2007 AAA Municipal Market Data Scale using 10 year callable triple-A insured rates. The spread for each maturity and Bond type is the difference between the rate under the “MMD” column and the rate under the applicable “Yield” column.

MMD	Year	Date	CIBs		CABs	MMD	Year	Date	CIBs		CABs
			Coupon	Yield	Yield				Coupon	Yield	Yield
3.60	1	1/1/2009	5.00	3.75	3.90	4.12	26	1/1/2034			4.92
3.60	2	1/1/2010	5.00	3.77	3.95	4.12	27	1/1/2035			4.92
3.61	3	1/1/2011	5.00	3.80	4.01	4.13	28	1/1/2036			4.93
3.62	4	1/1/2012	5.00	3.82	4.07	4.13	29	1/1/2037	5.00	4.38	4.93
3.64	5	1/1/2013	5.00	3.86	4.14	4.13	30	1/1/2038			4.94
3.68	6	1/1/2014	5.00	3.92	4.23	4.13	31	1/1/2039			4.95
3.72	7	1/1/2015	5.00	3.97	4.32	4.13	32	1/1/2040			4.96
3.76	8	1/1/2016	5.00	4.02	4.36	4.13	33	1/1/2041			4.97
3.80	9	1/1/2017	5.00	4.07	4.40	4.13	34	1/1/2042	5.00	4.42	4.98
3.84	10	1/1/2018	5.00	4.11	4.49	4.13	35	1/1/2043			4.98
3.88	11	1/1/2019	5.00	4.15	4.58	4.13	36	1/1/2044			4.98
3.91	12	1/1/2020	5.00	4.18	4.64	4.13	37	1/1/2045			4.98
3.94	13	1/1/2021	5.00	4.21	4.69	4.13	38	1/1/2046			4.98
3.97	14	1/1/2022	5.00	4.24	4.72	4.13	39	1/1/2047			4.98
4.00	15	1/1/2023	5.00	4.27	4.75	4.13	40	1/1/2048	5.00	4.45	5.03
4.03	16	1/1/2024	5.00	4.30	4.78	4.13	41	1/1/2049			5.03
4.04	17	1/1/2025	5.00	4.31	4.79	4.13	42	1/1/2050			5.03
4.05	18	1/1/2026	5.00	4.32	4.80	4.13	43	1/1/2051			5.03
4.06	19	1/1/2027	5.00	4.33	4.81	4.13	44	1/1/2052			5.03
4.07	20	1/1/2028			4.82	4.13	45	1/1/2053			5.08
4.08	21	1/1/2029			4.83	4.13	46	1/1/2054			5.08
4.09	22	1/1/2030			4.84	4.13	47	1/1/2055			5.08
4.10	23	1/1/2031			4.85	4.13	48	1/1/2056			5.08
4.11	24	1/1/2032	5.00	4.37	4.86	4.13	49	1/1/2057			5.08
4.11	25	1/1/2033			4.91	4.13	50	1/1/2058	5.00	4.55	5.08

Exhibit Q

Table 1 – Band Floors and Ceilings
(Section 21)

The numbers contained herein are for calendar years. Numbers for 2012 and beyond are stated in 2010 dollars and are to be adjusted in accordance with the actual toll escalation regime in Exhibit R. Numbers for 2008 to 2011 are nominal and do not need to be adjusted. All numbers are stated in U.S. dollars. Numbers are shown beyond 2058 if the Service Commencement Deadline for Segment 1 is extended beyond 2008. If needed, numbers for 2068 and onwards will be based on the 2067 numbers plus an increase of 0.325% per year.

Calendar Year	Band 1 Floor: Toll Revenues from:	Band 1 Ceiling: Toll Revenues to and including:	Band 2 Floor: Toll Revenues from:	Band 2 Ceiling: Toll Revenues to and including:	Band 3 Floor: Toll Revenues from:	Band 3 Ceiling: Toll Revenues to and including:	Band 4 Floor: Toll Revenues from:
2008 (Nominal)	0	57,576,000	57,576,000.01	71,138,000	71,138,000.01	100,941,000	100,941,000.01
2009 (Nominal)	0	66,382,000	66,382,000.01	82,018,000	82,018,000.01	116,379,000	116,379,000.01
2010 (Nominal)	0	106,301,000	106,301,000.01	131,340,000	131,340,000.01	186,365,000	186,365,000.01
2011 (Nominal)	0	116,289,000	116,289,000.01	143,681,000	143,681,000.01	203,876,000	203,876,000.01
2012	0	147,422,000	147,422,000.01	182,147,000	182,147,000.01	258,457,000	258,457,000.01
2013	0	156,457,000	156,457,000.01	193,311,000	193,311,000.01	274,298,000	274,298,000.01
2014	0	167,682,000	167,682,000.01	207,179,000	207,179,000.01	293,976,000	293,976,000.01
2015	0	179,672,000	179,672,000.01	221,994,000	221,994,000.01	314,998,000	314,998,000.01
2016	0	189,953,000	189,953,000.01	234,696,000	234,696,000.01	333,021,000	333,021,000.01
2017	0	201,029,000	201,029,000.01	248,381,000	248,381,000.01	352,440,000	352,440,000.01
2018	0	211,980,000	211,980,000.01	261,911,000	261,911,000.01	371,639,000	371,639,000.01
2019	0	224,171,000	224,171,000.01	276,974,000	276,974,000.01	393,012,000	393,012,000.01
2020	0	238,601,000	238,601,000.01	294,804,000	294,804,000.01	418,311,000	418,311,000.01
2021	0	252,886,000	252,886,000.01	312,453,000	312,453,000.01	443,355,000	443,355,000.01
2022	0	267,161,000	267,161,000.01	330,091,000	330,091,000.01	468,381,000	468,381,000.01
2023	0	283,706,000	283,706,000.01	350,532,000	350,532,000.01	497,387,000	497,387,000.01
2024	0	302,596,000	302,596,000.01	373,872,000	373,872,000.01	530,505,000	530,505,000.01
2025	0	316,624,000	316,624,000.01	391,204,000	391,204,000.01	555,098,000	555,098,000.01
2026	0	330,186,000	330,186,000.01	407,961,000	407,961,000.01	578,876,000	578,876,000.01
2027	0	344,730,000	344,730,000.01	425,931,000	425,931,000.01	604,373,000	604,373,000.01
2028	0	358,618,000	358,618,000.01	443,091,000	443,091,000.01	628,722,000	628,722,000.01
2029	0	374,539,000	374,539,000.01	462,762,000	462,762,000.01	656,634,000	656,634,000.01
2030	0	393,050,000	393,050,000.01	485,633,000	485,633,000.01	689,088,000	689,088,000.01
2031	0	397,591,000	397,591,000.01	491,243,000	491,243,000.01	697,048,000	697,048,000.01

2032	0	400,126,000	400,126,000.01	494,376,000	494,376,000.01	701,493,000	701,493,000.01
2033	0	404,787,000	404,787,000.01	500,134,000	500,134,000.01	709,664,000	709,664,000.01
2034	0	411,854,000	411,854,000.01	508,866,000	508,866,000.01	722,055,000	722,055,000.01
2035	0	416,655,000	416,655,000.01	514,798,000	514,798,000.01	730,471,000	730,471,000.01
2036	0	420,405,000	420,405,000.01	519,431,000	519,431,000.01	737,045,000	737,045,000.01
2037	0	424,765,000	424,765,000.01	524,817,000	524,817,000.01	744,688,000	744,688,000.01
2038	0	426,570,000	426,570,000.01	527,048,000	527,048,000.01	747,854,000	747,854,000.01
2039	0	430,285,000	430,285,000.01	531,638,000	531,638,000.01	754,366,000	754,366,000.01
2040	0	435,403,000	435,403,000.01	537,961,000	537,961,000.01	763,339,000	763,339,000.01
2041	0	438,446,000	438,446,000.01	541,721,000	541,721,000.01	768,674,000	768,674,000.01
2042	0	440,167,000	440,167,000.01	543,848,000	543,848,000.01	771,692,000	771,692,000.01
2043	0	443,288,000	443,288,000.01	547,704,000	547,704,000.01	777,164,000	777,164,000.01
2044	0	447,081,000	447,081,000.01	552,390,000	552,390,000.01	783,812,000	783,812,000.01
2045	0	449,940,000	449,940,000.01	555,923,000	555,923,000.01	788,826,000	788,826,000.01
2046	0	453,124,000	453,124,000.01	559,856,000	559,856,000.01	794,407,000	794,407,000.01
2047	0	455,885,000	455,885,000.01	563,268,000	563,268,000.01	799,248,000	799,248,000.01
2048	0	458,588,000	458,588,000.01	566,608,000	566,608,000.01	803,988,000	803,988,000.01
2049	0	461,293,000	461,293,000.01	569,950,000	569,950,000.01	808,729,000	808,729,000.01
2050	0	466,470,000	466,470,000.01	576,347,000	576,347,000.01	817,806,000	817,806,000.01
2051	0	469,310,000	469,310,000.01	579,856,000	579,856,000.01	822,785,000	822,785,000.01
2052	0	470,823,000	470,823,000.01	581,725,000	581,725,000.01	825,437,000	825,437,000.01
2053	0	473,721,000	473,721,000.01	585,306,000	585,306,000.01	830,518,000	830,518,000.01
2054	0	476,776,000	476,776,000.01	589,081,000	589,081,000.01	835,874,000	835,874,000.01
2055	0	478,319,000	478,319,000.01	590,987,000	590,987,000.01	838,579,000	838,579,000.01
2056	0	479,115,000	479,115,000.01	591,970,000	591,970,000.01	839,974,000	839,974,000.01
2057	0	480,670,000	480,670,000.01	593,891,000	593,891,000.01	842,700,000	842,700,000.01
2058	0	482,229,000	482,229,000.01	595,818,000	595,818,000.01	845,434,000	845,434,000.01
2059	0	483,794,000	483,794,000.01	597,751,000	597,751,000.01	848,178,000	848,178,000.01
2060	0	485,364,000	485,364,000.01	599,691,000	599,691,000.01	850,930,000	850,930,000.01
2061	0	486,939,000	486,939,000.01	601,637,000	601,637,000.01	853,692,000	853,692,000.01
2062	0	488,519,000	488,519,000.01	603,590,000	603,590,000.01	856,462,000	856,462,000.01
2063	0	490,105,000	490,105,000.01	605,548,000	605,548,000.01	859,241,000	859,241,000.01
2064	0	491,695,000	491,695,000.01	607,513,000	607,513,000.01	862,029,000	862,029,000.01
2065	0	493,291,000	493,291,000.01	609,485,000	609,485,000.01	864,827,000	864,827,000.01
2066	0	494,891,000	494,891,000.01	611,463,000	611,463,000.01	867,633,000	867,633,000.01
2067	0	496,497,000	496,497,000.01	613,447,000	613,447,000.01	870,449,000	870,449,000.01

Table 2 – TxDOT Revenue Share Applicable Percentages

Band	Applicable Percentage
1	0
2	12.5%
3	25%
4	50%

Exhibit R

Toll Regulations
(Section 22)

A. User Classifications

1. User classifications are defined by vehicle axle count, as set forth in Table B-1 below, plus the class of Special Vehicles. Trailers are used to determine axle count. “Special Vehicles” are vehicles (including combined motor vehicles and trailer(s)) meeting one or more of the following characteristics: (i) over eight and a half feet in width; (ii) over 14 feet in height; (iii) over 65 feet in combined length; (iv) over 80,000 pounds in combined weight; or (v) any vehicle otherwise required to obtain a permit for travel on State Highways under applicable law.
2. The Authority shall have no right to prohibit Special Vehicles from using the Project. The Authority may place reasonable restrictions on time of day, place and manner of usage by Special Vehicles in order to minimize disruption of traffic, safety risks and damage to the Project, consistent with the Authority’s policies and regulations in effect from time to time concerning overweight/oversize vehicles.

B. Maximum Base Toll Rate Schedule

The Authority has elected, and hereby agrees, to use Table B-1 below, for all purposes of establishing user classifications and maximum toll rates under this Agreement.

For each toll transaction, whether recorded as a transponder transaction or video transaction, the Authority shall have the right to charge and collect maximum base toll rates on the terms and conditions provided below.

1. Prior to 2012, the Maximum Base Toll Rates applicable for each user classification, shown in Table B-1 below, will be used. For 2006 and 2007, the Maximum Base Toll Rate²⁰⁰⁶ will be used. For 2008 and 2009, the Maximum Base Toll Rate²⁰⁰⁸ will be used. For 2010 and 2011, the Maximum Base Toll Rate²⁰¹⁰ will be used. Maximum Base Toll Rates are stated in cents per mile.

Table B-1

User Classification	Maximum Base Toll Rate²⁰⁰⁶	Maximum Base Toll Rate²⁰⁰⁸	Maximum Base Toll Rate²⁰¹⁰
2 Axle	\$0.133	\$0.139	\$0.145
3 Axle	\$0.266	\$0.278	\$0.290
4 Axle	\$0.399	\$0.417	\$0.435
5 Axle	\$0.532	\$0.556	\$0.580
6 Axle	\$0.665	\$0.695	\$0.725

2. On January 1, 2012 and on January 1 of each even numbered year thereafter during the term of this Agreement (each hereafter referred to as the “Toll Rate Adjustment Date”), the Maximum Base Toll Rate for the user classifications set forth in Table B-1 will be adjusted for the next two-year period in accordance with the process set forth below. The adjustment will be upwards only. Therefore, where no increase or a decrease is calculated, it shall remain the same for the duration of the upcoming two-year period.
- a. Provided that the change in CPI over the preceding two-year period is less than or equal to 6.0%, the Maximum Base Toll Rate will be adjusted for the next two-year period in accordance with the following formula:

$$\text{Maximum Base Toll Rate}^t = \text{Maximum Base Toll Rate}^{2010} \times \{ \text{TPI}^t / \text{TPI}^{2010} \}$$

Where $\text{TPI}^{2010} = \text{CPI}^{2010}$ and $\text{TPI}^t =$ the greater of $\{ \text{Maximum Base Toll Rate}^{t-1} / \text{Maximum Base Toll Rate}^{2010} \} \times \text{TPI}^{2010}$ and CPI^t

- b. In the event that the change in TPI over the preceding two-year period is greater than 6.0%, the Maximum Base Toll Rate shall be adjusted for the next two-year period in accordance with the following:

The adjustment shall be based upon a Toll Employment Cost Index (TECI) if $\text{ECI}^t / \text{ECI}^{2010}$ is less than or equal to $\text{CPI}^t / \text{CPI}^{2010}$. In such case, the adjustment formula shall be as follows:

$$\text{Maximum Base Toll Rate}^t = \text{Maximum Base Toll Rate}^{2010} \times \{ \text{TECI}^t / \text{TECI}^{2010} \} \text{ where } \text{TECI}^{2010} = \text{ECI}^{2010} \text{ and } \text{TECI}^t \text{ equals the greater of } \{ \text{Maximum Base Toll Rate}^{t-1} / \text{Maximum Base Toll Rate}^{2010} \} \times \text{TECI}^{2010} \text{ and } \text{ECI}^t$$

The formula output provided by following Section B.2.a above shall be applied if $\text{ECI}^t / \text{ECI}^{2010}$ is greater than $\text{CPI}^t / \text{CPI}^{2010}$.

Toll rate adjustments will be calculated using the most current available monthly data as published prior to the Toll Rate Adjustment Date in year t using the following indices and definitions.

CPI = the Consumer Price Index for All Urban Consumers (CPI-U), All City Average, All Items, as published by the United States Department of Labor, Bureau of Labor Statistics, for which the base year is 1982-84 = 100, or if such publication ceases to be in existence, a comparable index selected by TxDOT and approved by the Authority, acting reasonably. If such index is revised so that the base year differs from that set forth above, the CPI shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Bureau of Labor Statistics otherwise alters its method of calculating such index, TxDOT and the Authority shall mutually determine appropriate adjustments in the affected index.

ECI = the Employment Cost Index for the South U.S. Census Region (which includes Texas) as published by the United States Department of Labor, Bureau of Labor

Statistics, or if such publication ceases to be in existence, a comparable index selected by TxDOT and approved by the Authority, acting reasonably. If such index is revised so that the base year differs from that set forth above, the ECI shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Bureau of Labor Statistics otherwise alters its method of calculating such index, TxDOT and the Authority shall mutually determine appropriate adjustments in the affected index. This index measures quarterly changes in labor costs at all levels of employment, and include wages, salaries, bonuses and employer costs for employee benefits.

Maximum Base Toll Rate = the maximum toll per mile in U.S. dollars, for an applicable two-year period for a vehicle, determined by the user classifications described in Table B-1.

Base Toll Rate Adjustment Date = a schedule of dates falling every two years commencing with January 1, 2010.

Toll period t = the upcoming two year period, measured from each Base Toll Rate Adjustment Date.

Maximum Base Toll Rate ^{t} = the Maximum Base Toll Rate for toll period t . For example, the Maximum Base Toll Rate²⁰¹⁴ will be the toll rate for each applicable user classification set forth in Table B-1 from January 1, 2014 until December 31, 2015.

Maximum Base Toll Rate²⁰¹⁰ = the Maximum Base Toll Rate for each applicable user classification set forth in Table B-1 from January 1, 2010 until December 31, 2011.

CPI²⁰¹⁰ = the most current CPI as of December 31, 2009.

CPI ^{t} = the most recently published annual value of CPI as of the Base Toll Rate Adjustment Date.

ECI ^{t} = the most recently published value of an annual Employment Cost Index prior to the Base Toll Rate Adjustment Date applicable to toll period t .

ECI²⁰¹⁰ = the most recent Employment Cost Index as of December 31, 2009.

TPI = the toll price index.

TPI²⁰¹⁰ (the toll price index) = the most current CPI as of December 31, 2009 (that is the CPI²⁰¹⁰).

TPI ^{t} = the greater of TPI ^{$t-1$} and CPI ^{t} .

TECI will be the Toll Employment Cost Index.

TECI ^{t} = the greater of {Maximum Base Toll Rate ^{$t-1$} /Maximum Base Toll Rate²⁰¹⁰} x TECI²⁰¹⁰ and ECI ^{t} .

3. The resulting Maximum Base Toll Rate for each user classification set forth in Table B-1 will be rounded to the nearest tenth of a cent (\$0.001).
4. The Authority shall have the right to change toll rates for each user classification set forth in Table B-1 at any time or times, provided that (a) each toll rate charged does not exceed the applicable Maximum Base Toll Rate except as set out in Sections B.7, B.8 and B.9 below and (b) the toll rates charged are rounded to the nearest tenth of a cent (\$0.001), in each case subject to Section 22(b)(ii) of this Agreement.
5. Each toll charge that can be levied on the user will be determined by the possible distance traveled in the tolled section for screen-line configurations, as described below, subject to the per-mile toll rate set forth in Table B-1, and calculated in accordance with the other provisions of this Exhibit R. Each toll charged to the user will be rounded to the nearest penny, but within the Maximum Base Toll Rate, Maximum Peak Period Toll Rate or Maximum Low Volume Period Toll Rate, as applicable. Total lengths of actual or possible trips as defined will be based on total lengths to and from the beginning/ending points and ramps serving cross streets as derived from Table B-5.

The Authority shall divide the Project into tolled sections for each direction of travel. No tolled section may be less than 1.5 miles in length. There are three toll-free sections on the Project as identified in Figure B-5 (b). No tolled section of the Project may include any toll-free sections of the Project. Additionally, all proposed toll configurations shall be developed so that no user, other than exempt vehicles, is allowed to make a complete traffic movement onto and off of any tolled section without being levied at least one toll charge calculated in accordance with the provisions of this Exhibit R.

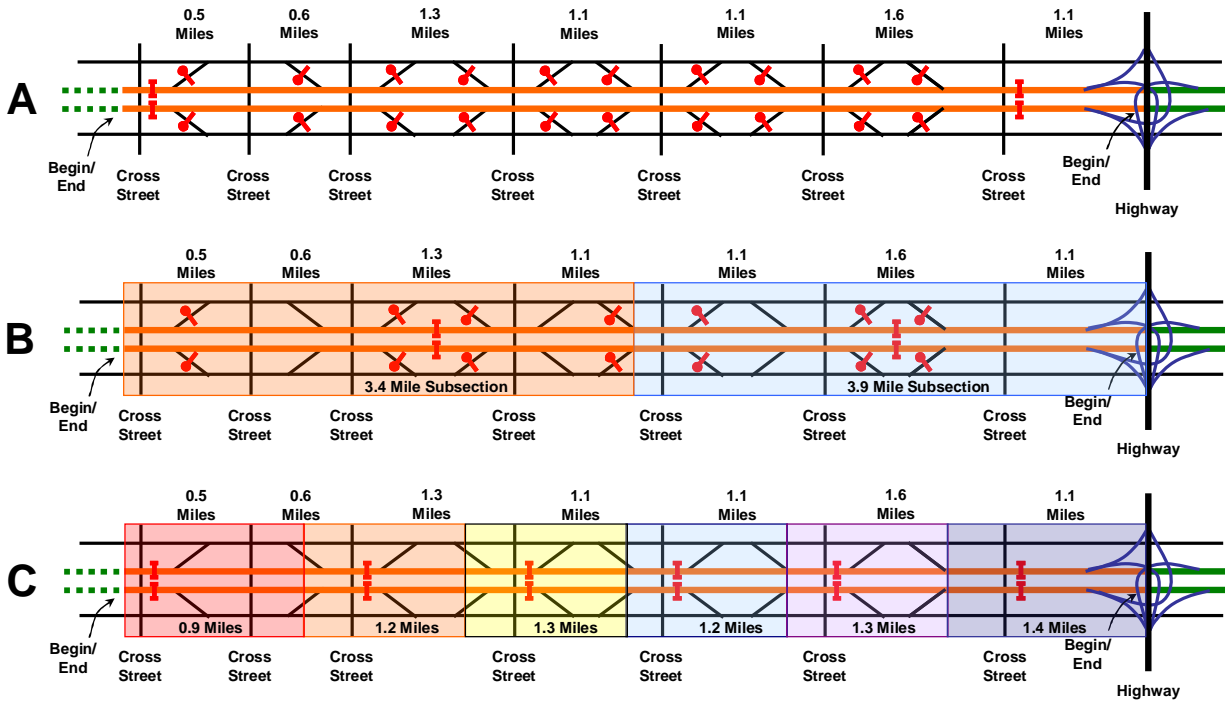
The Authority will charge tolls using the screen line configuration guidelines as described below.

Screen-line Configurations

- i. Tolls are charged incrementally throughout a user's trip. Screen-line tolling configurations may consist of a series of main lane toll sites or a combination of ramp and main lane toll sites.
- ii. A tolled section is defined as the length of main lane miles on the Project between two beginning/ending points. The maximum toll charged for the use of a tolled section, by a trip of any length that passes through a main lane toll site within that tolled section, may not exceed the applicable maximum toll rate per mile multiplied by the length of that tolled section. The maximum toll charged for the use of a tolled section, by a trip originating or terminating at a ramp toll site while not passing through a main lane toll site within that tolled section, may not exceed the applicable maximum toll rate per mile multiplied by the length of main lane miles between the limit of the tolled section or subsection where the trip originated or terminated and the intersection of the centerline of the cross street being served by the entrance or exit ramp, as applicable.

- iii. If one main lane toll site, combined with ramp toll sites, is proposed for a tolled section, it shall be positioned so that the length of a trip originating at a beginning/ending point and terminating at the first possible exit ramp after the main lane toll site is no less than 40% and no more than 60% of the length of main lane miles in the tolled section.
- iv. If more than one main lane toll site, combined with ramp toll sites, is proposed within a tolled section, then the Authority must divide the tolled section into subsections. The quantity of subsections shall equal the quantity of main lane toll sites, and the subsections shall be approximately equal in length. One main lane toll site shall be placed within each subsection and it shall be positioned so that the length of a trip originating or passing through a subsection limit and terminating at the first possible exit ramp after the subsection main lane toll site is no less than 40% and no more than 60% of the length of main lane miles in the subsection. See Figure B-5(a), example B.
- v. If a series of only main lane toll sites is proposed within a tolled section, then the tolled section shall be divided into subsections, one per main lane toll site. The limits of the subsections shall be the approximate midpoints between consecutive toll sites or the beginning/ending points, as applicable. The toll charged at each toll site shall not exceed the applicable maximum toll rate per mile multiplied by the length of main lane miles in the subsection. See Figure B-5(a), example C.

Figure B-5 (a)



Example Toll Schemes	
Legend	
	Proposed Mainlanes (Tolled)
	Proposed Mainlanes (Toll-Free)
	Existing Mainlanes (Tolled)
	Existing Mainlanes (Toll-Free)
	Direct Connector
	Ramp/Frontage Road/Cross Street
	Interstate/Tollway/Highway



Figure B-5 (b)

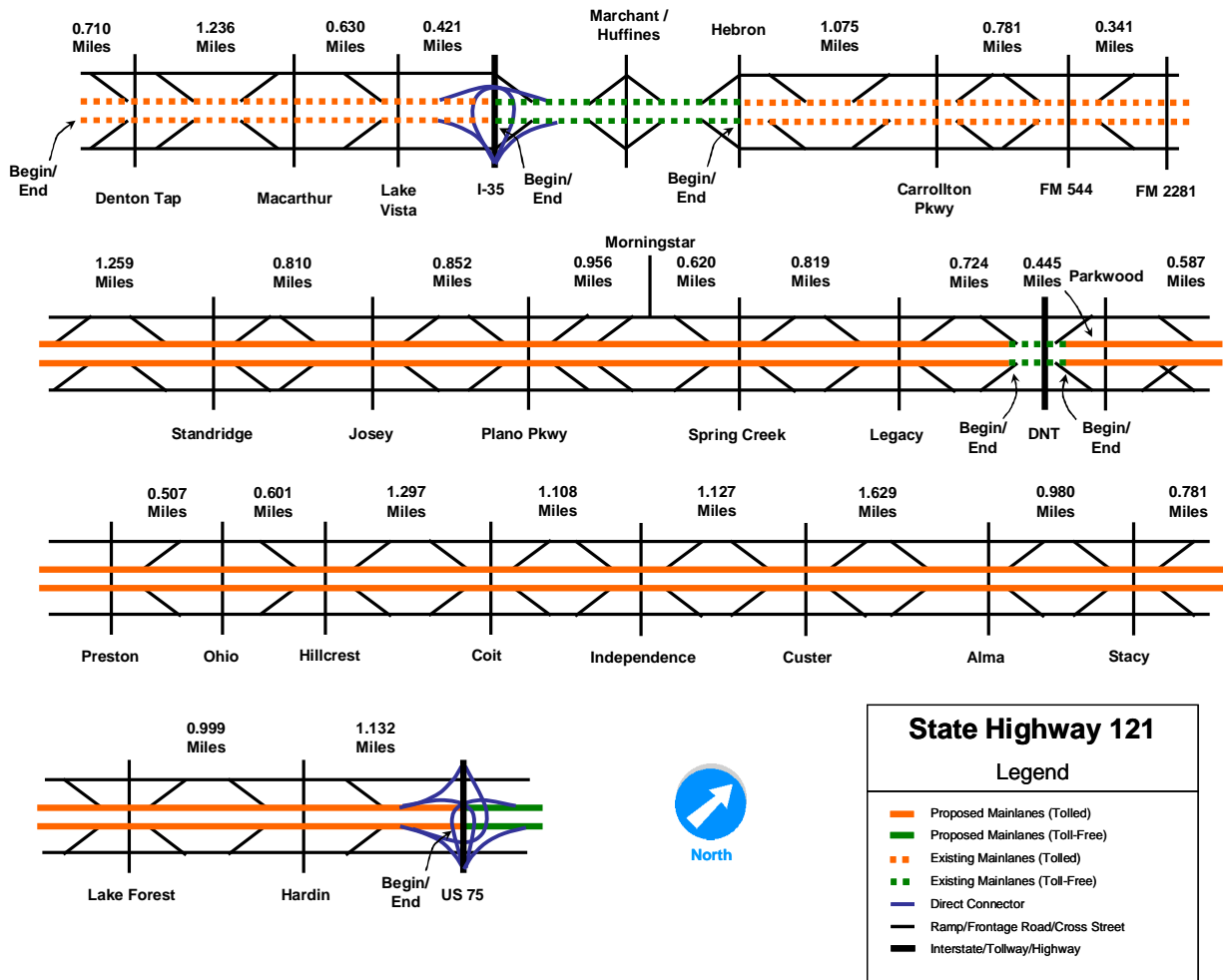


Table B-5

FROM	BEGIN STA	TO	END STA	FEET	MILES
Begin/End	2072+50	Denton Tap	2110+00	3,750	0.710
Denton Tap	2110+00	MacArthur	2175+25	6,525	1.236
MacArthur	2175+25	Lake Vista	2208+50	3,325	0.630
Lake Vista	2208+50	I-35E	2230+75	2,225	0.421
I-35E	2230+75	Begin / End	2245+00	1,425	0.270
Begin / End	2330+00	Hebron	2343+50	1,350	0.265
Hebron	2343+50	Carrollton	2400+25	5,675	1.075
Carrollton	2400+25	FM 544	2441+50	4,125	0.781
FM 544	2441+50	FM 2281	2459+50	1,800	0.341
FM 2281	2459+50	Standridge	0424+75	6,650	1.259
Standridge	0424+75	Josey	0467+50	4,275	0.810
Josey	0467+50	Plano Pkwy	0512+50	4,500	0.852
Plano Pkwy	0512+50	Morningstar	0563+00	5,050	0.956
Morningstar	0563+00	Spring Creek	0595+75	3,275	0.620
Spring Creek	0595+75	Legacy	0639+00	4,325	0.819
Legacy	0639+00	Begin/End	0677+25	3,825	0.724
Begin/End	0694+00	Parkwood	0717+50	2,350	0.445
Parkwood	0717+50	Preston	0748+50	3,100	0.587
Preston	0748+50	Ohio	0775+25	2,675	0.507
Ohio	0775+25	Hillcrest	0807+00	3,175	0.601
Hillcrest	0807+00	Coit	0875+50	6,850	1.297
Coit	0875+50	Independence	0934+00	5,850	1.108
Independence	0934+00	Custer	0993+50	5,950	1.127
Custer	0993+50	Alma	1079+50	8,600	1.629
Alma	1079+50	Stacy	1131+25	5,175	0.980
Stacy	1131+25	Lake Forest	1172+50	4,125	0.781
Lake Forest	1172+50	Hardin	1225+25	5,275	0.999
Hardin	1225+25	US 75	1285+00	5,975	1.132
US 75	1285+00	Begin / End	1315+00	3,000	0.568

6. The Authority is expressly prohibited from charging a toll for the use of the following ramps regardless of tolled section beginning/ending points listed in Table B-5:
- Exit to Denton Tap Rd from north bound SH 121
 - Entrance from Denton Tap Rd. to south bound SH 121
 - Direct connect and frontage road access ramps from I-35E to north bound SH 121
 - Direct connect and frontage road access ramps from south bound SH 121 to I-35E
 - Direct connect and frontage road access ramps from US 75 to points east of US 75
 - Direct connect and frontage road access ramps from points east of US 75 to US 75
 - Entrance from Parkwood Blvd. and exit to Legacy Dr. from south bound SH 121.
 - Entrance from Legacy Dr. and exit to Parkwood Blvd. from north bound SH 121.

Direct connect ramps to and from the DNT will be considered as part of the beginning/ending points on each side of the toll-free section and can not be charged directly but will be charged as part of the tolled section as defined by the Authority in each direction along the Project from the DNT.

7. For either the trip or segment based configuration or the screen line configuration, the Authority shall have the right to levy a minimum toll charge equal to the applicable maximum toll rate per mile multiplied by a nominal tolled trip length of 1.5 miles, regardless of the actual length of the tolled trip.
8. Commencing 60 days after TxDOT delivers to the Authority written direction, but in no event before January 1, 2012 and continuing until toll rates are adjusted pursuant to Section B.9 below, the Authority shall implement a time of day pricing regime throughout the Project for the user classifications set forth in Table B-1 as follows:
- a. The Authority will charge a “Maximum Peak Period Toll Rate” up to 1.17 times the applicable Maximum Base Toll Rate for each such user classification in each direction of travel for the hours from 6:30 am to 9:00 am and 3:00 pm to 6:30 pm, Monday through Friday. The Authority will impose such Maximum Peak Period Toll Rate for all such hours, and not for only part of such hours. The toll rate the Authority imposes for each such user classification during such hours shall be uniform across all such hours.
 - b. When the Authority is directed under Section B.8.a above to charge toll rates during such hours above the Maximum Base Toll Rate, the permissible maximum toll rates during all other hours of the week shall not exceed a Reduction Factor of (R) times the Maximum Base Toll Rate calculated under Section B.2 above for each user classification. TxDOT and the Authority agree that the value of (R) shall be 0.86.

9. When (i) the Authority has set toll rates at the Maximum Peak Period Toll Rates required under Section B.8.a above and (ii) under such toll rate regime the conditions set out in Sections 4 and 5 of Exhibit E to this Agreement are met for any five-mile section of the Project, the Authority shall have the right to implement throughout (and only throughout) the tolled portions of the Project a traffic management pricing regime for peak hour periods, low volume periods and off-peak periods for the user classifications set forth in Table B-1 as follows. If TxDOT has not given direction to set toll rates under Section B.8.a above and under the toll rate regime set forth in Section B.2 above the conditions set out in Sections 4 and 5 of Exhibit E to this Agreement are met for any five-mile section of the Project, the Authority shall have the right to implement throughout (and only throughout) the tolled portions of the Project a traffic management pricing regime for peak hour periods, low volume periods and off-peak periods for the user classifications set forth in Table B-1 as follows.
- a. The Authority will have the right to charge a Maximum Peak Period Toll Rate up to 1.3 times the applicable Maximum Base Toll Rate for each user classification. The Authority may implement such a charge for any one or more of the user classifications set forth in Table B-1. The Maximum Peak Period Toll Rate under this Section B.9 will be applied in each direction of travel for the six hours of lowest average Hourly Speeds, determined separately for each direction of travel, per weekday (Monday through Friday), excluding the following holidays: New Year's day, President's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day and the Friday thereafter, Christmas. The six hours of peak period in each direction of travel need not be consecutive, provided that each discrete peak period shall be set at not less than two consecutive hours. If the conditions set forth in Sections 4 and 5 of Exhibit E to this Agreement indicate any discrete consecutive peak period of 1.5 hours or more, then the Authority may implement the Maximum Peak Period Toll Rate for a consecutive two-hour period inclusive of such peak period.
 - b. If the Authority elects under Section B.9.a above to charge during such hours a toll rate for a user classification set forth in Table B-1 above the applicable Maximum Base Toll Rate, then the Authority also shall charge during low volume periods toll rates for the same user classification not exceeding a "Maximum Low Volume Period Toll Rate" equal to 0.8 times the applicable Maximum Base Toll Rate for such user classification. The Maximum Low Volume Period Toll Rate will be applied in each direction for (i) the six hours of highest average Hourly Speeds, determined separately for each direction of travel, per weekday, excluding the foregoing holidays, plus (b) 12 hours per day of highest average Hourly Speeds, determined separately for each direction of travel, on the foregoing holidays. The low volume periods to which the Maximum Low Volume Period Toll Rate will apply shall be determined using the Hourly Speed data gathered pursuant to Sections 4 and 5 of Exhibit E to this Agreement. The low volume period need not be consecutive, provided that each discrete low volume period shall be set at not less than two consecutive hours. If the conditions set forth above for determining low volume periods indicate any discrete consecutive low volume period of 1.5 hours or more, then the Authority shall implement the Maximum Low Volume Period Toll Rate for a consecutive two-hour period inclusive of such low volume period.

- c. If the Authority elects under Section B.9.a above to charge during such hours a toll rate for a user classification set forth in Table B-1 above the applicable Maximum Base Toll Rate, then at all times of day during which toll rates are not governed by Sections B.9.a and b above the Authority shall charge toll rates for such user classification not exceeding the applicable Maximum Base Toll Rate determined under Section B.2 above.
 - d. All peak periods and low volume periods to which the Authority applies a Maximum Peak Period Toll Rate or a Maximum Low Volume Period Toll Rate shall commence and end on the hour or on the half-hour.
 - e. The Authority shall establish peak periods and low volume periods utilizing the Hourly Speed data and studies described in Exhibit E to this Agreement. The Authority shall re-evaluate and re-determine the peak periods and low volume periods at least once every six months.
 - f. Once the Authority elects to implement toll rates under this Section B.9, the Authority shall have the right to continue such implementation throughout the remainder of the term of this Agreement, notwithstanding subsequent implementation of Capacity Improvements pursuant to Section 8(d) and Exhibit E of this Agreement.
10. The Maximum Base Toll Rate for Special Vehicles shall not exceed the sum of:
- a. Lost revenue due to lane closures or impeded traffic flow; plus
 - b. The reasonably allocated cost of additional wear and tear on the roadway due to the oversize, overweight condition; plus
 - c. Expenses for special services such as escort, additional security, lane closures and physical modifications to the roadway; plus
 - d. Other direct costs associated with the trip; plus
 - e. The highest Maximum Base Toll Rate in effect at the time of the trip, without regard to adjustments under Section B.8 or B.9 above.

11. The following is an example of how to determine a Maximum Base Toll Rate under this Section B.

<u>t</u>	<u>CPI</u>	<u>TPI</u>	<u>ECI</u>	<u>TECI</u>	<u>Toll Rate Change (%)</u>	<u>Automobile Toll Per Mile</u>
2010	100	100	100	100	100	0.150
2012	104	104	110	110	104	0.156
2014	114	114	120	120	114	0.171
2016	124	124	120	120	120	0.180
2018	134	134	123	123	123	0.185
2020	136	136	120	123	136	0.205
2022	120	136	120	123	136	0.204
2024	122	136	120	123	136	0.204
2026	132	136	120	123	136	0.204

C. Video Transaction Toll Premiums

1. For each toll transaction that is a video transaction, the Authority shall have the right to charge and collect, in addition to the amount determined in B. above, a video transaction toll premium consistent with the Authority’s toll policy.

D. Incidental Charges

1. The Authority shall have the right to charge reasonable incidental charges to its customers consistent with the Authority’s toll policy.