STATE OF LOUISIANA

I-10 CALCASIEU RIVER BRIDGE
PUBLIC-PRIVATE PARTNERSHIP PROJECT

CALCASIEU PARISH

STATE PROJECT NO. H.003931
FEDERAL AID PROJECT NO. 010121

FINAL REQUEST FOR PROPOSALS
MARCH 14, 2023

VOLUME 1

COMPREHENSIVE AGREEMENT

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This Comprehensive Agreement (this "Agreement") is made and entered into as of **[●]**, by and between the Louisiana Department of Transportation and Development ("LA DOTD"), acting through its Secretary, and **[●]** ("Developer").

ARTICLE 1.

RECITALS

WHEREAS, on March 30, 2021, the LA DOTD issued a Request for Qualifications ("RFQ"), requesting statements of qualifications from entities for the design, construction, finance, operation, maintenance, and other identified activities for the Project;

WHEREAS, on July 13, 2021, the LA DOTD shortlisted four proposers who were determined to be the most highly qualified pursuant to the RFQ;

WHEREAS, on March 14, 2023, the LA DOTD issued a final Request for Proposals ("RFP") to the shortlisted proposers;

WHEREAS, following receipt and evaluation of proposals, the LA DOTD selected the Developer to enter into this Agreement;

WHEREAS, the LA DOTD and the Developer desire to set forth the terms for the design, construction, finance, operation, maintenance, and other identified activities for the Project pursuant to a long-term concession arrangement granted to the Developer by the LA DOTD by this Agreement; and

WHEREAS, as permitted by the National Environmental Policy Act ("NEPA"), performance of certain limited Work will be authorized by a Limited Notice to Proceed ("LNTP"), while the NEPA process is underway; if the NEPA Documents select Alternative 5G, the remaining Work will be authorized by a Notice to Proceed ("NTP").

AGREEMENT

NOW, THEREFORE, in consideration of the agreements contained herein to be performed by the parties and of the payments hereafter agreed to be made, it is mutually agreed by both parties as follows:

ARTICLE 2.

DEFINITIONS

All capitalized terms used in this Agreement, but not expressly defined in this Agreement, have the respective meanings set forth in Exhibit A attached to this Agreement.

ARTICLE 3.

BASIC ROLES AND RESPONSIBILITIES

Section 3.01 Basic Agreement

(a) The parties agree that the Developer shall perform the Work and that Developer shall have the right to establish and collect tolls in accordance with this Agreement and other Contract Documents.

(b) The Developer will perform the Work in accordance and compliance with (i) the Contract Documents; (ii) Law; (iii) Governmental Approvals; and (iv) Good Industry Practice.

(c) The Developer will provide oversight, management and reporting of all phases of the Project and its Subcontractors such that the Project is designed, constructed, financed, operated and maintained in accordance with the Contract Documents.

(d) The Developer may retain Subcontractors to perform certain portions of the Work, subject to the terms and conditions of the Contract Documents. Performance of any of the Work by a Subcontractor will satisfy the obligation of the Developer to perform such Work; provided that any such Work performed will be binding on the Developer and will not relieve the obligation of the Developer to supervise and manage such Subcontractor.

(e) The LA DOTD will be entitled to exercise monitoring, oversight, inspection, and auditing activities relating to the Work in accordance with the Contract Documents.

(f) The LA DOTD will use reasonable efforts in performing its rights and duties under this Agreement to minimize any disruption to or impairment of the Developer's rights and obligations under the Contract Documents; provided, however, that the LA DOTD's agreement to use such reasonable efforts will in no way limit the LA DOTD's exercise of its rights and obligations under the Contract Documents.

Section 3.02 Contract Documents

(a) The term "Contract Documents" means the documents listed in Section 3.02(b) and all provisions required by law to be inserted in the Agreement whether actually inserted or not. Each of the Contract Documents sets forth the terms and conditions of the parties' agreement, and the Contract Documents are intended to be complementary and to be read together as a complete agreement.

(b) Subject to Section 3.02(c) and Section 3.02(d), in the event of any conflict, ambiguity or inconsistency among the Contract Documents, the order of precedence, from highest to lowest, will be as follows:

(i) Change Orders and amendments to this Agreement;

(ii) this Agreement (including all exhibits);

(iii) Alternative Technical Concepts;

(iv) the Technical Provisions; and

(v) the Proposal.

(c) If a Contract Document contains different provisions on the same subject matter than another Contract Document, the provisions that establish the higher quality, manner or method of performing the Work or use more stringent standards as determined by the LA DOTD will prevail. Further, in the event of a conflict among any standards, criteria, requirements, conditions, procedures, specifications or other provisions applicable to the Project established by reference to a described manual or publication within a Contract Document or set of Contract Documents, the standard, criterion, requirement, condition, procedure, specification or other provision offering higher quality or better performance as determined by the LA DOTD will apply, unless the LA DOTD in its sole discretion approves otherwise in writing. If the Developer becomes aware of any such conflict, the Developer will promptly notify the LA DOTD of the conflict. The LA DOTD will issue a written determination regarding which of the conflicting items is to apply promptly after the Developer notifies the LA DOTD of any such conflict. The LA DOTD's responses to the questions posed during the RFP process shall in no event be deemed part of the Contract Documents and shall not be relevant in interpreting the Contract Documents except and solely to the extent as they may clarify provisions otherwise considered ambiguous by the LA DOTD.

(d) If the Proposal includes statements, offers, terms, concepts or designs that can reasonably be interpreted as offers to provide higher quality items than otherwise required by the other Contract Documents or to perform services or meet standards in addition to or better than those otherwise required, or otherwise contains terms or designs that are more advantageous to the LA DOTD, in the LA DOTD's determination, than the requirements of the other Contract Documents, as reasonably determined by the LA DOTD, then the Developer's obligations shall include compliance with all such statements, offers, terms, concepts and designs.

(e) Any conditions or requirements identified by the LA DOTD in an Alternative Technical Concept will become part of this Agreement. If the Developer is unable to satisfy any conditions or requirements identified by the LA DOTD that are necessary to implement an Alternative Technical Concept, or if the Alternative Technical Concept otherwise proves to be infeasible, the Developer will be required to conform to the original Contract Documents without regard to the Alternative Technical Concept and without additional compensation, extension of time or other relief due to the Developer's inability to implement the Alternative Technical Concept. This Section 3.02(e) shall not be interpreted to limit other rights available to the parties under the Contract Documents.

Section 3.03 Nature of Parties' Interests Pursuant to This Agreement

This Agreement does not grant to the Developer any fee title, leasehold estate, servitude or other real property interest of any kind in or to the Project or the Project Right of Way. The Developer's Interest pursuant to this Agreement is limited to the Permit granted by this Agreement under Section 4.01.

Section 3.04 Developer's Rights to the Project and Permit

(a) Without prejudice to the LA DOTD's rights under this Agreement, and subject to the Contract Documents, the Developer will, at all times during the Term, be entitled to, and will have the right to:

(i) access and use the Project and the Project Right of Way, for itself and its Subcontractors;

(ii) hold the Permit and exercise the rights granted to the Developer under this Agreement; and

(iii) the Toll Revenues.

(b) The LA DOTD will, at all times during the Term, defend (i) the LA DOTD's title or real property interest to the Project and Project Right of Way and (ii) the Permit and the related rights the LA DOTD grants to the Developer hereunder, in each case against any Person claiming any interest adverse to the LA DOTD, the State or the Developer in the Project or the Project Right of Way, or any portion thereof, except where such adverse interest arises as a result of the breach of the Contract Documents, negligence or other culpable act or omission of the Developer or any other Developer Party.

Section 3.05 Term

This Agreement will take effect on the Agreement Date and will remain in effect, until the first to occur of (i) the date that is 50 years after the Partial Acceptance Date, or (ii) the effective date of the termination of this Agreement pursuant to ARTICLE 20 (the "Term").

Section 3.06 Partnering

(a) It is the LA DOTD's policy to use the principles of partnering to guide the management of this Agreement within the parameters covered by the laws, regulations, and other policies that govern work in the public sector. These partnering principles are intended to promote quality through continuous improvement at all stages of design and construction. The goal of the LA DOTD is to complete this Project in the most efficient, timely, safe, and cost effective manner to the mutual benefit of the Developer and the LA DOTD, meaning a quality Project delivered on time, within budget, and without significant Disputes. None of the actions identified as part of, or taken in the course of, partnering (or the standards for partnering contemplated in this Section 3.06) will be construed to alter, modify, delete, waive, or

supplement any of the provisions or requirements of the Contract Documents or any applicable Laws or regulations.

(b) The LA DOTD and the Developer will manage the Agreement in a cooperative manner utilizing the following principles of Project partnering:

(i) Establish communications with all involved parties early in the partnering process;

(ii) Establish a relationship of shared trust, equity, and commitment;

(iii) Develop strategies for identifying mutual goals;

(iv) Develop strategies for timely communications and decision-making;

(v) Establish a process for timely response to changes or variations in field conditions;

(vi) Solve potential problems at the lowest level before they negatively impact the Project;

(vii) Encourage the use of products, technology, and processes that provide a demonstrated level of improved quality; and

(viii) Develop a plan for periodic joint evaluation based on mutually agreed goals.

(c) This Agreement is to be implemented in an equitable fashion that recognizes the problems that are inherent in design and construction, addresses the different-than-expected field conditions, resolves Disputes in an open communications manner, and makes adjustments to the Contract Documents in a timely and fair manner consistent with the terms of the Agreement. This Agreement is intended to fairly allocate risk, resulting in a balanced contractual approach to risk-sharing.

(d) The Developer shall be responsible for creating and implementing, with input and comment from the LA DOTD, a partnering program for use during this Project. The costs of such partnering program will be borne by the Developer. The LA DOTD and Developer will consider the incorporation of partnering into the coordination and cooperation required with third parties such as Utility Owners, Railroads, and other Stakeholders. Notwithstanding the foregoing, no provision of the partnering program, or the implementation thereof, will be construed to alter, modify, delete, or waive any of the provisions or requirements of the Contract Documents.

ARTICLE 4.

GRANT OF PERMIT

Section 4.01 Grant of Permit

(a) Subject to the terms and conditions of the Contract Documents, the LA DOTD grants to the Developer, and the Developer accepts, the rights and duties enumerated under L.R.S. § 48:2084.5 and L.R.S. § 48:250.4.1 *et seq*., including the exclusive right and duty, (i) to perform the Work and (ii) to establish, impose, charge, collect, use and enforce payment of tolls and related charges for the Project ("Permit").

(b) The LA DOTD's grant of the Permit, and the Developer's obligations with respect to the Permit, are conditional upon Financial Close having occurred in accordance with Section 7.03.

(c) In consideration of the Permit granted to the Developer by the LA DOTD, the Developer will perform the Work in accordance with the terms of the Contract Documents at its own expense, except as otherwise provided herein.

ARTICLE 5.

TOLLING

Section 5.01 Tolling of the New Bridge

(a) Toll Revenues.

(i) From and after the Partial Acceptance Date and continuing during the Term, the Developer will have the exclusive right to establish, impose, charge, collect, use and enforce the collection and payment of the Toll Revenues, in accordance with the terms of the Contract Documents, and the exclusive right, title, entitlement and interest in and to the Toll Revenues. The Developer acknowledges that only those amounts set forth in clauses (a) and (b) of the definition of Toll Revenues may be collected from Users, in accordance with the Contract Documents.

(ii) Without prejudice to Section 5.01(a)(i), the Developer acknowledges and agrees that it will not be entitled to receive from the LA DOTD any compensation, return on investment or other profit for performing the Work contemplated by the Contract Documents, other than the Public Funds Amount and other payments to the extent and in the manner specified in this Agreement.

(b) Users of the New Bridge. The Developer shall not, and shall not permit any Developer Person, to use a vehicle that is not a Permitted Vehicle on the New Bridge.

Enforcement of Permitted Vehicle usage on public roadways is the jurisdiction of appropriate law enforcement personnel.

(c) Incidental Charges. The foregoing authorization to establish, impose, charge, collect, use and enforce the collection and payment of tolls includes the right, and subject to the requirement to be interoperable as set forth in Section 5.01(d), to impose, charge, collect, use, and enforce, with respect to electronic tolling accounts managed by or on behalf of the Developer, the following Incidental Charges:

(i) the amount reasonably necessary for the Developer to recover its Allocable Costs directly incurred with respect to the purchase or rental of Transponders or other electronic tolling devices, including refundable security deposits; and

(ii) other fees as allowed by L.R.S. § 48:2084 and L.R.S. § 48:250.4.1 *et seq*.

The Developer will not be permitted to charge Incidental Charges to Exempt Users, except for the Incidental Charges set forth in Section 5.01(c)(i).

(d) Interoperability. From and after the Partial Acceptance Date through the end of the Term, the Developer will operate and maintain a toll collection system with respect to the New Bridge which will be interoperable with other toll facilities in the State and in the Central US Interoperability Hub in accordance with the Contract Documents.

(e) Toll Collection Administration. The Developer will be responsible for all toll transaction account management services for the New Bridge in accordance with the Contract Documents.

(f) Toll Enforcement and Violations Processing.

(i) In accordance with and subject to the Permit delegated to the Developer in Section 4.01(a), the Developer will be responsible for toll enforcement and violations processing for the New Bridge in accordance with the Contract Documents.

(ii) The Developer will be responsible for developing and implementing Toll Enforcement Rules in accordance with L.R.S. § 48:2084.5.D and L.R.S. § 48:250.4.1 *et seq*. In accordance with Section 21.2.3 of the Technical Provisions, the Toll Enforcement Rules will address the following:

(A) The process for notifying toll violators;

(B) A description and the amount of Incidental Charges for toll violations;

(C) The process for paying or challenging the assessment of Incidental Charges for toll violations;

(D) A description of the means of enforcing and collecting Incidental Charges for toll violations; and

(E) Other matters as may be required by LA DOTD.

(iii) No later than 180 days prior to the scheduled date of Partial Acceptance, the Developer will submit for Approval by the LA DOTD proposed Toll Enforcement Rules.

(iv) Within 60 days after receipt of the proposed Toll Enforcement Rules, LA DOTD will either: (A) Approve the Toll Enforcement Rules or (B) withhold Approval of the Toll Enforcement Rules, describing the bases for not Approving. If LA DOTD withholds its Approval of the Toll Enforcement Rules, the Developer will be required to re-submit the Toll Enforcement Rules within 30 days to satisfactorily address LA DOTD's bases for not Approving and the process set forth in this Section 5.01(f)(iv) will apply until LA DOTD Approves the Toll Enforcement Rules.

(v) Throughout the Term, the Developer may propose updates to the Toll Enforcement Rules for Approval by the LA DOTD. The review of such proposed updates will follow the process set forth in Section 5.01(f)(iv).

(vi) LA DOTD will not withhold its Approval under this Section 5.01(f) if the Toll Enforcement Rules comply with the requirements of the Contract Documents and Law.

(vii) Notwithstanding anything to the contrary in the Contract Documents, the Developer understands and agrees that the risk of enforcement and collection of those amounts set forth in clauses (a) and (b) of the definition of Toll Revenues remains with the Developer, and that the LA DOTD does not, and will not be deemed to, guarantee collection or collectability of such amounts to the Developer or any other Person.

(viii) The LA DOTD will make available to the Developer the benefits of any agreements or arrangements that the LA DOTD has in place with other authorities or agencies that provide access to records in their possession relating to vehicle and vehicle owner data and records of transactions, to the extent permitted by any such underlying agreement or arrangement.

(ix) The LA DOTD will make reasonable efforts to assist the Developer with coordination with the Louisiana State Police with respect to the provision of policing services, Emergency Services, traffic patrol, and traffic law enforcement services on the Project.

(g) License Plate Look-up Fees.

(i) Subject to Section 5.01(g)(ii), for vehicles that are not registered in the State, the Developer will be responsible for all fees assessed or services performed by the applicable Governmental Authority for license plate identification pursuant to the Developer's toll enforcement and violation processing services.

(ii) The LA DOTD will provide assistance to the Developer in accessing license plate identification information available through the Central US Interoperability Hub. Such assistance by the LA DOTD is limited only to assisting with access to such information and does not imply any obligation of the LA DOTD to assist with any other activity related to Developer's responsibility under Section 5.01(g)(i), or cost thereof.

(iii) The Developer acknowledges that the Federal Driver's Privacy Protection Act permits the LA DOTD and its authorized representatives to access select license plate identification information. The LA DOTD hereby designates Developer as its authorized representative thereunder for the sole purpose of accessing license plate identification information with respect to vehicles that are registered in the State. Upon Developer's completion of the Access to Information Form and its acceptance thereof by the Louisiana Office of Motor Vehicles, the Louisiana Office of Motor Vehicles will not charge Developer for such services.

(h) No Continuing LA DOTD Obligations. Nothing in this Agreement will obligate or be construed as obligating the LA DOTD to continue or cease collecting tolls after the end of the Term.

(i) Central US Interoperability Hub.

(i) From and after the Agreement Date, the LA DOTD will, at its cost, diligently commence the process necessary for it to becoming a participating agency in the Central US Interoperability Hub in accordance with the Hub Governing Documents. The LA DOTD will provide regular updates regarding the status of such efforts to the Developer, and will promptly provide any information it receives from the Central US Interoperability Hub with respect to current or prospective interoperability requirements, which the LA DOTD shall request from time to time, including following a reasonable request by the Developer (it being understood that the Developer shall not request the same more than once per year).

(ii) The parties will reasonably cooperate to the extent that any conditions required to be met by the LA DOTD under the Hub Governing Documents requires information possessed by, or satisfaction of a condition that is the responsibility of, the Developer under this Agreement. Subject to such cooperation of the Developer, the LA DOTD will become a participating agency

in the Central US Interoperability Hub under the Hub Governing Documents not later than six months prior to the Partial Acceptance Deadline.

(iii) Upon becoming a participating agency in the Central US Interoperability Hub, the LA DOTD will, at its cost, take all steps necessary to maintain its status as a participating agency in the Central US Interoperability Hub during the Term and will promptly provide any information it receives from the Central US Interoperability Hub with respect to current or prospective interoperability requirements, or other information that could have an impact on the Developer's operations. The LA DOTD shall request such information from time to time, including following a reasonable request by the Developer (it being understood that the Developer shall not request the same more than once per year).

(iv) To the extent that the LA DOTD is entitled to any rights, remedies or relief under the Hub Governing Documents in connection with the New Bridge, the LA DOTD shall, at the reasonable request of the Developer, either (i) permit the Developer to directly pursue such rights, remedies and relief (including rights of collection) under the Hub Governing Documents as its agent, or (ii) to the extent the Developer cannot act as the LA DOTD's agent, diligently pursue such rights, remedies and relief (including rights of collection) under the Hub Governing Documents, as applicable, on behalf of the Developer and in accordance with the reasonable requests of the Developer.

(v) To the extent that, at any point during the Term, (a) the terms and conditions of the Hub Governing Documents are modified so as to permit the Developer to directly become a participating agency (or other class of member that has substantially the same rights as a participating agency), and (b) the LA DOTD and the Developer agree, the Developer shall use commercially reasonable efforts to directly become such a member of the Central US Interoperability Hub, at which time the LA DOTD will be relieved of its obligation under this Section 5.01(i) to remain a participating agency in the Central US Interoperability Hub, including all associated costs and responsibilities. The exercise by the Developer of any rights under this Section 5.01(i)(v) shall not be interpreted to constrain the ability of the LA DOTD to remain a participating agency of the Central US Interoperability Hub with respect to any other facility in the State.

Section 5.02 Toll Rates

(a) Toll Rate Schedule. The maximum toll rates charged for travel on the New Bridge will be the toll rates included within the Toll Rate Schedule, subject to Indexation.

(b) Toll Discounts. At a minimum, the Developer will offer Users the HOV Discount and all other tolling discounts and waivers set forth in the Proposal. In addition, the Developer may adopt and implement tolling discount programs, incentives and waivers for different classes or groups of persons using the New Bridge under like conditions; provided that such programs do not violate Law.

(c) Amendment of Toll Rate Schedule. Either party may propose amendment to the Toll Rate Schedule. In such an event, the parties will negotiate in good faith over the amendments to the Toll Rate Schedule and any revenue sharing associated therewith. If the parties mutually agree to amend the Toll Rate Schedule, the Developer will provide notice of such amendment in accordance with Section 5.02(d).

(d) Notice of Toll Rate Adjustments. The Developer will provide to the general public at least 90 days prior notice of (i) any adjustment to the toll rates through Indexation, (ii) any adjustment of toll rates charged for travel on the New Bridge below the maximum toll rates included within the Toll Rate Schedule, or (iii) any amendment to the Toll Rate Schedule as agreed by the parties in accordance with Section 5.02(c), through website notice, notices published in newspapers of general circulation in the areas where the Project is located, and through other reasonable means. No such toll adjustments will take effect and no such toll adjustments will be authorized, unless the Developer has complied with this Section 5.02(d).

(e) Exemptions from Tolls. Exempt Users with Permitted Vehicles equipped with a Transponder will be entitled to free and unhampered passage over the New Bridge in accordance with Law and will not be subject to tolls under this Agreement. Additionally, at its discretion, the Developer may grant free and unhampered passage to vehicles equipped with a Transponder and registered to a Developer Party and employees thereof for the performance of the Work.

(f) LA DOTD Right to Reduce Tolls. In addition to Section 5.02(c), the LA DOTD will have the right, at any time during the Term, to provide written notice to the Developer of the LA DOTD's intent to reduce any or all of the toll rates within the Toll Rate Schedule. The written notice from the LA DOTD will stipulate the LA DOTD's objectives for the toll rate reduction(s) and whether the LA DOTD intends to propose revisions to the Public Funds Amount or to propose adjustments to any other terms of this Agreement. Upon receipt of such notice, the Developer shall promptly work together with the LA DOTD in good faith, on an Open Book Basis, to negotiate the most cost-effective option or series of options to achieve the LA DOTD's objectives. Any change to the Toll Rate Schedule will be implemented through an amendment to this Agreement.

Section 5.03 User Confidentiality

The Developer will comply with all Laws related to confidentiality and privacy of Users.

Section 5.04 Suspension of Tolls; Road Closure

(a) The LA DOTD will have the right, at any time during an Emergency or during a natural disaster declared by the Governor of the State, to order suspension of tolling on any or all portions of the New Bridge. The Developer shall promptly comply with such order, including the time(s) designated for suspending tolling (both for outbound evacuation and inbound re-entry) and other measures to be undertaken by the Developer.

(b) If the LA DOTD orders a suspension of tolling under Section 5.04(a), such suspension shall be a Compensation Event only to the extent such suspension (i) requires the Developer to suspend tolling for more than 48 hours for an outbound evacuation or for more than 24 hours for an inbound re-entry; or (ii) is issued more than eight times during any consecutive five-year period after the Partial Acceptance Date. If either of the conditions described in clauses (i) or (ii) of this Section 5.04(b) occur, only the portion of such suspension of tolling that exceeds these conditions will constitute a Compensation Event.

(c) If, at any time during an Emergency or during a natural disaster declared by the Governor of the State, a State Party closes (i) a ramp to I-10 or (ii) the I-10 mainline, in each instance within the O&M Limits, such closure shall be a Compensation Event only to the extent such closure lasts longer than 24 hours. If such closure lasts longer than 24 hours, only the portion of such closure that exceeds 24 hours will constitute a Compensation Event.

(d) The LA DOTD will seek reimbursement from Federal sources for lost Toll Revenues and related costs and expenses incurred as a result of a suspension or closure pursuant to this Section 5.04, and the Developer will provide reasonable assistance to the LA DOTD therewith. If the LA DOTD receives reimbursement from Federal sources for lost Toll Revenues as a result of actions taken in the preceding sentence, the proceeds of such reimbursement will be applied in the following order of priority: first to repair any uninsured physical damage to the New Bridge directly caused by the event giving rise to the suspension of tolling; second, pro rata, to pay the Allocable Costs of the LA DOTD and the Developer in obtaining reimbursement from Federal sources pursuant to this Section 5.04(d); third, to the Developer as reimbursement for the Net Revenue Impact and Net Cost Impact for any suspension of tolling in respect of which the Developer is not entitled to a Compensation Event hereunder, and fourth, to the LA DOTD in full. Nothing in this Section 5.04(d) shall preclude or delay the Developer from its remedies under ARTICLE 13.

Section 5.05 Disposition of Gross Revenues

(a) The Developer will not use Gross Revenues to make any Distributions or to pay any amount payable pursuant to an Affiliate Subcontract subject to approval by the LA DOTD, but not approved by the LA DOTD in accordance with this Agreement, pursuant to Section 24.01(c), unless and until the Developer first pays the following expenses (without any prioritization or sequencing of any such payments as set forth hereunder):

(i) any undisputed amounts due to the LA DOTD pursuant to the terms of this Agreement;

(ii) all current and delinquent Operating Costs (including any payments to Affiliates made solely in accordance with the applicable Affiliate Subcontracts entered into in accordance with Section 24.01(c));

(iii) all current and delinquent debt service and other current and delinquent amounts due under any Developer Debt (including reserves required by such Lenders for Developer Debt);

(iv) all Windfall Proceeds Payments and the LA DOTD's share of any Refinancing Gain that are currently due and payable or delinquent into the Proceeds Escrow Account;

(v) all Taxes affecting the Project that are currently due and payable or delinquent;

(vi) all current and delinquent deposits to any reserve account for Renewal Work;

(vii) all current and delinquent costs and expenses for Renewal Work; and

(viii) all current and delinquent deposits to any other reserve contemplated by this Agreement.

(b) In the event there are any disputed amounts due to the LA DOTD pursuant to the terms of this Agreement, the Developer will maintain an additional cash reserve for such disputed amounts as a condition precedent to making any Distribution or payment to an Affiliate (other than any payment to an Affiliate pursuant to an Affiliate Subcontract that has been approved or is otherwise permitted under this Agreement). If the Developer makes any Distribution or payment to an Affiliate in violation of Section 5.05(a), the same will be deemed to be held in trust by such Person for the benefit of the LA DOTD and the Collateral Agent (if applicable), and will be payable to the LA DOTD or the Collateral Agent (as and if applicable) on demand to be held and maintained (and distributed) in accordance with the terms of this Agreement or any Project Financing Agreement, as applicable. If the LA DOTD collects any such amounts held in trust, it will make them available for any of the purposes set forth above and, at the request of the Collateral Agent (if applicable), deliver them to the Collateral Agent to be held and maintained (and distributed) in accordance with the terms of this Agreement or any Project Financing Agreement, as applicable.

(c) In lieu of the cash reserve required under Section 5.05(b), the Developer may obtain an irrevocable letter of credit using the form set forth in Exhibit R, or such other form reasonably acceptable to the LA DOTD, from one or more Equity Members in favor of the Developer. The letter of credit will be in an amount and otherwise in accordance with the requirements for the cash reserve required under Section 5.05(b). No later than 30 days prior to the expiration date of the letter of credit, the Developer will obtain a renewal or replacement of the letter of credit and deliver the same to the LA DOTD. If the Developer fails to renew or replace the letter of credit within the time required, the LA DOTD may draw on such letter of credit and hold such amounts for the purposes set forth in Section 5.05(b), and such failure shall not be a Developer Default under Section 18.01(l). The LA DOTD will be a named beneficiary under the letter of credit.

(d) The Developer will have no right to use Gross Revenues to pay any debt, obligation or liability unrelated to this Agreement, the Project, or the Developer's services pursuant to this Agreement; provided that this Section 5.05(d) does not apply to or otherwise

affect the Developer's right to make Distributions in accordance with this Agreement or any Project Financing Agreement, as applicable.

(e) If the Developer enters into a Project Financing Agreement with the Collateral Agent that provides for the collection and distribution of Gross Revenues, the Developer agrees to provide to the LA DOTD, within seven days after the Developer's actual receipt of the same, a copy of: (i) any written notice of resignation or removal of the Collateral Agent; (ii) any written notice of the appointment of a successor Collateral Agent; (iii) any written notice of any merger of the Collateral Agent; (iv) any written notice of any transfer by the Collateral Agent of its rights under the Project Financing Agreements to an affiliate; and (v) any written notice of any change in any Depositary.

Section 5.06 Toll Revenue Risk

Except to the extent the Developer is entitled to a Compensation Event, the Developer understands and agrees that (a) the LA DOTD does not provide any guaranty of Toll Revenues, (b) all risk associated with leakage, collectability and enforcement of Toll Revenues remains with the Developer, and (c) the LA DOTD will have no financial responsibility whatsoever for such risk.

ARTICLE 6.

BASE CASE FINANCIAL MODEL

Section 6.01 Initial Base Case Financial Model and Base Case Financial Model

(a) The Initial Base Case Financial Model will be updated upon Financial Close in accordance with Section 7.03 and will become the Base Case Financial Model. The Base Case Financial Model may be updated, following agreement between the parties, for any event applicable under Section 6.02(b).

(b) The Developer will not cause (or permit any other Person to cause) the Financial Model to contain any hidden data. The Developer will furnish to the LA DOTD any password or other access rights for the Financial Model.

Section 6.02 Financial Model Updates

(a) Other than in accordance with the terms of Section 6.01(a) and this Section 6.02, in no event will the Financial Model be changed.

(b) Upon the occurrence of the following events, the Developer will provide to the LA DOTD a proposed Financial Model Update which will (except as otherwise agreed by the parties) include new projections and calculations, setting forth the impact of the event and incorporating only those changes caused by the event for which the Financial Model is being updated:

(i) upon submission of a written notice of a proposed Refinancing provided by the Developer to the LA DOTD under Section 7.05(a);

(ii) within 60 days after the LA DOTD's acceptance of any claim by the Developer for a Delay Event;

(iii) within 60 days after determination of any Developer Damages;

(iv) within 60 days after a Request for Change Proposal is issued by the LA DOTD under Section 13.02(b); and

(v) within 60 days after the parties agree that any amendments to this Agreement have had or will have a material effect on future expenses or Gross Revenues.

(c) Any proposed Financial Model Update provided by the Developer under Section 6.02(b) will become the Financial Model in effect following (i) review, comment and approval by the LA DOTD of such Financial Model Update, and (ii) the LA DOTD's receipt of a satisfactory audit report and opinion delivered by the Financial Model Auditor in accordance with Section 6.04.

Section 6.03 Financial Model Disputes

(a) The LA DOTD will have the right to dispute any Financial Model Update proposed after the Initial Base Case Financial Model. Within 21 days after receipt, the LA DOTD will accept or dispute a proposed Financial Model Update and, if it disputes a proposed Financial Model Update, specifying its reasons for such dispute in sufficient detail to enable the Developer to correct any errors or deficiencies identified and existing in such proposed Financial Model Update. To the extent that the Developer and the LA DOTD cannot agree on the changes within 90 days of the Developer delivering the proposed Financial Model Update to the LA DOTD, the Dispute will be resolved in accordance with the dispute resolution procedures described in ARTICLE 21.

(b) In the event of a Dispute, the immediately preceding Financial Model that is not being disputed will remain in effect until such Dispute is resolved or a new Financial Model is issued and not disputed. If a proposed Financial Model has not been disputed, or if any such Dispute has been so resolved, the proposed Financial Model will become the Financial Model in effect.

Section 6.04 Audit of Financial Model

(a) After any change to the Financial Model Formulas as a result of a proposed Financial Model Update pursuant to Section 6.02(b)(ii) through Section 6.02(b)(v), the Developer will deliver to the LA DOTD with such proposed Financial Model Update an audit report and opinion of the Financial Model Auditor to the effect that the Financial Model Formulas reflect the terms of this Agreement and are suitable for use herein, all in form and substance reasonably acceptable to the LA DOTD. With respect to any change to Financial

Model Formulas as a result of a proposed Financial Model Update due to a proposed Refinancing, such audit report and opinion will be delivered to the LA DOTD no later than five days prior to the proposed date of a Refinancing.

(b) The Developer will provide the LA DOTD copies of the audit reports and opinions delivered by the Financial Model Auditor.

(c) The Developer will pay the fees and expenses of the Financial Model Auditor.

ARTICLE 7.

PROJECT FINANCING; FINANCIAL CLOSE; REFINANCING; PUBLIC FUNDS; OTHER COSTS AND FEES

Section 7.01 Developer Responsibility for Project Financing; No LA DOTD Liability for Developer Debt; Developer Equity Contributions

(a) The Developer is solely responsible for obtaining and repaying each and every financing incurred by the Developer and all Developer Debt, at its own cost and risk and without recourse to any State Party.

(b) Each Project Financing Agreement must include a conspicuous recital on its face to the effect that payment of the principal thereof and interest thereon: (i) does not constitute a claim against the LA DOTD's fee simple title to or other good and valid real property interest in the Project, the Project Right of Way, the LA DOTD's interest under this Agreement or its interest and estate in and to the Project or any part thereof; (ii) is not an obligation of any State Party, moral or otherwise, and (iii) neither the full faith and credit nor the taxing power of any State Party is pledged to the payment of the principal thereof and interest thereon.

(c) No State Party will have any liability whatsoever for payment of the principal sum of any Developer Debt, any other obligations issued or incurred by the Developer in connection with this Agreement or the Project, or any interest accrued thereon, or any other sum secured by or accruing under any Financing Assignment; provided, however, that the foregoing does not affect the LA DOTD's obligations under Section 20.14. The LA DOTD's review of any Financing Assignments or other project financing documents is not:

(i) a guarantee or endorsement of the Developer Debt, any other obligations issued or incurred by the Developer in connection with this Agreement, the Project, the Financial Model, or any Traffic and Revenue Study; nor

(ii) a representation, warranty or other assurance as to (A) the ability of the Developer to perform its obligations with respect to the Developer Debt or any other obligations issued or incurred by the Developer in connection with this Agreement or the Project or (B) the adequacy of the Gross Revenues to provide

for payment of the Developer Debt or any other obligations issued or incurred by the Developer in connection with this Agreement or the Project.

(d) The Developer will make or cause to be made Equity Contributions in an amount equal to the Equity Contribution Amount.

Section 7.02 Windfall Proceeds Payments

(a) The Developer will be responsible for paying the Windfall Proceeds Payments to the LA DOTD in accordance with the terms set forth in Exhibit C.

(b) The Developer will deposit the Windfall Proceeds Payments into an escrow account ("Proceeds Escrow Account") established pursuant to the Escrow Agreement.

(c) The LA DOTD may use the Windfall Proceeds Payments for any purpose allowable under Law.

Section 7.03 Financial Close

(a) Financial Close Security. Concurrently with execution of this Agreement, the Developer shall deliver, or has delivered, the Financial Close Security to the LA DOTD. Subject to the LA DOTD's rights under this Agreement, the LA DOTD will return to Developer the Financial Close Security within seven days after the Financial Close Date.

(b) Assistance to Conduit Issuer. In addition to satisfying the conditions precedent under Section 7.03(c)(viii) through Section 7.03(c)(xi), the LA DOTD will use reasonable efforts to cooperate with, support, and assist the Conduit Issuer in achieving Financial Close.

(c) Conditions for Financial Close. Except to the extent waived in writing by the LA DOTD (with respect to clauses (i) through (vii) of this Section 7.03(c)) or the Developer (with respect to clauses (viii) through (xi) of this Section 7.03(c)), Financial Close will only be achieved once all of the following conditions precedent are satisfied:

(i) the Developer has provided or caused to be provided to the LA DOTD: (A) proposed drafts, in substantially final form, of the Initial Project Financing Agreements and Financing Assignments and (B) a proposed updated version, in substantially final form, of the Base Case Financial Model reflecting any changes in financing from the Initial Base Case Financial Model, contemporaneously with the distribution of such substantially final draft documents or models to the Lenders, and other parties to Financial Close, at least 30 days prior to the scheduled Financial Close Date for the LA DOTD's Review and Comment, and has included the LA DOTD on all subsequent distributions of such final draft documents or models to the Lenders and other parties to Financial Close up and until Financial Close;

(ii) the Developer has delivered to the LA DOTD the Base Case Financial Model and the Financial Close Model Audit Report;

(iii) the Developer has provided the LA DOTD true and complete copies of the executed Initial Project Financing Agreements and Financing Assignments;

(iv) the Developer has provided the LA DOTD true and complete executed copies of the Equity Funding Agreements reflecting the commitment of each Equity Member to provide the Equity Contribution Amount;

(v) the Developer has delivered to the LA DOTD certificates, as may be reasonably requested by the LA DOTD, certifying as to the Developer's compliance with the terms and conditions of this Agreement, the satisfaction of the conditions precedent to Financial Close set forth in clauses (i) through (iv) of this Section 7.03(c), and the validity of the Developer's representations and warranties set forth in Section 23.02, including, with respect to the representation and warranty set forth in Section 23.02(k), as pertains to the Base Case Financial Model;

(vi) if applicable, the LA DOTD has received for the LA DOTD's execution the Direct Agreement, substantially in the form attached as Exhibit F, executed by the Developer and the Collateral Agent; and

(vii) the Developer has provided written notice to the LA DOTD that the Developer has satisfied all conditions of clauses (i) through (vi) of this Section 7.03(c);

(viii) the LA DOTD has provided the Developer with a certificate as to the validity of LA DOTD's representations and warranties set forth in Section 23.01 as of the Financial Close Date;

(ix) subject to the Developer's delivery to the LA DOTD of the Direct Agreement substantially in the form attached as Exhibit F, executed by the Developer and the Collateral Agent, the LA DOTD shall have provided Developer with counterparts of the Direct Agreement executed by the LA DOTD;

(x) the LA DOTD shall have provided to the Developer each other customary document, certificate, opinion or undertaking (or, as applicable, a copy of the same certified by LA DOTD as true, complete and accurate) that the Developer may reasonably request from LA DOTD as necessary to comply with (A) disclosure requirements under Law and/or (B) customary underwriter requirements, in each case in connection with any capital markets issuance (including, if the Financial Proposal includes PABs, a certificate with respect to the PABs official statement in substantially the form of Exhibit L-2); and

(xi) the LA DOTD shall have provided the Developer and the Lenders with a legal opinion in substantially the form of Exhibit L-1 to this Agreement.

If the Developer and the LA DOTD have satisfied all conditions precedent (or the LA DOTD or the Developer, as applicable, has waived any such conditions) identified in this Section 7.03(c), the LA DOTD will promptly issue a certificate on the Financial Close Date confirming that all conditions precedent have been satisfied.

(d) Financing Adjustments for Benchmark Rates and Baseline Credit Spreads.

(i) The Developer will update the Initial Base Case Financial Model as of the Financial Close Date, in accordance with Exhibit P, to reflect the fact that the LA DOTD will bear the risk and take the benefit of:

(A) 100% of the impact (positive or negative) arising from changes in Benchmark Rates between the Interest Rate Protection Start Date and the Pricing Date for bank debt, Private Placement and/or Bonds assumed in the Initial Base Case Financial Model, which will be reflected as an adjustment to the Public Funds Amount; and

(B) Subject to the provisions in Exhibit P, 85% of the impact (positive or negative) arising from fluctuations in Baseline Credit Spreads between the Interest Rate Protection Start Date and the Pricing Date on approved Bonds assumed in the Initial Base Case Financial Model, which will be reflected as an adjustment to the Public Funds Amount.

(ii) Subject to the LA DOTD's rights under Section 20.02, upon update of the Initial Base Case Financial Model under Section 7.03(d)(i), and concurrently with Financial Close, the Developer and the LA DOTD agree to execute an amendment to this Agreement revising the Public Funds Amount to equal the value established under Section 1.04 of Exhibit P.

(e) Closing Transcript. The Developer will provide the LA DOTD a complete transcript of true and complete copies of all executed final project documents and Financing Assignments delivered in connection with the execution of this Agreement and the achievement of Financial Close, promptly following the Financial Close Date.

Section 7.04 Project Financing Agreements; LA DOTD's Rights and Protections

(a) From time to time during the Term, the Developer has the right, at its sole cost and expense, to pledge, hypothecate or assign the Gross Revenues and the Developer's Interest as security for any Developer Debt, such debt to be issued on such terms and conditions as may be acceptable to any Lender and the Developer, subject to the following terms and conditions (such pledge, hypothecation, assignment, or other security instrument, including the Initial Project Financing Agreements, being referred to in this Agreement as a "Financing Assignment"):

(i) no Person other than an Institutional Lender (other than with respect to indemnification and similar provisions provided for the benefit of the Collateral Agent and the agents, officers, representatives and/or employees of an Institutional Lender or the Collateral Agent) is entitled to the benefits and protections afforded by a Financing Assignment, except that

(A) Lenders of Developer Debt may be Persons other than Institutional Lenders so long as any Financing Assignment securing such Developer Debt made by such Person is held by an Institutional Lender acting as Collateral Agent, and

(B) debt securities may be issued, acquired and held by parties other than Institutional Lenders so long as an Institutional Lender acts as indenture trustee for the debt securities;

(ii) all Financing Assignments as a whole securing each separate issuance of debt shall encumber the entire Developer's Interest; provided, that the foregoing does not preclude subordinate Financing Assignments or equipment lease financing;

(iii) the Developer is strictly prohibited from pledging or encumbering the Developer's Interest, or any portion thereof, to secure any indebtedness, and no Financing Assignment will secure any indebtedness, (A) that is issued by any Person other than the Developer or the Conduit Issuer, any special purpose company that directly or indirectly owns the Developer and has no assets except as are directly related to the Project, or any special purpose subsidiary wholly owned by such company or the Developer or (B) the proceeds of which are used in whole or in part for any purpose other than the Project Purposes or any other purpose permitted in Section 7.04(a)(x);

(iv) no Financing Assignment or other instrument purporting to mortgage, pledge, encumber, or create a Lien on or against the Developer's Interest will extend to or affect the LA DOTD's fee simple title to or other property interest and estate in and to the Project, the Project Right of Way or any interest of the LA DOTD hereunder or any part thereof;

(v) except as expressly set forth in the Direct Agreement, the LA DOTD will not have any obligation to any Lender or Collateral Agent under this Agreement or any other document;

(vi) each Financing Assignment will require that if the Developer is in default under the Developer Debt secured by the Financing Assignment or under the Financing Assignment and the Lender or Collateral Agent gives notice of such default to the Developer, then the Collateral Agent will also give concurrent notice of such default to the LA DOTD. Each Financing Assignment also will require that the Collateral Agent deliver to the LA DOTD, concurrently with delivery to the Developer or any other Person, every notice of election to sell,

notice of sale or other notice required by Law or by the Financing Assignment in connection with the exercise of remedies under the Financing Assignment;

(vii) each Financing Assignment will expressly state that the Collateral Agent and the Lenders will not name or join any State Party or any officer thereof in any legal proceeding seeking collection of the related debt or other obligations secured thereby or the foreclosure or other enforcement of the Financing Assignment except to the extent (A) joining the LA DOTD as a necessary party is required to give the court jurisdiction over the dispute with the Developer and to enforce any Lender's remedies against the Developer and (B) the complaint against the LA DOTD states no Claim against the LA DOTD for a Lien or security interest on, or to foreclose against, the LA DOTD's fee simple title to or other property interest and estate in and to the Project, the Project Right of Way or any interest of the LA DOTD hereunder, or any part thereof, or for any liability of the LA DOTD;

(viii) each Financing Assignment will expressly state that neither the Lenders nor the Collateral Agent will seek any damages or other amounts from the LA DOTD due to the LA DOTD's breach of this Agreement, whether for Developer Debt or any other amount, except damages for a violation by the LA DOTD of its express obligations to Lenders set forth in the Direct Agreement; provided that the foregoing will not affect any rights or claims of a Lender as a successor to the Developer's Interest by foreclosure or transfer in lieu of foreclosure;

(ix) to the extent that such consent is required pursuant to the terms of such Financing Assignment, each Financing Assignment will expressly state that the Lenders and the Collateral Agent will respond to any request from the LA DOTD or the Developer for consent to a modification or amendment of this Agreement within a reasonable period of time; and

(x) each Financing Assignment may only secure Developer Debt that satisfies the requirements set forth in Section 7.01 and the proceeds of which are used exclusively for the purpose of (A) developing, designing, permitting, constructing, financing, maintaining, repairing, rehabilitating, renewing or operating the Project or establishing or maintaining reserves in connection with the Project (including reserves established under the Project Financing Agreements in connection with the Developer Debt), (B) paying reasonable fees, development costs and expenses incurred by the Developer in connection with the execution of this Agreement and the Project Financing Agreements and not otherwise paid, (C) making Distributions, but only from the proceeds of any Refinancing permitted pursuant to Section 7.05, and (D) any Refinancing of pre-existing Developer Debt that conforms to the provisions of this Section 7.04(a), including use of proceeds to pay the reasonable costs of closing the Refinancing (including Lender's fees).

(b) The LA DOTD will have no obligation to join in, execute or guarantee any Financing Assignment; provided, however, that the LA DOTD will execute and deliver the Direct Agreement and provide customary certificates, legal opinions, and other documents required in connection with the Project Financing Agreements and any such Financing Assignment.

(c) Notwithstanding the foreclosure or other enforcement of any security interest created by a Financing Assignment and subject to the Direct Agreement, the Developer will remain liable to the LA DOTD for the payment of all sums owing to the LA DOTD pursuant to this Agreement and the performance and observance of all of the Developer's covenants and obligations pursuant to the Contract Documents.

(d) No Lender or Collateral Agent will, by virtue of its Financing Assignment, acquire any greater rights to or interest in the Project or Gross Revenues than the Developer has at any applicable time pursuant to this Agreement, other than the provisions set forth in the Direct Agreement.

(e) All rights acquired by the Lenders or the Collateral Agent under any Financing Assignment will be subject to the provisions of this Agreement and to the rights of the LA DOTD hereunder.

(f) No Financing Assignment will be binding upon the LA DOTD in the enforcement of its rights and remedies as provided in this Agreement and by Law, unless and until the LA DOTD has received a copy (certified as true and correct by the Developer) of the original thereof and a copy of a specimen bond, promissory note or other evidence of indebtedness (certified as true and correct by the Developer) secured by such Financing Assignment. If applicable, after the recordation or filing thereof, the Developer will provide to the LA DOTD a copy of the Financing Assignment bearing the date and instrument number or book and page of such recordation or filing. In the event of an assignment of any such Financing Assignment by the Collateral Agent, such assignment will not be binding upon the LA DOTD unless and until the LA DOTD has received a certified copy thereof, together with written notice of the assignee thereof to which notices may be sent (and the assignee will, if such assignment is required to be recorded, after such recordation deliver to the LA DOTD a copy thereof bearing the date and instrument number or book and page of such recordation).

(g) No Financing Assignment, including relating to any Refinancing, will be valid or effective, and no Lender will be entitled to the rights, benefits and protections of the Direct Agreement, unless the Financing Assignment complies with this Section 7.04.

(h) Each Financing Assignment will make the LA DOTD a third-party beneficiary to any provision thereof that creates or protects the rights and priorities of the LA DOTD to receive payments thereunder as provided for in this Agreement, including Section 5.05.

Section 7.05 Refinancing Requirements

(a) Notice of Refinancing. The Developer will provide the LA DOTD written notice of any proposed Refinancing, including any Exempt Refinancing, at least 60 days before the planned closing date of such Refinancing. The written notice from the Developer will provide to the LA DOTD a true and complete disclosure of all relevant aspects of the proposed Refinancing that are available to the Developer and the Equity Members as at the date of the notice, including:

(i) an outline of the overall transaction structure and the process leading to the planned closing of such Refinancing;

(ii) term sheets describing the proposed capital structure for the Developer after the Refinancing, including the expected aggregate principal amount(s) and expected key terms for all Developer Debt (using reasonable and appropriate ranges for terms that may fluctuate, such as interest rates, between the date of the Developer's written notice and the closing of the Refinancing);

(iii) details of the proposed or reasonably expected changes, if any, (A) to the then current Financial Model Formulas, (B) in the Developer's obligations (including contingent obligations) to the then current Lenders, and (C) in the LA DOTD's liabilities in the event of a termination of this Agreement;

(iv) the proposed Financial Model Update pursuant to Section 6.02;

(v) a formal statement from the Developer as to whether the Developer asserts that the Refinancing is an Exempt Refinancing, and (if so) including all details required to be demonstrated to the LA DOTD under the definition of "Exempt Refinancing" set forth in Exhibit A; and

(vi) a calculation of the anticipated Refinancing Gain (if any) generated from such Refinancing, together with a summary and justification of the proposed payment schedule for the entire Refinancing Gain to be Approved by the LA DOTD pursuant to Section 7.05(d)(iii), showing both payments to the LA DOTD and the change in Distributions to be made by the Developer,

in each case together with any supporting documentation and analysis that is available to the Developer and the Equity Members at the date of the written notice from the Developer.

After provision of the Developer's written notice under this Section 7.05(a), the Developer will further provide the LA DOTD with any other details concerning the proposed Refinancing that the LA DOTD may reasonably require to (i) validate the Developer's assertion that the proposed Refinancing is an Exempt Refinancing, (ii) validate and Approve the Developer's proposed calculation and payment schedule for any Refinancing Gain, (iii) validate and Approve that any ranges provided by the Developer for key terms such as interest rates, as permitted under Section 7.05(a)(ii), are reasonable and appropriate, and (iv) determine whether the Refinancing would, or could reasonably be expected to, (A) result in any increase in the LA

DOTD's liabilities in the event of a termination of this Agreement, or (B) increase any of the LA DOTD's other liabilities, obligations or risks under the Contract Documents, or (C) have a material adverse effect on the LA DOTD, the Project or the ability of the Developer to perform its obligations pursuant to this Agreement or any other Contract Document.

(b) Ongoing updates and sharing of information related to Refinancings. The Developer will deliver to the LA DOTD for access and review, ongoing status reports on a reasonably regular basis throughout the process of any Refinancing, including any then available updates to information provided with the Developer's written notice to the LA DOTD under Section 7.05(a).

(c) LA DOTD's Right to Approve Refinancing. Any Refinancing will be subject to the LA DOTD's prior Approval, which Approval will not be unreasonably withheld or delayed and will be granted or withheld in writing by the LA DOTD within 30 days of the LA DOTD's receipt of all required information under Section 7.05(a); provided that (y) to the extent there are any changes or updates to the information originally provided with the Developer's written notice under Section 7.05(a) that could cause one of the events in sub-clauses (i) through (iv) below to occur, then such changes or updates shall require the LA DOTD's further Approval prior to the closing of any Refinancing, which approval will not be unreasonably withheld or delayed and will be granted or withheld in writing by the LA DOTD within 30 days of the LA DOTD's receipt of such changed or updated information, and (z) no LA DOTD Approval will be required for an Exempt Refinancing. Without limiting other reasonable grounds for withholding Approval, the LA DOTD may withhold Approval to any Refinancing if it reasonably determines that:

(i) any information disclosed to the LA DOTD in connection with any Refinancing is not a true and complete disclosure of all relevant aspects of the Refinancing;

(ii) any change or series of changes in the obligations of the Developer due to the Refinancing would or reasonably could be expected to result in any increase in the LA DOTD's liabilities in the event of a termination of this Agreement or result in a material increase in any of the LA DOTD's other liabilities, obligations or risks under the Contract Documents;

(iii) the Refinancing would have a material adverse effect on the ability or commitment of the Developer to perform its obligations under the Contract Documents; or

(iv) the proposed Refinancing would or reasonably could be expected to have a material adverse effect on the Developer's incentives and disincentives to fully comply with the standards and requirements applicable to the Work.

(d) LA DOTD share of Refinancing Gain.

(i) The Developer will deposit the following amounts into the Proceeds Escrow Account as the LA DOTD's share of any Refinancing Gain:

(A) 50% of any Refinancing Gain from a Refinancing that is not an Exempt Refinancing or a TIFIA Refinancing; and

(B) 90% of any Refinancing Gain from a Refinancing that is a TIFIA Refinancing.

(ii) The Refinancing Gain will be calculated after deducting payment of (A) the LA DOTD's Allocable Costs under Section 7.05(e) and (B) the Developer's Allocable Costs directly associated with the Refinancing.

(iii) Any Refinancing Gain will be calculated as if realized entirely in the year in which the Refinancing occurs, and the Developer will deposit the LA DOTD's share of such Refinancing Gain into the Proceeds Escrow Account concurrently with the close of such Refinancing; provided, however, if the Developer demonstrates to the LA DOTD's reasonable satisfaction that all or any portion of such Refinancing Gain will only enable the Developer to make additional Distributions over future years (and not all at the close of the Refinancing), then all or such portion of any Refinancing Gain to be deposited into the Proceeds Escrow Account shall be payable over time pursuant to a payment schedule, reasonably Approved by the LA DOTD, corresponding with the anticipated timing of such future Distributions, but only so long as such payments yield the same net present value to the LA DOTD as if the LA DOTD had received the portion of such Refinancing Gain in the Proceeds Escrow Account at the close of the Refinancing. Notwithstanding any such payment schedule reasonably Approved by the LA DOTD, the net present value of the unpaid amount of any Refinancing Gain will be due and payable by the Developer in full into the Proceeds Escrow Account immediately upon (A) any failure by the Developer to pay any amount when due under such Approved payment schedule, or (B) termination of this Agreement for any reason.

(iv) The LA DOTD may use the LA DOTD's share of any Refinancing Gain for any purpose allowable under Law.

(e) Payment of Certain Expenses connected with Refinancings.

(i) Subject to Section 7.05(e)(ii), in connection with any Refinancing, the Developer will pay the LA DOTD for the LA DOTD's Allocable Costs incurred related to the Refinancing at the time of the closing of the Refinancing. The LA DOTD will provide the Developer with an estimate of its reasonable and documented expected expenses related to such Refinancing, including any expenses in connection with satisfying the LA DOTD's obligations under Section 7.06(a), no later than 30 days after the LA DOTD has Approved such Refinancing (to the extent such Approval is required hereunder) pursuant to Section 7.05(b), and a final estimate not less than 5 days prior to the proposed date of close of the Refinancing. If there is a change in circumstances relating to the Refinancing following the submission of the LA DOTD's initial estimate that is expected to result in higher expenses, then the LA DOTD will provide a revised estimate. For

any Refinancing other than a TIFIA Refinancing that does not close, the Developer shall pay the LA DOTD for all of its reasonable and documented expenses for such Refinancing within 45 days following receipt of an LA DOTD invoice for such amount.

(ii) In the case of a proposed TIFIA Refinancing, (A) the LA DOTD shall be responsible for the Build America Bureau's due diligence and credit processing costs related to a potential TIFIA Refinancing pursuant to appropriate payment arrangements agreed to by the LA DOTD with Build America Bureau under Section 7.06(b)(i)(B), (B) the Developer will include an estimate of its expected third party expenses related to such TIFIA Refinancing, for Approval by the LA DOTD, together with the Developer's written notice of Refinancing provided to the LA DOTD under Section 7.05(a), and (C) the LA DOTD will reimburse the Developer's reasonable and documented third party expenses related to any TIFIA Refinancing that does not close, within 45 days following receipt of a Developer invoice for such amount, provided that (x) the LA DOTD has Approved the amount and nature of such third party expenses as part of the LA DOTD's Approval of the relevant Developer notice of Refinancing under Section 7.05(a), and (y) the Developer has used commercially reasonable efforts to pursue and close such TIFIA Refinancing. For any TIFIA Refinancing which does close, the Developer shall be responsible for any annual TIFIA loan servicing or other administrative fees to U.S. Department of Transportation or Build America Bureau after closing of such TIFIA Refinancing.

(f) Other Requirements.

(i) Every Refinancing will be subject to the provisions of Section 7.01 and Section 7.03 and the other provisions of this Agreement pertaining to Developer Debt and Financing Assignments.

(ii) Any reimbursement agreement and related documents that the Developer enters into in connection with obtaining a letter of credit will, if they encumber the Developer's Interest, constitute a Financing Assignment and be treated as a Refinancing for all purposes pursuant to this Agreement. No such reimbursement agreement and related documents will encumber less than the entire Developer's Interest.

(iii) In connection with the consummation of any proposed Refinancing, the LA DOTD will, promptly upon the reasonable request of the Developer or the Collateral Agent or any Lender and such requesting party's agreement to cover any costs incurred by the LA DOTD in connection with the requested action, review the Developer's written analysis of whether the LA DOTD is required to Approve such Refinancing pursuant to Section 7.05(c) and confirm whether the LA DOTD believes its Approval is required for such Refinancing.

(iv) The Developer will deliver to the LA DOTD, not later than 15 days after close of any Refinancing, a complete transcript of true and complete copies of the executed final documents prepared in connection with such Refinancing, including (A) copies of all executed Project Financing Agreements, (B) copies of all Lenders' technical due diligence reports and any Traffic and Revenue Study, and (C) the final Financial Model Update Approved by the LA DOTD in accordance with Section 6.02, together with the final audit report and opinion delivered by the Financial Model Auditor in connection with such Financial Model Update.

Section 7.06 LA DOTD Assistance with Refinancing; TIFIA Refinancing

(a) General Assistance with Refinancings. The LA DOTD will use reasonable efforts to assist the Developer in connection with any proposed Refinancing Approved by the LA DOTD under Section 7.05, including:

(i) assisting the Developer in seeking any approvals or agreements required from the Conduit Issuer or approvals from any Governmental Authorities;

(ii) cooperating with the Developer and the Conduit Issuer with respect to customary continuing disclosure requirements;

(iii) providing appropriate financial information from the LA DOTD and the State for inclusion in offering materials; and

(iv) providing any customary document, certificate, opinion or undertaking (or, as applicable, a copy of the same certified by the LA DOTD as true, complete, and accurate) that the Developer may reasonably request from the LA DOTD as necessary to comply with (A) disclosure requirements under Law or (B) customary underwriter requirements, in each case in connection with any capital markets issuance.

(b) TIFIA Refinancing.

(i) The Developer will use reasonable efforts to plan and execute a TIFIA Refinancing before the first anniversary of the Partial Acceptance Date. As soon as is reasonably practicable after Financial Close, the Developer and the LA DOTD will form a joint "TIFIA working group" including appropriate financial representatives from the Developer and the LA DOTD, to work together in good faith, in order to (A) conduct ongoing reviews and analysis of TIFIA structuring scenarios and options, market interest rates, bond call premiums, eligible costs and TIFIA loan sizing, Refinancing Gain calculations, and all other parameters that may reasonably impact the successful execution of a TIFIA Refinancing, and (B) plan and execute a process for meetings, briefing materials and the Developer's submission of a letter of interest and an application to the Build America Bureau. As part of the "TIFIA working group" discussions and

planning exercises, the LA DOTD reserves the right, at its sole discretion, to consider reducing the LA DOTD's share of any Refinancing Gain from a TIFIA Refinancing below the 90% required under Section 7.05(d)(i)(B), to the extent that the LA DOTD deems that any reduction in the LA DOTD's share (C) is in the best interests of the State, and (D) will result in the Developer and/or the Equity Members receiving no more than a commercially reasonable and appropriate share of any Refinancing Gain from a TIFIA Refinancing.

(ii) The LA DOTD will use reasonable efforts to assist the Developer in connection with any proposed TIFIA Refinancing Approved by the LA DOTD pursuant to Section 7.05(c), including, in addition to the general assistance described in Section 7.06(a), (A) supporting the Developer in preparing and submitting a letter of interest and an application to the Build America Bureau, (B) entering into appropriate payment arrangements between the LA DOTD and the Build America Bureau for its legal, consulting, and advisory fees, cost overruns, or credit processing costs, (C) facilitating the Build America Bureau's due diligence review of the Project, and (D) assisting the Developer in seeking any approvals required from the Conduit Issuer or approvals from any Governmental Authorities required in connection with the TIFIA Refinancing.

(iii) The Developer shall notify the LA DOTD in advance of, and invite the LA DOTD (or its representatives) to participate in, any meeting with the Build America Bureau in connection with any proposed TIFIA Refinancing. The Developer shall include the LA DOTD in all correspondence with the Build America Bureau.

(c) LA DOTD's Rights. Nothing in this Section 7.05 shall be interpreted to limit, restrict, or prejudice any of the LA DOTD's rights under this Agreement.

Section 7.07 Collateral Agent's Rights

The Collateral Agent's rights are set forth in the Direct Agreement attached as Exhibit F.

Section 7.08 Payment of Public Funds Amount

(a) The LA DOTD will make payments of the Public Funds Amount to the Developer in accordance with Section 1 of Exhibit G.

(b) The LA DOTD agrees to include in its annual budget and seek appropriation for payment of all monetary obligations of the LA DOTD under this Agreement, including the Public Funds Amount, from the State Legislature to meet the LA DOTD's payment obligations under this Agreement.

(c) The parties acknowledge that the Public Funds Amount may only be adjusted through amendment to this Agreement.

Section 7.09 Scope of Payment

The Developer acknowledges that the Developer's Interest and any compensation provided for in the Contract Documents constitute full consideration for furnishing all material and for performing all Work under the Contract Documents in a complete and acceptable manner and for all risk, loss, damage, or expense of whatever character arising out of the nature of the Work or the prosecution thereof, without prejudice to any rights to compensation or other relief to which the Developer is entitled hereunder.

Section 7.10 Power Supply

(a) With respect to the power supply of the Project, the Developer shall:

(i) ensure the Project is connected to the power grid and shall take appropriate action to facilitate start-up of permanent power service to the Project; and

(ii) provide separate electrical services and metering, delineated for each local jurisdiction within the Project Right of Way, to power aesthetic lighting on the New Bridge, mainline roadway lighting, existing ITS components relocated by the Developer during the DB Period, traffic signals, and all other Elements requiring electrical service, including on local streets and service roads.

(b) The Developer is responsible for directly paying for electrical power required for the Elements described in Section 7.10(a)(ii) throughout the Term, except for the Non-Maintained Work, for which the Developer is responsible for directly paying for electrical power until handover of such Non-Maintained Work.

Section 7.11 Fees, Transaction Reconciliation, Settlement of Toll Revenue, and Disputes under the Hub Governing Documents

(a) Fees. Except for base transaction fees and non-transponder based transaction fees, which are the responsibility of the Developer as set forth in this Section 7.11(a), the LA DOTD is responsible for directly paying all non-transaction related fees assessed by the current and future parties to the Hub Governing Documents (including testing costs and annual software and hardware maintenance fees). Throughout the Operating Period, the Developer is responsible for all transaction fees, as such fees are described in Part A of the Reference Document entitled "I-10 Calcasieu River Bridge - Draft TSA Term Sheet_031423", whether related to in-State or out-of-State Users, assessed by the current and future parties to the Hub Governing Documents.

(b) Transaction Reconciliation. The Developer shall reconcile transactions with the Central US Interoperability Hub on a monthly basis and shall provide to the LA DOTD reports identifying all interoperable transactions with the Central US Interoperability Hub on a monthly basis, in each case in accordance with the requirements of Section 21 of the Technical Provisions.

(c) Settlement of Toll Revenue. The Developer shall submit an invoice to the LA DOTD for settled transaction-paid amounts owed to the Developer. Such invoice shall be submitted on a monthly basis and be in a form agreed by the LA DOTD, which shall include, at a minimum, an itemization of the transaction-paid amounts and all applicable transaction fees assessed by the Hub Governing Documents. The LA DOTD will facilitate invoicing and payments between the Developer and other members of the Hub Governing Documents. The Developer shall submit to the LA DOTD payments owing by the Developer to other members of the Hub Governing Documents on a monthly basis and shall include all pertinent details regarding the transactions and amounts owing. The LA DOTD will receive funds from other members of the Hub Governing Documents due to the Developer and transfer such funds to Developer on a monthly basis.

(d) Disputes under the Hub Governing Documents. The Developer shall promptly provide reasonable support and assistance to the LA DOTD in resolving any disputes that may arise with other members of the Hub Governing Documents.

ARTICLE 8.

DESIGN AND CONSTRUCTION OF THE PROJECT

Section 8.01 General Obligations of the Developer

(a) The Developer will furnish all design, construction and other services, provide all materials, equipment and labor to perform the Work as required by the Contract Documents and perform the Work in accordance with the Contract Documents.

(b) Except as otherwise expressly provided in this Agreement, the LA DOTD makes no warranties or representations as to any surveys, data, reports or other information provided by the LA DOTD or other Persons concerning surface or subsurface conditions, the existing condition of the roadway and other Elements, drainage, the presence of Utilities, Hazardous Materials, contaminated ground water, archaeological, paleontological and cultural resources, or endangered and threatened species, affecting the Project Right of Way or surrounding locations. The Developer acknowledges that such information is for the Developer's reference only and has not been verified by the LA DOTD, and that the Developer will be responsible for conducting all surveys, studies and assessments as it deems appropriate for the Project.

(c) The Developer will be responsible for coordinating and scheduling the Work with other separate contractors working in the Project Right of Way in accordance with the Technical Provisions. The LA DOTD will attempt to mitigate any potential disruptions to the Work and will attempt to minimize as much as practicable any undue interference with the Project and the Work by other separate contractors working in the Project Right of Way. Except in the case of a LA DOTD-Caused Delay, the LA DOTD will not be liable for any delays, disruptions or damages caused by such contractors.

(d) The Developer Representative and the LA DOTD Representative will be reasonably available to each other and will have the necessary authority, expertise and experience required to oversee and communicate with respect to the Work.

(e) The Developer shall prepare and implement the Project Management Plan in accordance with the requirements of the Technical Provisions.

(f) The Developer will not enter into any agreement with any Governmental Authority, Utility Owner, railroad, property owner or other third party having regulatory jurisdiction over any aspect of the Project or the Work or having any property interest affected by the Project or the Work that in any way purports to obligate the LA DOTD, or states or implies that the LA DOTD has an obligation, to the third party to carry out any activity during or after the end of the Term, unless the LA DOTD otherwise approves the same in writing in its sole discretion. Except in the case of an agreement approved by the LA DOTD pursuant to the preceding sentence, the Developer has no power or authority to enter into any such agreement with a third party in the name or on behalf of the LA DOTD and the parties agree that any purported agreement to that effect will be null and void.

Section 8.02 Issuance of Limited Notice to Proceed; Issuance of Notice to Proceed

(a) Limited Notice to Proceed. In the event the Record of Decision for the Project is not approved by FHWA prior to the Agreement Date, the LA DOTD will issue a Limited Notice to Proceed. The LA DOTD anticipates issuing the LNTP to the Developer shortly after the Agreement Date, provided that the Developer has delivered to the LA DOTD copies of all licenses, registrations, and certifications necessary for the Developer to perform the LNTP Work. The LNTP will authorize the Developer to proceed with the LNTP Work consistent with NEPA and its implementing regulations. The LNTP will authorize Work related to preliminary design. Details regarding the specific types of Work to be authorized under the LNTP are set forth in Section 1.4.1 of the Technical Provisions. Under no circumstances shall the Developer commence Final Design or Construction Work until such time as the Record of Decision for the Project has been approved by FHWA and the LA DOTD has issued NTP to the Developer, nor shall the Developer take any other action during the LNTP period that would materially affect objective consideration of any alternative under evaluation in the NEPA process, including the no-build alternative.

(b) Notice to Proceed. The Developer will not commence the remainder of the Work, other than the LNTP Work, until the LA DOTD has delivered the NTP to the Developer. The LA DOTD will issue the NTP to the Developer only if the NEPA Documents identify Alternative 5G as the selected alternative. In the event that the NEPA Documents select the "no-build" alternative or select an alternative other than Alternative 5G, the LA DOTD will terminate the Agreement in accordance with Section 20.09. Following issuance of NTP, the Developer may continue performance of Work authorized by the LNTP and may also proceed with the remainder of the Work in accordance with the Contract Documents. Provided that the NEPA Documents identify Alternative 5G as the selected alternative and any modifications to the Contract Documents that may be required by the NEPA Documents have been agreed by the parties, on an Open Book Basis, the LA DOTD will promptly deliver the Notice to Proceed to

the Developer upon the satisfaction of the following conditions (or the LA DOTD, in its discretion, waives in writing such conditions):

(i) the Developer has delivered to the LA DOTD copies of all licenses, registrations, and certifications necessary for the Developer to perform the Design-Build Work;

(ii) the Developer has certified to the LA DOTD its compliance with the NEPA Documents insofar as such compliance is possible at the time of NTP, including all applicable pre-construction requirements, and has certified that the Developer will maintain compliance with the NEPA Documents;

(iii) the Developer has delivered to the LA DOTD copies of all Governmental Approvals (except for the LA DOTD-Provided Approvals) that are required prior to initiation of the Design-Build Work and DB Period O&M Work;

(iv) the LA DOTD has Approved the final DB Limits and the DB Period O&M Plan;

(v) the Developer is not in receipt of any Developer Default Notice in respect of which the corresponding Developer Default has occurred and is continuing; and

(vi) the Developer is not in receipt of any notice of default from any Lender unless such noticed default has been cured, and no Lender has otherwise indicated that it is unwilling or unable to presently fund the Developer's costs for executing the Work.

(c) Contemporaneous Issuance of LNTP and NTP. In the event that the Record of Decision for the Project is approved by FHWA prior to the Agreement Date or shortly thereafter, the LA DOTD reserves the right to issue the Limited Notice to Proceed and the Notice to Proceed contemporaneously or in close succession, provided that all other requirements pertaining to issuance of the Notice to Proceed set forth in Section 8.02(b) are satisfied.

Section 8.03 Project Design

(a) The Developer will submit to the LA DOTD the Design Documents and Construction Documents relating to the Work in accordance with the Technical Provisions. Each submittal will comply with the applicable requirements of the Technical Provisions.

(b) The Developer will provide the LA DOTD with a schedule of its proposed submittals of Design Documents and Construction Documents (which schedule will be updated periodically as set forth in the Technical Provisions) so as to facilitate the LA DOTD's coordination and review of such documents. The Developer will complete quality control and quality assurance reviews of all Design Documents and Construction Documents to

ensure that they are accurate and complete and comply with the requirements of the Contract Documents prior to any submission to the LA DOTD.

(c) The Developer shall schedule a Project kickoff meeting in accordance with Section 2.3.1.2 of the Technical Provisions and a design workshop meeting in accordance with Section 2.3.1.3 of the Technical Provisions. In addition, prior to the time of the scheduled submissions that require the LA DOTD's review, comment or approval, in accordance with the Contract Documents, the Developer will meet with the LA DOTD and will identify during such meetings, among other things, the development of the design or changes from any of the Technical Provisions, or, if applicable, previous design submissions. Minutes of the meetings will be maintained by the Developer and provided to all attendees for review.

(d) Construction Documents will set forth in detail drawings and specifications describing the requirements for construction of the Work, in full compliance with the Technical Provisions, Law and Governmental Approvals. The Construction Documents will be consistent with the latest set of design submissions, and will be submitted after the Developer has obtained all requisite Governmental Approvals associated with the Work contained in such documents.

(e) The LA DOTD's review, comment and/or approval of the Design Documents and the Construction Documents are for the purpose of evaluating the Developer's compliance with the requirements of the Contract Documents, but will not alter the Developer's obligations under the Contract Documents.

(f) In its preparation of the Design Documents, the Developer may request Design Deviations in accordance with Section 2.4.15 of the Technical Provisions. Except for the anticipated Design Deviations identified in Table 2-7 of the Technical Provisions, any cost or time incurred by the Developer due to either an Approved or rejected Design Deviation will be the sole risk of the Developer and shall not be considered a Compensation Event or a Delay Event.

Section 8.04 Acquisition of Project Right of Way; Utility Relocations; Railroad Coordination

(a) Right of Way Acquisition Obligations. The Developer will perform all Project ROW Acquisition Work necessary for the construction of the Project in accordance with the Contract Documents. The Developer will carry out such Work as follows:

(i) the Developer will perform the Project ROW Acquisition Work in accordance with the Technical Provisions and Law, including the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended;

(ii) the Developer will submit a ROW Acquisition Services Plan to the LA DOTD for its approval. Without prejudice to Section 8.04(c), the ROW Acquisition Services Plan will not include parcels considered to be solely for the convenience of the Developer, including those necessary to accommodate

laydown, staging, and other construction methods in connection with the construction of the Project; provided, however, that temporary servitudes which are necessary for maintenance of traffic, for safety during performance of the Construction Work, or as needed in order to comply with applicable Law shall be included in the ROW Acquisition Services Plan, and additional temporary servitudes may be included as agreed between the Developer and the LA DOTD; and

(iii) Without prejudice to its rights hereunder, the Developer will exercise due diligence and use reasonable care in determining whether property to be acquired may contain wastes or other materials or hazards requiring remedial action or treatment to the extent the Developer has access to such property and will otherwise comply with the Technical Provisions, including the undertaking of studies, assessments and tests required by the Technical Provisions.

(b) Expropriation and Acquisition. The LA DOTD will exercise its authority to expropriate and acquire property prior to judgment as set forth in L.R.S. § 48:441 for parcels identified in the ROW Acquisition Services Plan to be acquired in the name of LA DOTD; provided, however, that the Developer has complied with the requirements set forth in the Technical Provisions prior to requesting that the LA DOTD exercise such authority. The LA DOTD will commence such expropriation and acquisition proceedings no later than 30 days after receipt of all information from the Developer that is required by Section 4.5.2 of the Technical Provisions, in a form acceptable to the LA DOTD.

(c) Certain Property Outside the Project Right of Way. The Developer, at its sole cost and expense, will be responsible for the acquisition of, or for causing the acquisition of, any property, temporary servitudes or other property rights not included in the ROW Acquisition Services Plan, including those necessary to accommodate laydown, staging, and other construction methods in connection with the construction of the Project.

(d) ROW Costs.

(i) Except as provided in Section 8.04(d)(ii), the Developer will be responsible for performing all activities and services necessary for the acquisition of all Project Right of Way at its sole cost and expense as set forth in the Technical Provisions.

(ii) For parcels identified in the ROW Acquisition Services Plan that are to be acquired in the name of LA DOTD, the LA DOTD will be responsible for condemnation proceedings and for paying the property owner the purchase price and relocation costs (if any) for acquiring the real property rights in such parcels.

(e) Utility Relocations.

(i) The LA DOTD will be responsible for entering into Utility Relocation Agreements related to the Pipe Racks Relocation. The Developer

shall perform the Work in compliance with such Utility Relocation Agreements. The Developer shall be responsible for coordinating and scheduling the Work so as not to interfere with or impede the progress of the Pipe Racks Relocation Work.

(ii) With the sole exception of those Utility Relocation Agreements described in Section 8.04(e)(i), the Developer will perform all coordination required for all Utility Relocations necessary to accommodate construction, operations and maintenance of the Project.

(iii) With the sole exception of the Pipe Racks Relocation, which the LA DOTD will coordinate with Utility Owners in accordance with Section 8.04(e)(i), the Developer will perform Utility Relocations in accordance with the Technical Provisions. To the extent permitted by Law, the LA DOTD will provide to the Developer the benefit of any provisions in recorded Utility or other servitudes affecting the Project which require the servitude holders to relocate at their expense and the LA DOTD will reasonably assist the Developer in obtaining the benefit of all rights the LA DOTD has under any Utility servitude, permit, or other right relating to Utility Relocations, it being understood that such assistance will not entail the initiation of or participation in legal actions or proceedings.

(f) Railroad Coordination.

(i) The LA DOTD will be responsible for entering into Railroad Agreements with Kansas City Southern Railroad and with Union Pacific Railroad relating to property transfer and the Railroad Relocations for the Project (the "LA DOTD Railroad Agreements"). The Developer shall perform the Work in compliance with such LA DOTD Railroad Agreements. The Developer shall be responsible for coordinating and scheduling the Work so as not to interfere with or impede the progress of the Railroad Relocation Work.

(ii) The Developer shall be responsible for entering into any Railroad Agreement that may be necessary to perform Work on Railroad right of way (the "Developer Railroad Agreements").

(iii) With the sole exception of costs that are the responsibility of the LA DOTD under the LA DOTD Railroad Agreements, the Developer shall be responsible for any and all costs related to coordination with any Railroad and related to performing Work impacting Railroad right of way or operations. Such responsibility of the Developer shall include costs of flagging services and reimbursement of all costs that Railroads incur in adjusting their facilities or operations, as applicable, to accommodate the Work.

Section 8.05 Governmental Approvals

(a) The LA DOTD, at its sole cost and expense, has obtained, or will obtain, the LA DOTD-Provided Approvals. The Developer, at its sole cost and risk, will be responsible

for obtaining any New Environmental Approval, unless such New Environmental Approval is caused by a LA DOTD Change or a LA DOTD Enhancement. Responsibility for and cost of obtaining Governmental Approvals necessitated by a LA DOTD Change or a LA DOTD Enhancement will be as agreed to and specified in the accompanying Change Order.

(b) Except as otherwise provided in Section 8.05(a) or Section 8.05(c), the Developer, at its sole cost and risk, will: (i) obtain all Governmental Approvals and (ii) maintain in full force and effect and comply with all Governmental Approvals necessary for the Work.

(c) The Developer is excused from performing its obligation under Section 8.05(b) only in respect of the following payments by the LA DOTD:

(i) The LA DOTD will pay for the purchase of credits from an approved mitigation bank only with respect to costs associated with the wetlands mitigation required under the NEPA Documents.

(ii) The LA DOTD will pay for any navigational interests upstream of the New Bridge as required under the NEPA Documents.

(d) The LA DOTD will provide reasonable assistance and cooperation to the Developer, as requested by the Developer, in obtaining Governmental Approvals relating to the Project and any revisions, modifications, amendments, supplements, renewals, reevaluations and extensions of Governmental Approvals. The LA DOTD's assistance and cooperation will not require the LA DOTD: (i) to take a position which it believes to be inconsistent with the Contract Documents, Law or Governmental Approvals, the requirements of Good Industry Practice, or LA DOTD policy, or (ii) to refrain from taking a position concurring with that of a Governmental Authority, if the LA DOTD believes that position to be correct.

(e) In the event that any Governmental Approvals required to be obtained by the Developer must formally be issued in the LA DOTD's name, the Developer will undertake necessary efforts to obtain such approvals, including execution and delivery of the necessary applications and other documentation in the format required by the LA DOTD. The LA DOTD will act diligently and in good faith in the coordination with such Governmental Authority to obtain any such Governmental Approval.

(f) In the event that the LA DOTD must act as the lead agency and directly coordinate with a Governmental Authority in connection with obtaining Governmental Approvals which are the responsibility of the Developer, the Developer will provide all necessary support to facilitate such coordination. Such support will include conducting necessary field investigations, surveys, and preparation of any required reports, documents, and applications.

Section 8.06 Project Schedule; Means and Methods

(a) The Preliminary Project Baseline Schedule will be the basis for monitoring the Developer's performance of the Design-Build Work until such time as a Project

Baseline Schedule has been approved by the LA DOTD in accordance with the Technical Provisions.

(b) After approval of the Project Baseline Schedule, the Developer shall not alter the Project Baseline Schedule, or the means and methods of performing the Design-Build Work reflected in the Project Baseline Schedule, without informing the LA DOTD, and the Developer will coordinate any such alterations to take into account the LA DOTD's resources and the work to be carried out by the LA DOTD's separate contractors, if any.

(c) If any alteration to the Project Baseline Schedule (i) affects the Critical Path, (ii) adversely and materially affects the LA DOTD's oversight resources or the LA DOTD's separate contractors, or (iii) deviates from the Technical Provisions, the Developer will not make such alteration without the prior approval of the LA DOTD.

(d) All Float contained in the Project Baseline Schedule or generated thereafter shall be considered a Project resource available to either party or both parties as needed to absorb delays caused by any event and achieve schedule milestones. All Float shall be shown as such in the Project Baseline Schedule on each affected schedule path. Identification of (or failure to identify) Float on the schedule shall be examined by the LA DOTD in determining whether to approve the Project Baseline Schedule. Once identified, the Developer shall monitor, account for and maintain Float in accordance with critical path methodology.

(e) The LA DOTD will not be responsible for any construction means and methods of the Developer or liability ensuing therefrom, unless such means and methods were directed by the LA DOTD pursuant to a LA DOTD Change or a LA DOTD Enhancement implemented by the Developer.

Section 8.07 Conditions for Commencement of Construction

(a) Other than Field Investigation Work, the Developer will not commence construction of any portion of the Project until the LA DOTD issues the Commencement of Construction Certificate.

(b) The LA DOTD will promptly issue the Commencement of Construction Certificate to the Developer upon satisfaction, as determined by the LA DOTD, of the following conditions (or the LA DOTD, in its sole discretion, waives any such condition):

(i) the LA DOTD has issued the Notice to Proceed;

(ii) the Developer has obtained all Governmental Approvals (except for the LA DOTD-Provided Approvals) necessary for construction of the specific applicable Design Unit(s) and performed all conditions of such Governmental Approvals that are a prerequisite to commencement of such construction;

(iii) the Developer has obtained all rights of access necessary for the commencement of construction of the specific applicable Design Unit(s);

(iv) the Developer has delivered, and all comments have been resolved in accordance with the Contract Documents, all Submittals that are required under Section 2.4.13.1 of the Technical Provisions to be delivered prior to the start of construction of the specific applicable Design Unit(s);

(v) the Developer has provided and supplied the Field Office in accordance with Section 2.3.9 of the Technical Provisions;

(vi) the LA DOTD has Approved the Project Baseline Schedule; and

(vii) the LA DOTD has Approved all elements or Sub-Plans of the Project Management Plan that require LA DOTD approval as a condition to commencement of Construction Work in Section 2.2.2 of the Technical Provisions.

(c) Upon issuance of the Commencement of Construction Certificate, construction of any subsequent portion of the Project prior to completing the Design Review process required by the Technical Provisions for such subsequent portion of the Project will be at the sole risk of the Developer, and the LA DOTD, in addition to any other rights and remedies under this Agreement, may require the removal of such portion of the Project, at the Developer's sole cost and expense, to determine whether such portion is in compliance with the Contract Documents.

(d) The requirements of this Section 8.07 apply to commencement of construction of the Work based on the Project Schedule and the process set forth herein will not be repeated after the Commencement of Construction Certificate is issued by the LA DOTD.

Section 8.08 Completion Milestones

(a) 25% Achievement of the DB Percentage. The Developer will provide the LA DOTD with written notice of the anticipated achievement of a DB Percentage of 25% at least 30 days prior to the anticipated date of such achievement. During such notice period, the Developer and the LA DOTD will meet, confer, and exchange information on a regular basis as may be required by the LA DOTD. During such 30-day period, the LA DOTD will review Monthly Progress Reports and any other documentation reasonably necessary, including reports and records provided pursuant to Section 17.08, to confirm achievement of a DB Percentage of 25%. No later than the expiration of such 30-day period, the LA DOTD will either: (i) issue the 25% Completion Certificate to the Developer or (ii) notify the Developer in writing that the Developer has not achieved a DB Percentage of 25%. If the LA DOTD provides notice under clause (ii) of this Section 8.08(a), then the Developer will continue to perform the Work until achievement of a DB Percentage of 25% and the parties will follow the process set forth in this Section 8.08(a) until (A) the LA DOTD issues the 25% Completion Certificate or (B) the parties' disagreement as to whether a DB Percentage of 25% has been achieved is referred to, and resolved according to, the dispute resolution procedures set forth in ARTICLE 21.

(b) 50% Achievement of the DB Percentage. The Developer will provide the LA DOTD with written notice of the anticipated achievement of a DB Percentage of 50% at

least 30 days prior to the anticipated date of such achievement. During such notice period, the Developer and the LA DOTD will meet, confer, and exchange information on a regular basis as may be required by the LA DOTD. During such 30-day period, the LA DOTD will review Monthly Progress Reports and any other documentation reasonably necessary, including reports and records provided pursuant to Section 17.08, to confirm achievement of a DB Percentage of 50%. No later than the expiration of such 30-day period, the LA DOTD will either: (i) issue the 50% Completion Certificate to the Developer or (ii) notify the Developer in writing that the Developer has not achieved a DB Percentage of 50%. If the LA DOTD provides notice under clause (ii) of this Section 8.08(b), then the Developer will continue to perform the Work until achievement of a DB Percentage of 50% and the parties will follow the process set forth in this Section 8.08(b) until (A) the LA DOTD issues the 50% Completion Certificate or (B) the parties' disagreement as to whether a DB Percentage of 50% has been achieved is referred to, and resolved according to, the dispute resolution procedures set forth in ARTICLE 21.

(c) 75% Achievement of the DB Percentage. The Developer will provide the LA DOTD with written notice of the anticipated achievement of a DB Percentage of 75% at least 30 days prior to the anticipated date of such achievement. During such notice period, the Developer and the LA DOTD will meet, confer, and exchange information on a regular basis as may be required by the LA DOTD. During such 30-day period, the LA DOTD will review Monthly Progress Reports and any other documentation reasonably necessary, including reports and records provided pursuant to Section 17.08, to confirm achievement of a DB Percentage of 75%. No later than the expiration of such 30-day period, the LA DOTD will either: (i) issue the 75% Completion Certificate to the Developer or (ii) notify the Developer in writing that the Developer has not achieved a DB Percentage of 75%. If the LA DOTD provides notice under clause (ii) of this Section 8.08(c), then the Developer will continue to perform the Work until achievement of a DB Percentage of 75% and the parties will follow the process set forth in this Section 8.08(c) until (A) the LA DOTD issues the 75% Completion Certificate or (B) the parties' disagreement as to whether a DB Percentage of 75% has been achieved is referred to, and resolved according to, the dispute resolution procedures set forth in ARTICLE 21.

Section 8.09 Partial Acceptance

(a) The Developer is required to achieve Partial Acceptance on or before the Partial Acceptance Deadline.

(b) The LA DOTD will issue a Partial Acceptance Certificate at such time as the Developer achieves Partial Acceptance, and the Developer will be entitled to begin tolling of the New Bridge on and after the Partial Acceptance Date.

(c) Partial Acceptance will have been achieved when each of the following conditions have occurred for the Project (or the LA DOTD, in its sole discretion, waives any such condition), as determined by the LA DOTD:

(i) the LA DOTD has Approved all elements or Sub-Plans of the Project Management Plan that require LA DOTD approval as a condition to Partial Acceptance in Section 2.2.3 of the Technical Provisions;

(ii) the LA DOTD has Approved the Toll Enforcement Rules;

(iii) the Developer has received and delivered to the LA DOTD copies of all Governmental Approvals necessary to operate and maintain the Project and has satisfied all conditions and requirements thereof which must be satisfied before the Project can be lawfully opened for regular public use, all such Governmental Approvals remain in full force and effect, and there exists no uncured material violation of the terms and conditions of any such Governmental Approval;

(iv) all insurance policies required under Section 16.01 for the Operating Period have been obtained and will be in full force and effect, and the Developer has delivered to the LA DOTD certificates of insurance evidencing required coverage, certified by the Developer's insurance broker to be true and correct;

(v) the Developer has furnished, or caused to have furnished, to the LA DOTD the O&M Performance Security as required under Section 16.07(b);

(vi) there exists no Developer Default for which the Developer has received notice from the LA DOTD, except as to any Developer Default that has been cured or for which Partial Acceptance will affect its cure, and there exists no event or condition that, with notice or lapse of time, would constitute a Developer Default;

(vii) all lanes of traffic (including ramps, interchanges, overpasses, underpasses, and other crossings) set forth in the Construction Documents are in their final configuration and available for normal and safe use and operation;

(viii) all major safety features are installed and functional in accordance with the Technical Provisions, including, as required, shoulders, guardrails, striping and delineations, concrete traffic barriers, bridge railings, cable safety systems, metal beam guard fences, safety end treatments, terminal anchor sections and crash attenuators;

(ix) all required lighting for normal and safe use and operation is installed and functional in accordance with the Technical Provisions;

(x) all required signs and signals for normal and safe use and operation are installed and functional in accordance with the Technical Provisions;

(xi) the LA DOTD has Approved the final O&M Limits;

(xii) the need for temporary traffic controls or for lane closures at any time has ceased, except for controls or closures: (A) needed to perform O&M Work in accordance with the Operations and Maintenance Plan or (B) as otherwise permitted by the LA DOTD;

(xiii) the LA DOTD has performed the final inspection for the Non-Maintained Work and has accepted handover of the Non-Maintained Work in accordance with Section 9.03(b);

(xiv) the LA DOTD has performed the final inspection in accordance with the Contract Documents, including Section 8.09(f); and

(xv) the Developer has certified to the LA DOTD in writing that the conditions set forth in this Section 8.09(c) have been satisfied as of the date of such certification or otherwise waived in writing.

(d) Partial Acceptance will not be withheld for any Punch List items, landscaping, or aesthetic features included in the Construction Documents in determining whether Partial Acceptance has occurred, except to the extent that its completion will affect public safety or satisfaction of any criterion in Section 8.09(c).

(e) The Developer will provide the LA DOTD with written notice of the anticipated Partial Acceptance Date at least 30 days prior to the anticipated Partial Acceptance Date. During such notice period, the Developer and the LA DOTD will meet, confer and exchange information on a regular basis with the goal being the LA DOTD's orderly, timely inspection of the Project (other than the Elements related to Developer's responsibility to demolish and decommission the Existing Bridge) and the LA DOTD's issuance of a Partial Acceptance Certificate.

(f) During the 30-day period specified in Section 8.09(e), the LA DOTD will conduct an inspection of the Project (other than the Elements related to Developer's responsibility to demolish and decommission the Existing Bridge) and such other matters as may be necessary to determine whether Partial Acceptance is achieved. No later than the expiration of such 30-day period, the LA DOTD will either: (i) issue the Partial Acceptance Certificate to the Developer or (ii) notify the Developer in writing setting forth the reasons why the Developer has not achieved Partial Acceptance. If the LA DOTD provides notice under clause (ii) of this Section 8.09(f), then the Developer will perform the Work necessary to satisfy the requirements for Partial Acceptance and the parties will follow the process set forth in this Section 8.09(f) until (A) the LA DOTD issues the Partial Acceptance Certificate or (B) the parties' disagreement as to whether one or more criteria for Partial Acceptance have been met is referred to, and resolved according to, the dispute resolution procedures set forth in ARTICLE 21 (which dispute resolution procedures, for the avoidance of doubt, will determine whether the relevant criteria has been satisfied, and not whether the LA DOTD made a proper determination under Louisiana state law with respect to such criteria).

Section 8.10 Punch List

(a) The Project Management Plan will establish procedures and schedules for preparing a Punch List for the Project and completing the Punch List work. Such procedures and schedules will be consistent and coordinated with the inspection related to Partial Acceptance and comply with the provisions of this Section 8.10.

(b) The Developer will prepare and maintain the Punch List. The Developer will deliver to the LA DOTD not less than seven days' prior written notice stating the date when the Developer will commence Punch List field inspections and Punch List preparation for the Project. The LA DOTD may, but is not obligated to, participate in the development of the Punch List. Each party will have the right to add items to the Punch List to the extent required to comply with the Contract Documents, and neither party will remove any item added by any other without such other party's express permission. If the Developer objects to the addition of an item by the LA DOTD, the item will be noted as included under dispute, and if the parties thereafter are unable to reconcile the dispute, the dispute will be resolved according to the dispute resolution procedures set forth in ARTICLE 21. The Developer will deliver to the LA DOTD a true and complete copy of the Punch List, and each modification thereto, as soon as it is prepared.

(c) The Developer will commence work on the Punch List items and diligently prosecute such work to completion, consistent with the Contract Documents, within the time period to be set forth in the Project Management Plan and in any case by no later than the Final Acceptance Deadline.

Section 8.11 Final Acceptance

(a) Final Acceptance Deadline. The Developer is required to achieve Final Acceptance on or before the Final Acceptance Deadline.

(b) Condition for Final Acceptance. Final Acceptance will have been achieved when each of the following conditions have occurred for the Project (or the LA DOTD, in its sole discretion, waives any such condition), as determined by the LA DOTD:

(i) the Developer has either achieved Partial Acceptance or met all of the conditions identified in Section 8.09(c);

(ii) all Punch List items have been completed in accordance with the Contract Documents;

(iii) the Developer has demolished and decommissioned the Existing Bridge in accordance with the Technical Provisions;

(iv) Design Acceptance has been achieved;

(v) all Submittals, including As-Built Plans of the Project, required to be submitted on or before Final Acceptance have been submitted and approved (to the extent approval is required) by the LA DOTD;

(vi) the Developer has delivered all required certifications from the Lead Designer to all necessary Governmental Authorities and to the LA DOTD;

(vii) all landscaping (subject to applicable planting season requirements) and aesthetic features included in the Construction Documents are complete;

(viii) the Developer has made all deliveries of Work Product to the LA DOTD that are required to be made pursuant to this Agreement;

(ix) the Developer has deposited the Source Code Documentation with the Escrow Agent in accordance with Section 17.05;

(x) the Developer has paid or caused to be paid to the LA DOTD all amounts due and payable from the Developer to the LA DOTD in connection with this Agreement, including any applicable interest thereon (except such amounts subject to dispute in accordance with ARTICLE 21);

(xi) there exists no Developer Default for which the Developer has received notice from the LA DOTD, except as to any Developer Default that has been cured or for which Final Acceptance will affect its cure, and there exists no event or condition that, with notice or lapse of time, would constitute a Developer Default;

(xii) the Developer has delivered to the LA DOTD a fully-executed (including by the LA DOTD) Certificate of Final Inspection and Payment pertaining to each Railroad where the Developer performed Work in such Railroad's right of way; and

(xiii) the Developer has certified to the LA DOTD in writing that the conditions set forth in this Section 8.11(b) have been satisfied as of the date of such certification or otherwise waived in writing.

(c) Issuance of Final Acceptance Certificate.

(i) The Developer will provide the LA DOTD with written notice of the anticipated Final Acceptance Date at least 30 days prior to the anticipated Final Acceptance Date. During such notice period, the Developer and the LA DOTD will meet, confer and exchange information on a regular basis with the goal being the LA DOTD's orderly, timely inspection of the Project and review of the Final Design Documents and As-Built Plans and the LA DOTD's issuance of a Final Acceptance Certificate.

(ii) During the 30-day period specified in Section 8.11(c)(i), the LA DOTD will conduct an inspection of the Project and review of Punch List, and such other matters as may be necessary to determine whether Final Acceptance is achieved. No later than the expiration of such 30-day period, the LA DOTD will either: (A) issue the Final Acceptance Certificate to the Developer or (B) notify the Developer in writing setting forth the reasons why the Developer has not achieved Final Acceptance. If the LA DOTD provides notice under clause (B) of

this Section 8.11(c)(ii), then the Developer will perform the Work necessary to satisfy the requirements for Final Acceptance and the parties will follow the process set forth in this Section 8.11(c)(ii) until (1) the LA DOTD issues the Final Acceptance Certificate or (2) the parties' disagreement as to whether one or more criteria for Final Acceptance have been met is referred to, and resolved according to, the dispute resolution procedures set forth in ARTICLE 21 (which dispute resolution procedures, for the avoidance of doubt, will determine whether the relevant criteria has been satisfied, and not whether the LA DOTD made a proper determination under Louisiana state law with respect to such criteria).

(d) Final Payment.

(i) Before the Developer is eligible to receive the final Milestone Payment, the Developer will submit to the LA DOTD a certificate from the Recorder of Mortgages of the parish in which the Work has been done to the effect that there are no claims or liens recorded against the Contract Documents, in accordance with L.R.S. § 9:4832. The date of the certificate must not be prior to the expiration of 45 days, but must be prior to the expiration of 90 days, after the Final Acceptance Certificate was recorded in the Recorder of Mortgage's Office.

(ii) Prior to payment of the final Milestone Payment, all releases or waivers on buildings, wells, utilities, and railroads must be furnished as well as any maintenance bonds, certificates from the health department (if necessary), tracings, brochures, or other items required by the Contract Documents.

(iii) Payment of the final Milestone Payment will not release the Developer or sureties from liability for any fraud in construction; in obtaining periodic payments; in payment for materials, labor, or other supplies or services for the Work; or for any claims for damages, loss, or injury sustained by any person through the fault, negligence, or conduct of the Developer or any employees, agents, Subcontractors, suppliers, or representatives in respect of the Work.

Section 8.12 Liquidated Damages

(a) Liquidated Damages Related to Partial Acceptance. If the Developer does not achieve Partial Acceptance by the Partial Acceptance Deadline, the LA DOTD will be entitled to assess $40,000, as liquidated damages for each day that Partial Acceptance remains to be achieved following the expiration of the Partial Acceptance Deadline until the Long Stop Date. Such liquidated damages shall constitute the LA DOTD's sole right to damages for such delay, but exclude any damages incurred by the LA DOTD as part of the Developer Default Termination Amount calculation pursuant to a termination for Developer Default under Section 20.03 that may result from such delay.

(b) Liquidated Damages Related to Final Acceptance. If the Developer does not achieve Final Acceptance by the Final Acceptance Deadline, the LA DOTD will be entitled

to assess $20,000, as liquidated damages for each day that Final Acceptance remains to be achieved following the expiration of the Final Acceptance Deadline. Such liquidated damages shall constitute the LA DOTD's sole right to damages for such delay, but exclude any damages incurred by the LA DOTD as part of the Developer Default Termination Amount calculation pursuant to a termination for Developer Default under Section 20.03 that may result from such delay.

(c) Liquidated Damages Related to Key Personnel.

(i) If an individual filling a Key Personnel role is not available for or actively involved in the performance of the Work, including fulfilling the specific responsibilities of each Key Personnel position as set forth in Section 2.3.5, Exhibit 2-5, and Exhibit 2-6 of the Technical Provisions, as determined by the LA DOTD, then: (a) the Developer acknowledges that the LA DOTD and the Project will suffer significant and substantial damages and that it is impracticable and extremely difficult to ascertain and determine the actual damages which would accrue to the LA DOTD in such event; and (b) the Developer agrees to pay the LA DOTD a liquidated damage, subject to Indexation, as follows, for each position held by such individual, as deemed compensation for such damages:

POSITION	LIQUIDATED DAMAGE
Category 1 Key Personnel	**$200,000**
Category 2 Key Personnel	**$150,000**
Category 3 Key Personnel	**$75,000**

(ii) A further liquidated damage in accordance with Section 8.12(c)(i) for the positions listed above in the amount of 50% of the liquidated damage, as subject to Indexation, for such position will be payable from the Developer to the LA DOTD for each three month period where any Key Personnel position is vacant or not being fulfilled in accordance with the Contract Documents as determined by the LA DOTD.

(iii) The Developer agrees that any damages payable in accordance with this Section 8.12(c) are liquidated damages, not a penalty and are reasonable under the circumstances existing as of the Setting Date. Subject to Section 8.12(c)(iv) and Section 24.02(c), the Developer is not liable for liquidated damages under Section 8.12(c)(i) if: (a) the Developer removes or replaces such Key Personnel at the direction of the LA DOTD; (b) such individual is unavailable due to retirement, death, disability, incapacity, injury, promotion to another Key Personnel position but only if such promotion occurs no earlier than two years after issuance of the Notice to Proceed, or voluntary or involuntary termination of employment with the applicable Developer Party (provided that moving to an Affiliate of the Developer or a Subcontractor is not considered grounds for avoiding liquidated damages); or (c) during the Operating Period

only, the Developer replaces such Key Personnel no more frequently than once every three years with another individual approved by the LA DOTD in advance.

(iv) In respect of any unavailability resulting from a situation described in clauses (a) or (b) of Section 8.12(c)(iii), the Developer shall remain liable for liquidated damages under Section 8.12(c)(i) unless it proposes to the LA DOTD, and secures LA DOTD's approval of, a replacement for such Key Personnel within 90 days in the case of a Category 1 Key Personnel, or 60 days in the case of a Category 2 Key Personnel or Category 3 Key Personnel. For purposes of the LA DOTD's approval rights under this Section 8.12(c)(iv), the time periods described in Section 10.05(b) shall apply, and the Developer's failure to propose a replacement that complies with the requirements of the Contract Documents shall not be interpreted to restart or to extend the 90-day or 60-day periods set forth above.

(v) Upon approval of any Key Personnel replacement, the new individual shall be considered a Key Personnel for all purposes under the Contract Documents, including this Section 8.12(c).

(d) Lane Closure Liquidated Damages. If a Non-Permitted Closure occurs, the LA DOTD will be entitled to assess Lane Closure Liquidated Damages, which are subject to Indexation, in accordance with Exhibit N.

(e) Noncompliance Points Liquidated Damages. If the LA DOTD assesses any Noncompliance Points against the Developer in accordance with Section 22 of the Technical Provisions, the LA DOTD will be entitled to assess Noncompliance Points Liquidated Damages, which are subject to Indexation, in accordance with Exhibit O.

(f) No Limitation on Other Remedies. Notwithstanding any other provisions in this Agreement, liquidated damages will not limit the LA DOTD's remedies regarding termination or indemnification under this Agreement. With respect to liquidated damages assessed under Section 8.12(c) and Section 8.12(d), the LA DOTD's right to, and imposition of, liquidated damages shall constitute the sole monetary damages that such liquidated damages are intended to compensate.

(g) Payment of Liquidated Damages. The Developer will deposit into the Proceeds Escrow Account all liquidated damages assessed under this Agreement that are not subject to the dispute resolution procedures of ARTICLE 21 monthly in arrears, not later than 30 days after the end of each calendar month.

Section 8.13 Warranties; Defective Design and Construction

(a) Warranties.

(i) The Developer will warrant that (A) the Non-Maintained Work is complete and conforms to the Contract Documents and Good Industry Practice; and (B) the Non-Maintained Work, including all materials and equipment

furnished as part of the Non-Maintained Work, is new (unless otherwise specified in Contract Documents), of good quality, and free of Defects in materials and workmanship ("Non-Maintained Work Warranty").

(ii) The Non-Maintained Work Warranty will be effective for a period of 36 months beginning on the Final Acceptance Date, unless at the LA DOTD's sole discretion, an earlier handover of a discrete element is agreed, in which case the Non-Maintained Work Warranty for that discrete element will be effective beginning on the date of earlier handover. The Non-Maintained Work Warranty will survive termination of this Agreement for the Non-Maintained Work that was in place prior to any termination.

(iii) The Developer will warrant that (A) the Handback Work is complete and conforms to the Contract Documents and Good Industry Practice; and (B) the Handback Work, including all materials and equipment furnished as part of the Handback Work, is new (unless otherwise specified in Contract Documents), of good quality, and free of Defects in materials and workmanship ("Handback Warranty").

(iv) The Handback Warranty will be effective for a period of 36 months beginning on the expiration or earlier termination of this Agreement, unless at the LA DOTD's sole discretion, an earlier handover of a discrete element is agreed, in which case the Handback Warranty for that discrete element will be effective beginning on the date of earlier handover. The Handback Warranty will survive termination of this Agreement for the Handback Work that was in place prior to any termination.

(v) If and to the extent the Developer obtains general or limited warranties from any Subcontractor in favor of the Developer with respect to design, materials, workmanship, construction, equipment, tools, supplies, software or services, the Developer will cause such warranties to be expressly extended to the LA DOTD; provided that the foregoing requirement will not apply to standard, pre-specified manufacturer warranties of mass-marketed materials, products (including software products), equipment or supplies where the warranty cannot be extended to the LA DOTD using commercially reasonable efforts. The LA DOTD will only have the right to exercise remedies under any such warranty so long as the Developer or a Lender is not pursuing remedies thereunder. To the extent that any Subcontractor warranty would be voided by reason of the Developer's negligence or failure to properly incorporate material or equipment into the Work, the Developer will be responsible for correcting such Defect.

(vi) Subcontractor warranties are in addition to all rights and remedies available pursuant to this Agreement or Law or in equity, including Claims against the Performance Security, and will not limit the Developer's liability or responsibility imposed by this Agreement or Law or in equity with respect to the

Work, including liability for Nonconforming Work, design defects, patent and latent construction defects, strict liability, breach, negligence, willful misconduct or fraud.

(b) Nonconforming Work. In the event of the occurrence of a Defect in the Design-Build Work, including in any materials and equipment furnished as part of the construction, and including any Nonconforming Work, the LA DOTD will be entitled, in addition to any other remedies:

(i) to demand that the Developer rectify, or that the Developer require a Subcontractor to rectify, such Defect at the Developer's sole expense, it being understood that, in such event, the Developer will be permitted to draw on the Performance Security provided by a Subcontractor liable for such Work if such Subcontractor fails to perform such Work, to the extent of the cost of any work performed by the Developer;

(ii) to suspend, at the Developer's sole cost and risk, any affected portion of the Design-Build Work, by delivery of a written order to the Developer, which order the LA DOTD will promptly lift after the Developer fully cures or corrects such Defects; or

(iii) to rectify such Defects itself and to obtain payment of its Allocable Costs from the Developer or, where the Subcontractor providing such Performance Security is liable for such Design-Build Work from a draw on any Performance Security furnished pursuant to this Agreement (and the Developer agrees to make such drawing upon the request of the LA DOTD); provided that the LA DOTD will not rectify such Defects itself or seek payment from the Developer or such Performance Security unless (A) it has requested rectification of the Defects and the Developer or its Subcontractor have failed to progress to rectify the Defects to the satisfaction of the LA DOTD within 15 days from receipt of the LA DOTD's request for rectification of such Defects or (B) the Developer has received approval from the LA DOTD on a Remediation Plan and Schedule, unless health and safety of the public requires more urgent action.

(c) The issuance of a suspension order pursuant to Section 8.13(b)(ii) will not affect the Developer's rights to cure or correct any Nonconforming Work giving rise to the issuance of the suspension order.

(d) With respect to any portion of the Existing Bridge that the Developer modifies as part of the Design-Build Work, the parties' rights and obligations relating to rectification of Defects pursuant to Section 8.13(b) will be limited to Defects occurring in such portion actually modified by the Developer.

Section 8.14 Performance Requirements for Design-Build Work

The Performance Requirements Tables and related provisions of Article 22 of the Technical Provisions include Performance Requirements for the Design-Build Work.

Section 8.15 Active Transportation Allowance

(a) The Active Transportation Allowance, in an amount of $10,000,000, is available to pay for certain portions of the Work described in Section 19.1 of the Technical Provisions, in accordance with this Section 8.15.

(b) The Developer acknowledges that:

(i) The amount of the Active Transportation Allowance represents the extent of the LA DOTD's contribution towards such Work; and

(ii) The Developer has no obligation to perform any such Work beyond the amount of the Active Transportation Allowance, and any such failure will not be considered a Developer Default under Section 18.01(d).

(c) Up to $1,500,000 of the Active Transportation Allowance is eligible to be used for development of design for the Work subject to the Active Transportation Allowance. Upon Approval by the LA DOTD of the Final Design for such Work, up to $8,500,000 of the Active Transportation Allowance, plus any residual from the $1,500,000 eligible for development of design, is eligible to be used for construction of the Work subject to the Active Transportation Allowance.

(d) Any facilities constructed subject to the Active Transportation Allowance shall be Non-Maintained Work.

(e) Work performed under this Section 8.15 shall be on a force account basis and comply with the requirements of Sections 2.3 and 2.4 of Exhibit G. Payments owing to the Developer under this Section 8.15 shall be made in accordance with Section 3 of Exhibit G.

ARTICLE 9.

OPERATIONS AND MAINTENANCE OF THE PROJECT

Section 9.01 General Obligations of the Developer

(a) The Developer will perform the O&M Work during the Term. During the Design-Build Period, the Developer will perform the DB Period O&M Work within the DB Limits as described in Section 1.5 of the Technical Provisions. During the Operating Period, the Developer will perform the O&M Work within the O&M Limits. At all times, the Developer will perform the O&M Work in accordance with (i) Good Industry Practice; (ii) the requirements, terms and conditions set forth in the Contract Documents; (iii) all Laws; (iv) the requirements, terms and conditions set forth in all Governmental Approvals, (v) the approved Project Management Plan and all component parts, plans and documentation prepared or to be prepared thereunder, and (vi) the Performance Requirements Tables, taking into account the Project Right of Way limits and other constraints affecting the Project.

(b) The Developer will be responsible for keeping itself informed of current Good Industry Practice.

(c) The Developer will cooperate with the LA DOTD and Governmental Authorities with jurisdiction in all matters relating to the O&M Work, including their review, inspection and oversight of the O&M Work, as contemplated herein or under Law.

Section 9.02 Developer Maintenance Obligations During the Design-Build Period

The Developer will be responsible for performing O&M Work beginning no later than 90 days after issuance of NTP and continuing during the Design-Build Period as described in Section 22.9 of the Technical Provisions (the "DB Period O&M Work").

Section 9.03 Developer Obligation to Operate and Maintain the Project After Partial Acceptance

(a) General. At all times following the Partial Acceptance Date, the Developer will be responsible for performing the O&M Work for the Project described in the Technical Provisions until the end of the Term, including the following:

(i) the management and control of traffic on the Project, including temporary partial or full closures of the Project, subject to the LA DOTD's rights to assume control as expressly provided in this Agreement;

(ii) the maintenance and repair of the Project and all systems and components thereof, which the Developer may upgrade, modify, change and replace, as applicable, in accordance with the Contract Documents;

(iii) the operation of the Project, and otherwise carrying out the collection and enforcement of tolls and other Incidental Charges in accordance with ARTICLE 5; and

(iv) the maintenance, compliance with and renewal of Governmental Approvals necessary and incidental to the foregoing activities.

(b) Handover. The Developer will handover the Non-Maintained Work to LA DOTD at Partial Acceptance, unless at LA DOTD's sole discretion, an earlier handover of a discrete element is agreed.

(c) Renewal Work. The Developer will perform the Renewal Work in accordance with Section 22.12 of the Technical Provisions.

Section 9.04 Law Enforcement Services

The parties further understand and agree that, as the Project will constitute part of the State Highway system, the Louisiana State Police and other public law enforcement agencies

with jurisdiction will have access to the Project and jurisdiction to enforce the laws and regulations of the State as they apply to the Project in accordance with L.R.S. § 48:2084.11.

Section 9.05 Motorist Assistance Program Services

The Developer acknowledges that the LA DOTD's Motorist Assistance Program will have access to the Project and jurisdiction to perform its functions as they apply to the Project.

Section 9.06 Performance Requirements for O&M Work

The Performance Requirements Tables and related provisions of Section 22 of the Technical Provisions include Performance Requirements for the O&M Work.

ARTICLE 10.

DEVELOPER PROJECT AND QUALITY MANAGEMENT; LA DOTD OVERSIGHT AND OTHER SERVICES

Section 10.01 Project and Quality Management

The Developer will provide oversight and management of the Project to control the scope, quality, cost, and on-time delivery of the Work. If the Developer is required to rectify any Nonconforming Work in accordance with Contract Documents, the parties will review the Quality Management Plan to assess and determine whether changes, including increased management and oversight efforts by the Developer, to such plan are necessary to prevent such further Nonconforming Work, as set forth in Section 2.11 of the Technical Provisions.

Section 10.02 Right to Oversee Work

(a) The LA DOTD will have the right at all times during the Term to carry out Oversight Services with respect to all aspects of the design, permitting, financing, acquisition, construction, installation, equipping, maintenance, repair, preservation, modification, operation, management and administration of the Project. The LA DOTD's Oversight Services will not impact the LA DOTD's right to rely on the Developer to perform its obligations pursuant to the Contract Documents.

(b) The Developer will fully cooperate with the LA DOTD to facilitate the LA DOTD's performance of Oversight Services. In the course of performing Oversight Services, the LA DOTD will use reasonable efforts to minimize the effect and duration of any disruption to or impairment of the Work or the Project.

Section 10.03 LA DOTD Access and Inspection

The LA DOTD, the FHWA, and their respective authorized agents will have access at all times and for any reason to enter upon, inspect, sample, measure and physically test any part of the Project or the Project Right of Way, as well as any materials, supplies, machinery and equipment to be incorporated into or used in construction, operation or maintenance of the

Project. The LA DOTD will conduct, and will cause its authorized agents to conduct, such activity in accordance with the Developer's safety procedures and manuals and in a manner that does not unreasonably interfere with normal construction activity or normal operation and maintenance of the Project. Upon the Developer's request, the LA DOTD will provide the Developer with the results of any such test or inspections subject to any protections from disclosure under applicable Law.

Section 10.04 Compensation for Oversight Services

(a) Except as otherwise expressly provided in the Contract Documents, the LA DOTD will not be compensated for its Oversight Services.

(b) Notwithstanding Section 10.04(a), the LA DOTD may increase its monitoring of the Developer or may take other appropriate action in accordance with Section 1.03 of Exhibit N and Section 1.10 of Exhibit O.

(c) The Developer will compensate the LA DOTD for all Allocable Costs incurred by the LA DOTD as a result of such increased level of monitoring or other appropriate action as provided in Section 10.04(b) from the date on which such increased level of monitoring begins until the date on which such increased level of monitoring ends; provided that the Developer will not be required to pay the LA DOTD's Allocable Costs for increased monitoring to the extent that such costs have otherwise been paid by the Developer in accordance with the Performance Requirements Tables and related provisions of Section 22 of the Technical Provisions.

(d) If the LA DOTD increases its monitoring or oversight as permitted in this Agreement, then the LA DOTD will give notice of such increased level of monitoring or other appropriate action as provided in Section 10.04(b). Within 21 days following the day on which increased monitoring activities begin, the LA DOTD will provide the Developer with a budget for its increased oversight and/or monitoring activities which sets out its total proposed costs in reasonable detail. If there is a change in circumstances in the oversight activities or the events which precipitated them occurs following the submission of the LA DOTD's initial budget, then the LA DOTD will provide a revised budget, which budget will detail any increased costs.

(e) The Developer may submit a cure plan describing specific actions the Developer will undertake to improve its performance and avoid the need for increased monitoring, which the LA DOTD may accept or reject.

Section 10.05 LA DOTD Review of Submittals

(a) General. This Section 10.05 sets forth the terms and procedures that govern all Submittals to the LA DOTD pursuant to the Contract Documents or Project Management Plan and component plans thereunder. Submittals will be submitted in accordance with and within the time frames and sequence set forth in the approved Project Schedule. The LA DOTD's rights with respect to any proposed changes to Submittals that the LA DOTD previously Approved or provided Review and Comment on shall be the same as with respect to the original Submittal.

(b) Time for Review.

(i) Whenever the LA DOTD is entitled to Review and Comment on, or to affirmatively Approve, a Submittal, the LA DOTD will have a period of 14 days to act after the date it receives an accurate and complete Submittal; provided that if any provision of the Contract Documents expressly provides a longer or shorter period for the LA DOTD to act, such period will control over the foregoing 14-day period.

(ii) The LA DOTD will have the right to return to the Developer any inaccurate or incomplete Submittals for revision, and will notify the Developer if a Submittal is inaccurate or incomplete within 7 days of receipt of such Submittal.

(iii) If at any given time the LA DOTD is in receipt of Submittals in excess of the limits set forth in Technical Provisions, the LA DOTD may reasonably extend the applicable time period for it to act to accommodate the Submittals, and no such extension will constitute a Delay Event, Compensation Event or other basis for any Claim. Whenever the LA DOTD is in receipt of excess concurrent Submittals, the Developer may establish by written notice to the LA DOTD an order of priority for processing such Submittals, and the LA DOTD will attempt to comply with such order of priority.

(iv) During any time that the LA DOTD increases its level of monitoring or takes other appropriate action as provided under Section 10.04(b), the LA DOTD may reasonably extend the applicable time period for it to act to accommodate the increased Oversight Services, and no such extension will constitute a Delay Event, Compensation Event or other basis for any Claim.

(c) LA DOTD Approvals. Whenever the Contract Documents indicate that a Submittal or other matter is subject to the LA DOTD's approval, the Developer will not proceed with the portion of the Work specifically subject to LA DOTD's approval, with the exception of Design Submittals in accordance with Section 2.4.5 of the Technical Provisions, until the Submittal is approved by the LA DOTD.

(d) LA DOTD Review and Comment. Whenever the Contract Documents indicate that a Submittal or other matter is subject to the LA DOTD's review, comment, review and comment, or similar action not entailing a prior approval and the LA DOTD delivers no comments within the applicable time period, then the Developer may proceed thereafter at its election and risk, without prejudice to the LA DOTD's rights to later provide comment regarding compliance of such Submittal with the requirements of the Contract Documents. No such failure or delay by the LA DOTD in delivering comments within the applicable time period will constitute a Delay Event, Compensation Event or other basis for any Claim. When used in the Contract Documents, the phrase "completion of the review and comment process" or similar terminology means either (i) the LA DOTD has reviewed, provided comments, and all comments have been resolved, or (ii) the applicable time period has passed without the LA DOTD providing any comments.

(e) Submittals for Information Only. Whenever the Contract Documents indicate that the Developer is to deliver a Submittal to the LA DOTD but express no requirement for the LA DOTD review, comment, disapproval, prior approval or other LA DOTD action, then the Developer is under no obligation to provide the LA DOTD any period of time to review the Submittal or obtain approval of it before proceeding with further Work, and the LA DOTD will have the right at any time to provide notice to the Developer regarding compliance of any such Submittal with the requirements of the Contract Documents.

(f) Resolution of LA DOTD Comments and Objections.

(i) The Developer will respond to, and make modifications to the Submittal as necessary to fully reflect and resolve, all comments and objections to a Submittal by the LA DOTD that are based on the following grounds: (A) the Submittal fails to comply with any applicable provision of the Contract Documents or Project Management Plan and component plans thereunder; (B) the Submittal does not meet Good Industry Practice; (C) the Developer has not provided all required information; or (D) implementation of the Submittal would result in a conflict with or violation of any Law or Governmental Approval. The foregoing does not obligate the Developer to incorporate any comments or resolve objections that would render the Submittal erroneous, defective or less than Good Industry Practice, except pursuant to a LA DOTD Change.

(ii) The LA DOTD may also provide comments and objections that reflect concerns regarding interpretation or preferences of the commenter or that otherwise do not directly relate to grounds set forth in Section 10.05(f)(i). The Developer will use reasonable efforts to accommodate or otherwise resolve any such comments or objections. However, the foregoing does not obligate the Developer to incorporate any comments or resolve objections that are not reasonable and would result in a delay to a Critical Path on the Project Schedule, in an increase in the Developer's costs or a decrease in Toll Revenues, except pursuant to a LA DOTD Change.

(iii) If the Developer does not accommodate or otherwise resolve any comment or objection, the Developer will deliver to the LA DOTD, within 30 days after receipt of the comment or objection, an explanation why modifications based on such comment or objection are not required, including the facts, analyses and reasons that support the conclusion. The Developer's failure to provide such explanation with such 30-day period will constitute the Developer's agreement to make all changes necessary to accommodate or resolve the comment or objection and the Developer's full acceptance of all responsibility for such changes without the right to claim a Delay Event, Compensation Event or other Claim. If there continues to be disagreement about any comment or objection, or the accommodation or resolution thereof, after the Developer delivers its explanation, the parties will attempt in good faith to resolve the Dispute. If the parties are unable to resolve the Dispute, it will be resolved in accordance with ARTICLE 21, except if the LA DOTD elects to issue a Directive Letter pursuant to Section

13.02(d) with respect to the disputed matter, the Developer will proceed in accordance with the LA DOTD's directive while retaining any Claim as to the disputed matter.

Section 10.06 Limitations on the Developer's Right to Rely

(a) The Developer expressly acknowledges and agrees that the LA DOTD's rights under the Contract Documents:

(i) to review, comment on, approve, disapprove and/or accept any Submittals, construction, equipment, installation, books, records, reports or statements, or documents pertaining to Developer Debt and Financing Assignments,

(ii) to review, comment on and approve or disapprove qualifications and performance of, and to communicate with, Subcontractors, and

(iii) to perform Oversight Services,

exist solely for the benefit and protection of the LA DOTD, do not create or impose upon the LA DOTD any standard or duty of care toward any Developer Party, all of which are hereby disclaimed, may not be relied upon, nor may the LA DOTD's exercise or failure to exercise any such rights be relied upon, nor may the LA DOTD's exercise or failure to exercise any such rights be asserted, against the LA DOTD by the Developer as a defense, legal or equitable, to the Developer's obligation to fulfill such standards and requirements as otherwise set forth in the Contract Documents; provided, that the foregoing will not limit the LA DOTD's liabilities or obligations for Delay Events and Compensation Events pursuant to this Agreement.

(b) To the maximum extent permitted by Law, and subject to the provisions of this Agreement, the Developer hereby releases and discharges the LA DOTD from any and all duty and obligation to cause permitting, Project Right of Way acquisition, Utility Relocation, construction, equipping, operations, maintenance, policing, renewal, replacement, traffic management or other management of or for the Project or the Project Right of Way, by the LA DOTD, to satisfy the standards and requirements set forth in the Contract Documents that have been allocated to the Developer hereunder; provided that the foregoing will not limit the LA DOTD's liability or obligations for Delay Events and Compensation Events under this Agreement.

(c) No rights of the LA DOTD described in Section 10.06(a), no exercise or failure to exercise such rights, no failure of the LA DOTD to meet any particular standard of care in the exercise of such rights, no issuance of permits or certificates of completion or acceptance and no Final Acceptance or any LA DOTD Enhancement will:

(i) relieve the Developer from performance of the Work or of its responsibility for the selection and the performance of its Subcontractors;

(ii) relieve the Developer of any of its obligations or liabilities under the Contract Documents;

(iii) be deemed or construed to waive any of the LA DOTD's rights and remedies under the Contract Documents; or

(iv) be deemed or construed as any kind of representation or warranty, express or implied, by the LA DOTD, except as expressly noted therein.

(d) Notwithstanding the provisions in Section 10.06(a) through Section 10.06(c), (i) the Notice to Proceed, Commencement of Construction Certificate, Partial Acceptance Certificate, and Final Acceptance Certificate will be binding on the LA DOTD and the Developer will be entitled to rely thereon; provided, however, that the delivery of such notice and certificates will not constitute a waiver by the LA DOTD of any breach of this Agreement by the Developer or relieve the Developer of any of its obligations under the Contract Documents; and (ii) the LA DOTD's review and approval of plans and specifications for the Project will be in accordance with L.R.S. § 2084.6.A(2).

Section 10.07 Suspension of the Work

(a) The LA DOTD will have the right and authority, without liability to the Developer, to suspend any affected portion of the Work by written order to the Developer for the following reasons:

(i) to comply with any court order or judgment issued as a result of the breach of contract, negligence or other culpable act or omission of the Developer or any other Developer Party;

(ii) to protect against a risk to the public health, safety or welfare, including to workers, other personnel or the general public from unsafe or dangerous conditions on the Project, as more particularly described in Section 2.7.11 of the Technical Provisions;

(iii) with respect to Nonconforming Work, as provided in Section 8.13(b)(ii);

(iv) failure of the Developer to comply with any Law or Governmental Approval;

(v) failure of the Developer to provide proof of required insurance coverage or to provide or maintain the required Performance Security; and

(vi) failure of the Developer to carry out and comply with Directive Letters.

(b) The LA DOTD will lift the suspension order promptly after the circumstance or condition giving rise to the suspension is remedied or no longer exists.

(c) The Developer will comply with such suspension order; provided, however, that the Developer will have the right to dispute its suspension order and liability for such suspension order by written notice to the LA DOTD, which notice will provide supporting information for the Developer's position. Unless directed otherwise by the LA DOTD after receipt of such notice, the Developer will carry out the Work to cure or remedy the circumstance or condition giving rise to the suspension as required by the LA DOTD. If it is determined in accordance with the dispute resolution procedures in ARTICLE 21 that the conditions contemplated in Section 10.07(a) were not satisfied, then the suspension order and any additional Work required by the LA DOTD will be treated as a LA DOTD Change pursuant to Section 13.02.

(d) The issuance of a suspension order will not affect the Developer's rights to cure or correct any such incidents giving rise to the issuance of the suspension order in accordance with this Agreement.

ARTICLE 11.

PROJECT ENHANCEMENTS AND SAFETY COMPLIANCE ORDERS

Section 11.01 Project Enhancements by the LA DOTD

(a) The LA DOTD will have the right from time to time, at its sole cost and expense, to design, develop, construct, operate and maintain LA DOTD Enhancements. The LA DOTD will have the right to design, develop, construct, operate and maintain LA DOTD Enhancements through one or more of the following mechanisms, as the LA DOTD selects from time to time in its sole discretion:

(i) use by the LA DOTD of its own personnel, materials and equipment;

(ii) contracting with third parties through requests for proposals, competitive bids, negotiations or any other lawful procurement process; and

(iii) authorizing and directing the Developer, at the LA DOTD's sole cost and expense, to undertake the LA DOTD Enhancements, through contracting for necessary traffic and revenue studies and all necessary planning, design, engineering, permitting, financial, right-of-way acquisition services, Utility Relocation, construction, installation, project management, operation, maintenance, repair and other work and services.

(b) If the LA DOTD authorizes and directs the Developer to undertake a LA DOTD Enhancement pursuant to Section 11.01(a)(iii), then, subject to the Developer's right to claim Developer Damages, the Developer will implement such LA DOTD Enhancement in accordance with the terms and provisions of this Agreement, and the LA DOTD Enhancement will be deemed a part of the Project and will become subject to all the terms and provisions of this Agreement as of the date the Developer is required to assume such responsibility pursuant to this Section 11.01(b).

(c) The LA DOTD will have the right to enter upon the Project and the relevant rights of way for any purpose relating to LA DOTD Enhancements under this Section 11.01; provided that the LA DOTD provides the Developer with reasonable prior notice. The LA DOTD will conduct, and will cause its authorized agents to conduct, such activity in accordance with the Developer's safety procedures and manuals and in a manner that does not unreasonably interfere with normal construction activity or normal operation and maintenance of the Project.

(d) If the LA DOTD and the Developer jointly agree to undertake LA DOTD Enhancements, the parties will execute an amendment to this Agreement as appropriate to reflect the joint LA DOTD Enhancements and payment mechanisms thereof.

Section 11.02 Safety Compliance Orders

(a) The LA DOTD may, but is not obligated to, issue Safety Compliance Orders to the Developer at any time; provided, that no Safety Compliance Order may in any event order or direct the Developer to do any act in violation of any Law. Compliance with a Safety Compliance Order by the Developer, to the extent it conflicts with another obligation of the Developer under this Agreement, will not be deemed a default by the Developer under the provisions of this Agreement.

(b) The LA DOTD will use good faith efforts to inform the Developer at the earliest practicable time of any circumstance or information relating to the Project which in the LA DOTD's reasonable judgment is likely to result in a Safety Compliance Order. Except in the case of an Emergency, the LA DOTD will consult with the Developer, prior to issuing a Safety Compliance Order concerning the risk to public or worker safety, alternative compliance measures, cost impacts and the availability of Developer resources to fund the Safety Compliance Work. The LA DOTD may, in its discretion, monitor and inspect the Project at any time and from time to time for the purposes of determining whether any circumstances exist that warrant issuance of a Safety Compliance Order and giving the LA DOTD and the Developer reports and recommendations related to such matters.

(c) If the LA DOTD issues a Safety Compliance Order, the Developer will proceed, at its sole cost and expense, with the necessary environmental, Design Work and Construction Work to carry out the Safety Compliance Order as follows:

(i) if the Safety Compliance Order is of the type described in clause (a) of the definition of that term, the Developer will proceed expeditiously; and

(ii) if the Safety Compliance Order is of the type described in clause (b) of the definition of that term, the Developer will carry it out in accordance with the procedures adopted by the LA DOTD for carrying out similar work on similar portions of the State Highways.

(d) The Developer will have the right to dispute a Safety Compliance Order by providing written notice to the LA DOTD within 21 days of the issuance of the Safety Compliance Order setting forth the Developer's Claim that no condition exists to justify the

disputed Safety Compliance Order and the Developer's estimate of impact costs, Gross Revenues and the construction schedule, if applicable. The Developer will nevertheless implement the Safety Compliance Order, but if it is finally determined in accordance with the dispute resolution procedures in ARTICLE 21 that (i) conditions warranting the Safety Compliance Order did not exist or (ii) the Developer performed the Work at issue in compliance with the Contract Documents, Good Industry Practice, Governmental Approvals, and Law, then the Safety Compliance Order will be treated as a LA DOTD Change pursuant to Section 13.02.

Section 11.03 Development of Other Facilities

(a) Subject to Section 11.01 and Section 11.04, the State Parties will have the unlimited right, at any time and without liability, to finance, develop, approve, construct, expand, improve, modify, upgrade, add capacity to, reconstruct, rehabilitate, restore, renew and replace any existing and new transportation or other facilities and exercise all of its authority to advise and recommend on transportation planning, development and funding, and to otherwise improve roadways and structures near or adjacent to the Project (collectively, the "State Projects"); provided that:

(i) the LA DOTD will use diligent efforts to keep the Developer informed of planned maintenance, renewal and replacement and repair activities of the State Projects, which can reasonably be foreseen to impact the Work or traffic on the New Bridge; and

(ii) the LA DOTD will provide to the Developer copies of and other information concerning the LA DOTD's then current maintenance, renewal and replacement and repair program of the State Projects, upon the Developer's reasonable request.

(b) The State Projects include those facilities (i) owned or operated by the State Parties, including those owned or operated by a private entity pursuant to a contract with a State Party; (ii) owned or operated by a joint powers authority or similar entity to which a State Party is a member; (iii) owned or operated by any other Governmental Authority pursuant to a contract with a State Party, including, without limitation, regional mobility authorities, joint powers authorities, parishes, and municipalities; and (iv) owned or operated by any other Governmental Authority with respect to which a State Party has contributed funds, in-kind contributions or other financial or administrative support. The foregoing rights include the ability to institute, increase or decrease tolls or other fees and charges on such facilities or modify, change or institute new or different operation and maintenance procedures.

(c) In no event will the taking of any action described in this Section 11.03 by a State Party (i) constitute a default by the LA DOTD pursuant to this Agreement or (ii) entitle the Developer to Developer Damages or other relief, except to the extent provided in Section 11.01 and Section 11.04; provided that: (A) if the construction activities associated with a State Project directly cause a material disruption to the construction or operation of the Project, then such construction activities may entitle the Developer to Developer Damages or other relief as provided in this Agreement and (B) the Developer will not be entitled to Developer Damages or other relief if such material disruption is caused by a Developer Party.

Section 11.04 Alternative Facilities

(a) The Developer Damages owing from the LA DOTD to the Developer on account of an Alternative Facility will be determined in the same manner, and subject to the same conditions and limitations, as for a Compensation Event under Section 13.01, except as otherwise set forth in this Section 11.04, and will be the sole and exclusive remedy with respect to an Alternative Facility.

(b) The Developer acknowledges that the State has a paramount public interest and duty to develop and operate whatever State Projects (including Alternative Facilities) it deems to be in the best interests of the State, and that the compensation to which the Developer may be entitled on account of Alternative Facilities is a fair and equitable remedy. Accordingly, the Developer will not have, and irrevocably waives and relinquishes, any and all rights to institute, seek or obtain any injunctive relief or pursue any action, order or decree to restrain, preclude, prohibit or interfere with the LA DOTD's rights to plan, finance, develop, construct, operate, maintain, toll or not toll, repair, improve, modify, upgrade, reconstruct, rehabilitate, restore, renew or replace Alternative Facilities; provided that the foregoing will not preclude the Developer from enforcing, respectively, its rights to compensation under this Section 11.04, or claiming any relief in respect of Compensation Events or Delay Events, if appropriate. The filing of any such action by the Developer seeking to restrain, preclude, prohibit or interfere with the LA DOTD's rights will automatically entitle the LA DOTD to recover all costs and expenses, including attorneys' fees, of defending such action and any appeals.

(c) The LA DOTD will deliver to the Developer a notice of a potential Alternative Facility within a reasonable time prior to opening of the potential Alternative Facility to traffic. Such notice will include a reasonable description of the Alternative Facility, including any right of way alignments, number of lanes, location, and other pertinent features.

(d) Within thirty days of the Developer's receipt of a notice of a potential Alternative Facility, the Developer may reasonably request additional information from the LA DOTD in respect of such Alternative Facility to prepare the Developer's notice of Claim, and the LA DOTD will promptly provide such information to the Developer. The Developer will deliver to the LA DOTD (within 90 days of the Developer's receipt of a notice of a potential Alternative Facility from the LA DOTD, or, if the Developer has reasonably requested additional information from the LA DOTD in accordance with this Section 11.04(d), within 90 days of the Developer's receipt of such additional information from the LA DOTD) notice of any Claim attributable to the potential Alternative Facility, which shall include a preliminary Traffic and Revenue Study and analysis showing the projected effects (including data on past Toll Revenues and projected future Toll Revenues with and without the potential Alternative Facility) and a reasonably detailed statement quantifying such effects. If the Developer fails to timely deliver such notice of claim, the Developer will be deemed to have irrevocably and forever waived and released any claim or right to compensation for any adverse effect on Toll Revenues attributable to the construction, operation, and use of the subject potential Alternative Facility or any Alternative Facility that is not substantially different from the potential Alternative Facility as notified to the Developer. For this purpose, an Alternative Facility will

be considered "substantially different" from the subject potential Alternative Facility if (i) the route is substantially different; (ii) the number of lanes is different; (iii) other special purpose or restricted use lanes is different or their length is substantially different; (iv) the total length is substantially different; (vii) the number of access points to the Alternative Facility is different or the design capacity of access points to the Alternative Facility is substantially different, (viii) there are other differences similar in scale or effect to the foregoing differences, (ix) the LA DOTD's notice stated that the potential Alternative Facility would be tolled and the actual facility is not tolled or is tolled at a materially lower rate for predominate classifications of vehicles than the rates described in the LA DOTD's notice, or (x) the means of collecting tolls is substantially different. At the Developer's request within such 90-day period, the LA DOTD will grant reasonable extensions of time, not to exceed 90 additional days, for the Developer to deliver the notice of Claim, so long as the Developer is making good faith, diligent progress in completing its Traffic and Revenue Study and Toll Revenue impact analysis.

(e) Unless the Developer has submitted a Claim pursuant to Section 11.04(d), the Developer will not assert, and will be deemed to have irrevocably and forever waived and released any Claim or other right to compensation for any adverse effect, past or future, on Toll Revenues attributable to the Alternative Facility upon and after the first anniversary of the opening of traffic operations thereon.

ARTICLE 12.

DELAY EVENTS

Section 12.01 Delay Event Notice and Determination

(a) Delay Event Notice.

(i) If the Developer is affected by a Delay Event, it will give written notice to the LA DOTD as promptly as possible following the date on which the Developer first became aware (or should have become aware, using all reasonable due diligence) that an event has occurred and that it is or will become a Delay Event; provided that in the case of the same Delay Event being a continuing cause of delay, only one notice will be necessary ("Delay Event Notice"). If any Delay Event Notice is delivered later than 10 days after the Developer first became aware (or should have become aware, using all reasonable due diligence) that an event has occurred and that it is or will become a Delay Event, the Developer shall be deemed to have waived the right to any relief related to the event or situation prior to the date of delivery of the Delay Event Notice. The Developer's failure to provide a Delay Event Notice within 30 days after the Developer first became aware (or should have become aware, using all reasonable due diligence) that an event has occurred and that it is or will become a Delay Event shall preclude the Developer from any relief related to the event or situation.

(ii) Such Delay Event Notice will include (i) a detailed description of the Delay Event, (ii) details of the circumstances from which the Delay Event arises, and (iii) an estimate of the duration of the delay in the performance of

obligations pursuant to this Agreement attributable to such Delay Event and information in support thereof, if known at that time. In the event the information required under clauses (ii) and (iii) of this Section 12.01(a) is not known at the time of the Delay Event Notice, such information will be included with the Developer's claim submitted in accordance with Section 12.01(b)(i). The Developer will also provide such further information relating to the Delay Event as the LA DOTD may reasonably require. The Developer will bear the burden of proving the occurrence of a Delay Event and the resulting impacts.

(b) Written Claim and LA DOTD Response.

(i) Within 21 days following the date on which the Developer delivered the Delay Event Notice, or such longer period of time as may be allowed in writing by the LA DOTD, the Developer will submit a claim in writing to the LA DOTD requesting the relief, if any, the Developer seeks as a result of the Delay Event. After submitting its written claim, the Developer will provide any additional information relating to the Delay Event that the LA DOTD may reasonably require.

(ii) If the written claim also seeks monetary relief (because the Delay Event is also a Compensation Event), the written claim must also provide the information required under Section 13.01(b)(i) and will be treated as a Compensation Event Notice subject to the remaining provisions of Section 13.01(b).

(iii) If the written claim seeks only non-monetary relief then, within 45 days of receiving the Developer's written claim, the LA DOTD will issue a written response granting or denying, in full or in part, the Developer's claim in respect of such Delay Event. If the LA DOTD fails to respond within the 45-day period, the claim will be deemed denied. Thereafter, if there is a dispute relating to the LA DOTD's response, or failure to respond, either party will be entitled to refer the matter to the dispute resolution procedures in ARTICLE 21 within 30 days of the denial or deemed denial, otherwise, the claim will be released, extinguished and forever barred.

(c) Other Requirements.

(i) The Developer's complete compliance with Section 12.01(a) and Section 12.01(b) are conditions precedent to filing a claim for a Delay Event. If for any reason the Developer fails to deliver a Delay Event Notice or claim within the applicable time period, the Developer will be deemed to have irrevocably and forever waived and released any Claim or right to time extensions or any other relief with respect to such Delay Event pursuant to this Agreement.

(ii) Upon the occurrence of any Delay Event, the Developer will promptly undertake efforts to mitigate the effects of such Delay Event, including all steps that would generally be taken in accordance with Good Industry Practice.

The Developer will promptly deliver to the LA DOTD an explanation of the measures being undertaken to mitigate the delay and other consequences of the Delay Event.

(iii) Notwithstanding the occurrence of a Delay Event, the Developer will continue its performance and observance pursuant to this Agreement of all of its obligations and covenants to be performed to the extent that it is reasonably able to do so and will use its reasonable efforts to minimize the effect and duration of the Delay Event. Without limiting the foregoing, the occurrence of a Delay Event will not excuse the Developer from timely payment of monetary obligations pursuant to this Agreement, from compliance with Law, or from compliance with the Technical Provisions, except temporary inability to comply with the Technical Provisions as a direct result of the Delay Event.

(iv) Subject to the Developer complying with the notice and claim submission requirements of this Section 12.01, a Delay Event will excuse the Developer from the performance that is prevented or delayed by the Delay Event and Noncompliance Points will not be assessed for the performance that is prevented or delayed by the Delay Event, but only to the extent set forth in Section 12.02 and Section 12.03.

Section 12.02 Delay Events Prior to Final Acceptance

A Delay Event occurring prior to Final Acceptance will excuse the Developer from performance of its obligations to perform the Work pursuant to this Agreement and Noncompliance Points will not be assessed for the performance that is prevented or delayed by the Delay Event, but only for such duration and to the extent that such obligations are directly and adversely affected by such Delay Event. In addition, prior to Final Acceptance, extensions of milestones and/or activities identified on the Project Baseline Schedule for Delay Events affecting the Work will be made based on a draft Revised Project Schedule, using the then current Project Schedule and taking into account impacts of the Delay Events on Critical Path items, in accordance with the Technical Provisions, and will extend, as applicable, the Partial Acceptance Deadline and the Final Acceptance Deadline. If the LA DOTD and the Developer cannot agree upon the extension, then either party will be entitled to refer the matter to the dispute resolution procedures in ARTICLE 21.

Section 12.03 Delay Events After Final Acceptance

A Delay Event occurring after Final Acceptance will excuse the Developer from performance of its obligations to perform the Work pursuant to this Agreement and Noncompliance Points will not be assessed for the performance that is prevented or delayed by the Delay Event, but only for such duration and to the extent that such obligations are directly and adversely affected by such Delay Event.

ARTICLE 13.

COMPENSATION EVENTS; LA DOTD CHANGES; NET COST SAVINGS; POSITIVE NET REVENUE IMPACT

Section 13.01 Compensation Events

For Delay Events that are also Compensation Events, the Developer must first comply with the requirements of Section 12.01(a), and the Developer will not be required to submit a separate Compensation Event Notice for an event that is covered by a written claim under Section 12.01(b); provided that such written claim provides the information required under Section 13.01(b)(i). For all other Compensation Events, the Developer must comply with each of the requirements of this ARTICLE 13.

(a) Compensation Event Notice.

(i) If the Developer is affected by a Compensation Event, it will give written notice to the LA DOTD as promptly as possible following the date on which the Developer first became aware (or should have become aware, using all reasonable due diligence) that an event has occurred and that it is or will become a Compensation Event; provided that in the case of the same Compensation Event being a continuing cause of delay, only one notice will be necessary ("Compensation Event Notice"). If any Compensation Event Notice is delivered later than 10 days after the Developer first became aware (or should have become aware, using all reasonable due diligence) that an event has occurred and that it is or will become a Compensation Event, the Developer shall be deemed to have waived the right to any relief related to the event or situation prior to the date of delivery of the Compensation Event Notice. The Developer's failure to provide a Compensation Event Notice within 30 days after the Developer first became aware (or should have become aware, using all reasonable due diligence) that an event has occurred and that it is or will become a Compensation Event shall preclude the Developer from any relief related to the event or situation.

(ii) Such Compensation Event Notice will include (i) a detailed description of the Compensation Event, (ii) details of the circumstances from which the Compensation Event arises, and (iii) an estimate of the amount of Developer Damages resulting from the Compensation Event and information in support thereof, if known at that time. In the event the information required under clauses (ii) and (iii) of this Section 13.01(a) is not known at the time of the Compensation Event Notice, such information will be included with the Developer's claim submitted in accordance with Section 13.01(b)(i). The Developer will also provide such further information relating to the Compensation Event as the LA DOTD may reasonably require. The Developer will bear the burden of proving the occurrence of a Compensation Event and the resulting impacts.

(b) Written Claim and LA DOTD Response.

(i) Within 21 days following the date on which the Developer delivered the Compensation Event Notice, or such longer period of time as may be allowed in writing by the LA DOTD or pursuant to Section 13.01(c)(iii)(C), the Developer will submit a claim in writing to the LA DOTD requesting the relief, if any, the Developer seeks as a result of the Compensation Event. The claim will set forth:

(A) the facts underlying the Compensation Event and its date of occurrence in detail;

(B) the amount claimed as Developer Damages; and

(C) details of the calculation thereof including a written analysis and calculation of the estimated Net Cost Impact, if any, and estimated Net Revenue Impact, if known at that time; provided that if the amount of Developer Damages and details of the calculation thereof are not available within the 21-day notice period required herein, the Developer will submit an estimate of the amount, or if known, the actual amount claimed as Developer Damages and details of the calculation thereof no later than 60 days from submission of the Compensation Event Notice.

(ii) If, for any reason, the Developer fails to deliver such written Compensation Event Notice within the foregoing time period, the Developer will be deemed to have irrevocably and forever waived and released any Claim or right to Developer Damages or other adverse effects on Gross Revenues or on costs, expenses and liabilities attributable to such Compensation Event.

(iii) After the Developer submits a Compensation Event Notice, the LA DOTD may, but is not required to, obtain, at its sole cost, (A) a comprehensive report as to the Developer's estimate of the Net Cost Impact attributable to the Compensation Event and (B) from a traffic and revenue consultant a traffic and revenue study, prepared in accordance with Good Industry Practice, analyzing and calculating the estimated Net Revenue Impact attributable to the Compensation Event. Within 45 days after receiving a Compensation Event Notice and the supporting documentation required by Section 13.01(b)(i), the LA DOTD will provide to the Developer a copy of such reports as it has elected to obtain, and the LA DOTD will issue a written response granting or denying, in full or in part, the Developer's requested relief. If the LA DOTD fails to respond within the 45-day period, the claim will be deemed denied. If the LA DOTD disagrees with the entitlement to or amount of Developer Damages claimed by the Developer, the Developer and LA DOTD will commence good faith negotiations to resolve the Dispute within 30 days after the LA DOTD's written response or deemed denial. If the Dispute cannot be resolved within such 30 days, either party may submit the Dispute for resolution pursuant to ARTICLE 21 within an additional 30 days, otherwise, the claim will be released, extinguished and forever barred.

(iv) Subject to the Developer complying with the notice and claim submission requirements of this Section 13.01, and subject to the Developer Damages determination under Section 13.01(c), a Compensation Event will entitle the Developer to Developer Damages.

(c) Developer Damages Determination.

(i) Developer Damages with respect to any Compensation Event will be calculated based on:

(A) any adverse Net Cost Impact; plus

(B) any adverse Net Revenue Impact; less

(C) any Net Cost Savings; less

(D) any positive Net Revenue Impact.

The calculation of Developer Damages will be based on the difference in the projected cost and revenue related to the Project immediately prior to the occurrence of the Compensation Event and the projected cost and revenue related to the Project after taking into account the impact of the Compensation Event, with the intention of isolating the impact of such Compensation Event.

(ii) For the purposes of calculating any Net Revenue Impact for a Compensation Event claimed by the Developer under Section 5.04(b) or Section 5.04(c):

(A) The Developer shall only be entitled to any decrease in Toll Revenues based on the average Toll Revenues actually received by the Developer in the preceding year prior to the relevant suspension of tolls or closure by a State Party, during the same months, days, and times during which the relevant suspension of tolls or closure by a State Party occurred, with normal traffic and tolling operations and with such Toll Revenues adjusted for Indexation, traffic growth for one year and adjusting for any ramp up conditions. Where a separate suspension of tolls or closure by a State Party has impacted Toll Revenues in the same period(s) in the preceding year, the parties will review Toll Revenues from the same period(s) in earlier years in which there was no suspension of tolls or closure by a State Party, with the intent of adjusting such Toll Revenues for Indexation, traffic growth and ramp up conditions to provide a comparator to the current period for which the Developer is claiming a Compensation Event;

(B) Before the first anniversary of the Partial Acceptance Date, the average toll revenues actually received by the Developer in the

preceding year will be the expected Toll Revenues included in the Initial Base Case Financial Model and/or included in the Developer's traffic and revenue forecasts in the Financial Proposal, for the same months, days, and times during which the relevant suspension of tolls or closure by a State Party occurred; and

(C) In all cases, (a) the actual volume of traffic on any or all portions of the New Bridge during such suspension of tolls or closure by a State Party shall be disregarded, and (b) nothing in this Section 13.01(c)(ii) shall impact the time periods and conditions required for a Compensation Event to be claimed by the Developer in each of Section 5.04(b) and Section 5.04(c).

(iii) For the purposes of calculating any Net Revenue Impact for a Compensation Event claimed by the Developer for an East End Improvement Construction Lane Closure:

(A) Before the first anniversary of the Partial Acceptance Date, the decrease in Toll Revenues (if any) will be calculated by deducting (y) the Toll Revenues actually received by the Developer during the East End Improvement Construction Lane Closure, from (z) the expected Toll Revenues included in the Initial Base Case Financial Model and/or included in the Developer's traffic and revenue forecasts in the Financial Proposal, for the same months, days and times during which the East End Improvement Construction Lane Closure occurred; and

(B) After the first anniversary of the Partial Acceptance Date, the decrease in Toll Revenues (if any) will be calculated by deducting (y) the Toll Revenues actually received by the Developer during the East End Improvement Construction Lane Closure, from (z) the Toll Revenues actually received by the Developer in the preceding year prior to the East End Improvement Construction Lane Closure, during the same months, days, and times during which the East End Improvement Construction Lane Closure occurred, with such Toll Revenues adjusted for Indexation, and adjusted for traffic growth for one year and adjusting for any ramp up conditions. Where a separate East End Improvement Construction Lane Closure has impacted Toll Revenues in the same period(s) in the preceding year, the parties will review Toll Revenues from the same period(s) in earlier years in which there was no East End Improvement Construction Lane Closure, with the intent of adjusting such Toll Revenues for Indexation, traffic growth and ramp up conditions to provide a comparator to the current period for which the Developer is claiming a Compensation Event;

(C) In all cases for a Compensation Event claimed by the Developer for an East End Improvement Construction Lane Closure, the

Net Revenue Impact will be calculated as an aggregate across all East End Improvement Construction Lane Closures in each Calendar Quarter, and Developer shall deliver a written claim pursuant to Section 13.01(b) within 21 calendar days of the end of the Calendar Quarter where an East End Improvement Construction Lane Closure has occurred in such Calendar Quarter. If an East End Improvement Construction Lane Closure occurs across multiple Calendar Quarters, the Developer shall submit a separate claim for each such Calendar Quarter during which an East End Improvement Construction Lane Closure has occurred;

(D) For each Calendar Quarter before the first anniversary of the Partial Acceptance Date, the Developer will aggregate all sums calculated under Section 13.01(c)(iii)(A) for all East End Improvement Construction Lane Closures during such Calendar Quarter. If the aggregate of such sums is:

(1) less than or equal to 15% of the expected Toll Revenues included in the Initial Base Case Financial Model and/or included in the Developer's traffic and revenue forecasts in the Financial Proposal, for the same months, days and times during which the East End Improvement Construction Lane Closures occurred in such Calendar Quarter, the Developer shall not be entitled to any adverse Net Revenue Impact and any such decrease in Toll Revenues for such Calendar Quarter shall be absorbed by the Developer at its sole cost and risk;

(2) greater than 15% of the expected Toll Revenues included in the Initial Base Case Financial Model and/or included in the Developer's traffic and revenue forecasts in the Financial Proposal, for the same months, days and times during which the East End Improvement Construction Lane Closures occurred in such Calendar Quarter, such amount above such 15% shall be included as an adverse Net Revenue Impact in the calculation of Developer Damages for such Compensation Event in such Calendar Quarter; and

(E) For each Calendar Quarter after the first anniversary of the Partial Acceptance Date, the Developer will aggregate all sums calculated under Section 13.01(c)(iii)(B) for all East End Improvement Construction Lane Closures during such Calendar Quarter. If the aggregate of such sums is:

(1) less than or equal to 15% of the Toll Revenues actually received by the Developer during such Calendar Quarter in the preceding year (or actually received by the Developer during an earlier period where the second sentence to Section

13.01(c)(iii)(B) applies), in each case calculated based on the same months, days and times during which the East End Improvement Construction Lane Closures occurred in such Calendar Quarter, with such Toll Revenues adjusted for Indexation, and adjusted for traffic growth for one year and adjusting for any ramp up conditions, the Developer shall not be entitled to any adverse Net Revenue Impact and any such decrease in Toll Revenues shall be absorbed by the Developer at its sole cost and risk;

(2) greater than 15% of the Toll Revenues actually received by the Developer during such Calendar Quarter in the preceding year, calculated based on the same months, days and times during which the East End Improvement Construction Lane Closures occurred in such Calendar Quarter, with such Toll Revenues adjusted for Indexation, and adjusted for traffic growth for one year and adjusting for any ramp up conditions, such amount above such 15% shall be included as an adverse Net Revenue Impact in the calculation of Developer Damages for such Compensation Event in such Calendar Quarter.

(iv) The Developer Damages will be net of all applicable insurance deductibles and self-insured retentions, as well as insurance proceeds payable to and collectable by the Developer or its Subcontractors associated with the Compensation Event (or that would have been payable to the Developer or its Subcontractors but for the failure by the Developer or its Subcontractors to comply with the insurance requirements set forth in ARTICLE 16 or diligently pursue recovery).

(v) During the 45-day period referred to in Section 13.01(b)(iii), the Developer will conduct all discussions and negotiations with the LA DOTD to determine any Developer Damages and will share with the LA DOTD all cost and pricing data, documents and information pertaining thereto, on an Open Book Basis. As part of such negotiations, the parties will continue to refine and exchange, on an Open Book Basis, plans, drawings, configurations and other information related to the Compensation Event, including traffic and revenue data, information, analyses and studies and financial modeling and quantifications of projected Net Cost Impacts, Net Revenue Impacts or Net Cost Savings, if any.

(vi) The Developer will take all steps reasonably necessary to mitigate the amount of the Developer Damages attributable to, and other consequences of, any Compensation Event, including all steps that would generally be taken in accordance with Good Industry Practice, including filing a timely claim for insurance and pursuing such claims.

(vii) If the Developer and the LA DOTD are unable to agree upon the amount of the Developer Damages within 120 days after the delivery of the

Compensation Event Notice, then either party, by written notice to the other party, may terminate the negotiations and request the Dispute be resolved in accordance with ARTICLE 21, provided, that the LA DOTD will pay the Developer any undisputed portion of the Developer Damages notwithstanding the Dispute.

(d) Compensation Event Payment. Following a determination of the Developer Damages pursuant to Section 13.01(c), the LA DOTD will compensate the Developer for such Developer Damages in such manner as agreed upon by the parties in writing or as may be determined through the dispute resolution procedures set forth in ARTICLE 21; provided, that:

(i) in the case of any lump sum payment of the Developer Damages or any other payment schedule that differs from the projected timing of the Developer Damages, the timing and amount of any Developer Damages will be determined using the appropriate risk adjusted discount rate(s), as agreed by the parties;

(ii) the amount and timing of payment of Developer Damages related to a Compensation Event will take into account the ability of the Developer to have funds available in such time and in such amounts as are required to make current payments to third parties (such as debt-service costs in relation to Developer Debt) in respect of any portion of Net Cost Impact related to such Compensation Event; and

(iii) in the case of any payment method chosen other than an up-front lump sum payment or a payment that is based on the projected timing and amounts of the Developer Damages, the payment method will yield an amount that will be equal to the present value of a lump sum payment, using an appropriate risk adjusted discount rate(s), as agreed by the parties.

(e) Release of Claims. As a condition precedent to the LA DOTD's obligation to compensate any portion of the Developer Damages, following a determination of the Developer Damages, the Developer will execute a full, unconditional, irrevocable release, in form reasonably acceptable to the LA DOTD, of any Claims, Losses or other rights to compensation or other monetary relief associated with such Compensation Event, except for (A) the Claim and right to the subject Developer Damages, (B) the Developer's right to non-monetary relief for a Delay Event and (C) the right to terminate this Agreement in accordance with ARTICLE 20 and to receive any applicable termination compensation.

(f) Following the calculations pursuant to Section 13.01(c)(i), the Developer will incorporate the proposed Developer Damages into the proposed Financial Model Update and will provide such proposed Financial Model Update to the LA DOTD pursuant to ARTICLE 6.

Section 13.02 LA DOTD Changes

(a) LA DOTD's Right to Issue Change Orders. The LA DOTD may, at any time during the Term, authorize and/or require, pursuant to a Change Order, changes in the Work or in the terms and conditions of the Technical Provisions; provided, however, that the LA DOTD has no right to require any change that:

(i) would result to a material and adverse health or safety issue;

(ii) would cause the Developer to violate the terms or conditions of any Project Financing Agreement;

(iii) would cause the Developer to violate Law;

(iv) would cause the Developer to violate an existing Governmental Approval in a manner that cannot be resolved through revision, modification, amendment, supplement, renewal, reevaluation or extension to such Governmental Approval; or

(v) would cause an insured risk of the Developer to become uninsurable, as reasonably demonstrated by the Developer and agreed by the LA DOTD.

(b) Request for Change Proposal.

(i) If the LA DOTD desires to initiate a LA DOTD Change, then the LA DOTD will issue a Request for Change Proposal. The Request for Change Proposal will set forth the nature, extent and details of the proposed LA DOTD Change.

(ii) Within 30 days after the Request for Change Proposal, or such longer period as mutually agreed by the parties, the Developer will provide the LA DOTD with a written response ("Change Proposal"), as to whether, in the Developer's opinion, the LA DOTD Change constitutes a Compensation Event, and if so, (A) a detailed assessment of the adverse Net Revenue Impacts and Net Cost Impacts, and any positive Net Revenue Impacts and Net Cost Savings, to the extent known at that time, (B) the effect of the proposed LA DOTD Change on the Developer's performance of its obligations pursuant to this Agreement, to the extent known at the time, (C) the proposed amount and method of payment for the LA DOTD Change and a Financial Model Update and (D) a draft Revised Project Schedule, if applicable.

(iii) Within 30 days following the delivery of the Change Proposal, the Developer and the LA DOTD will exercise good faith efforts to negotiate a mutually acceptable Change Order. If the LA DOTD issues a Request for Change Proposal pursuant to Section 13.02(b)(i) and ultimately determines not to execute an associated Change Order, the LA DOTD will pay the Developer for the

Developer's Allocable Costs for preparing the required Change Proposal, provided that such Change Proposal complies with the requirements set forth in Section 13.02(b)(ii).

(iv) Payments owing to the Developer under a Change Order shall be made in accordance with Section 3 of Exhibit G.

(c) Developer Performance of LA DOTD Change. The Developer will perform the work required to implement the LA DOTD Change in a timely manner; provided that:

(i) a Change Order setting forth, among other things, the adjusted scope of the Work and adjustments to the Project Baseline Schedule and the Technical Provisions, if applicable, will have been mutually agreed upon between the LA DOTD and the Developer and issued by the LA DOTD;

(ii) the LA DOTD and the Developer (if applicable) will have identified sufficient funds that may be made available to the Developer to perform the work required to implement the LA DOTD Change;

(iii) all necessary Governmental Approvals to commence the Work required to implement the LA DOTD Change have been obtained; and

(iv) unless the Developer is responsible for performing right of way acquisition services as part of such LA DOTD Change, all necessary rights of way to implement the LA DOTD Change have been obtained and are available.

(d) Directive Letter.

(i) The LA DOTD may, at any time and for any reason other than the exceptions set forth in Sections 13.02(a)(i) through (a)(v), issue a Directive Letter to Developer if the LA DOTD desires any change in the Work or in the event of any Dispute regarding the scope of Work. Such Directive Letter will include any changes to the Technical Provisions, if applicable, necessary to proceed with the Work covered by the Directive Letter.

(ii) Upon receipt of a Directive Letter under Section 13.02(d)(i), the Developer will implement and perform the Work in question as directed by the LA DOTD.

(iii) The parties will execute a Change Order to memorialize the terms of the Directive Letter. To the extent there are any Disputes related to any Directive Letter issued under this Section 13.02(d), such Disputes will be subject to the dispute resolution procedures set forth in ARTICLE 21. Upon conclusion of such dispute resolution procedures, the parties will then execute such Change Order.

(e) Payments Pending Directive Letter. If the LA DOTD issues a Directive Letter to the Developer pursuant to Section 13.02(d), the Developer will continue to perform the Work and LA DOTD will continue to satisfy its payment obligations to Developer pending the final resolution of any dispute or disagreement between Developer and LA DOTD pursuant to the dispute resolution procedures set forth in ARTICLE 21.

Section 13.03 Net Cost Savings or Positive Net Revenue Impact

(a) If the LA DOTD believes a Net Cost Saving or positive Net Revenue Impact exists or will arise from a LA DOTD Change, the LA DOTD will deliver to the Developer written notice thereof. The notice will set forth (i) the date and details of the LA DOTD Change, (ii) a preliminary estimate, if then known, of the amount of the Net Cost Saving or positive Net Revenue Impact and (iii) a brief, preliminary written analysis and calculation thereof. Such notice will be brought within 30 days after a claim for Developer Damages or, if no claim is brought by the Developer for Developer Damages, within 30 days after the occurrence of the event or circumstance giving rise to the claim for Net Cost Saving or positive Net Revenue Impact.

(b) If the LA DOTD believes that a LA DOTD Change will result in a Net Cost Saving or positive Net Revenue Impact, the parties will follow the terms and procedures set forth in Section 13.01 as if they applied to the determination of the Net Cost Saving or positive Net Revenue Impact.

(c) Following a determination of the Net Cost Saving or positive Net Revenue Impact by mutual agreement or the dispute resolution procedures set forth in ARTICLE 21, the LA DOTD will be entitled to 100% of the applicable Net Cost Savings and/or positive Net Revenue Impact. The parties will select one or any combination of the following methods of compensation:

(i) through monthly payments of the Net Cost Saving or positive Net Revenue Impact in accordance with a written payment schedule determined by mutual agreement or through the dispute resolution procedures set forth in ARTICLE 21;

(ii) by a lump sum payment, payable as determined by mutual agreement or through the dispute resolution procedures set forth in ARTICLE 21; or

(iii) in such other manner as agreed upon by the parties in writing.

Section 13.04 Developer Change Requests

(a) The Developer may submit to the LA DOTD a request in writing (a "Developer Change Request") that the LA DOTD approve changes to the requirements of the Technical Provisions.

(b) The Developer Change Request shall include (A) a detailed assessment of the adverse Net Revenue Impacts and Net Cost Impacts, and any positive Net Revenue Impacts and Net Cost Savings, (B) the effect of the requested change on the Developer's performance of its obligations pursuant to this Agreement, (C) the proposed amount and method of payment for the requested change and a Financial Model Update, and (D) a draft Revised Project Schedule, if applicable.

(c) If the requested change, combined with previous requested changes, evidences a delay equal to 10% or more of the days remaining until the Partial Acceptance Deadline or Final Acceptance Deadline, as applicable, and if the LA DOTD so requests, the Developer shall provide evidence that consent of the Lenders and sureties for the request has either been obtained or is not required, either by providing written consent from the Lenders and sureties or a certification from the Developer that such consent is not required.

(d) The LA DOTD, in its sole discretion, may Approve or reject any Developer Change Request. If the LA DOTD is prepared to accept a Developer Change Request, the Developer and the LA DOTD will exercise good faith efforts to negotiate a mutually acceptable Change Order. Payments owing to the Developer under such Change Order shall be made in accordance with Section 3 of Exhibit G.

(e) If the Developer Change Request identifies a Net Cost Saving or positive Net Revenue Impact, the LA DOTD will be entitled to 50% of the applicable Net Cost Savings and/or positive Net Revenue Impact identified in the Developer Change Request. The Change Order negotiated by the parties in accordance with Section 13.04(d) will identify one or any combination of the following methods of compensation:

(i) through monthly payments of the Net Cost Saving or positive Net Revenue Impact;

(ii) by a lump sum payment; or

(iii) in such other manner as agreed upon by the parties in writing.

ARTICLE 14.

INDEMNIFICATION

Section 14.01 Indemnities of the Developer

The Developer will defend, hold harmless, and fully indemnify the LA DOTD and its officers and employees from any and all suits, actions, claims, fines, costs, and expenses related thereto asserted by a third party (including any Governmental Authority) for injuries or damages (or any legal non-compliances) sustained by any person or property to the extent caused by:

(a) any failure by the Developer to comply with, observe or perform any of the covenants, obligations, agreements, terms or conditions in the Contract Documents or, any breach by the Developer of its representations or warranties set forth therein;

(b) any misconduct, negligence, error, omission or fault of a Developer Party in connection with, or in performance of, the Project;

(c) any patent or copyright infringement or other improper appropriation or use by a Developer Party of trade secrets, patents, proprietary information, know-how, trademarked or service marked materials, equipment, devices or processes, copyright rights or inventions in connection with the Project, except to the extent the LA DOTD mandates the use of the infringing item; or

(d) claims arising or amounts recovered under the Worker's Compensation Act or other Law in respect of a Developer Party.

Section 14.02 Right to Withhold and Retain Amounts Due

Any money due to the Developer under this Agreement may be retained and withheld by the LA DOTD as considered necessary by the LA DOTD to satisfy the Developer's indemnity obligations under this Agreement, or in case no money is due, any applicable surety bond may be held until such suits, actions, or claims for injuries or damages have been settled and suitable evidence to that effect furnished to the LA DOTD, except that money due to the Developer will not be withheld when the Developer produces satisfactory evidence that adequate insurance to cover such suits, actions, or claims for injuries or damages are in effect.

Section 14.03 Defense and Indemnification Procedures

(a) Where the Developer or LA DOTD wishes to exercise a right of indemnity provided in this Agreement (the "Indemnitee") against the other party (the "Indemnifying Party") in relation to a Third-Party Claim, the Indemnitee shall give notice of such Third-Party Claim to the Indemnifying Party as soon as reasonably practicable, setting out the full particulars of such Third-Party Claim.

(b) Subject to the rights of insurers under the insurance policies required by this Agreement, the Indemnifying Party may, at its own expense, appoint its own counsel and conduct and control the Third-Party Claim, including its settlement, and the Indemnitee shall not, to the extent that the Indemnifying Party has elected to conduct and control the relevant Third-Party Claim, take any action to settle or prosecute the Third-Party Claim.

(c) In the event the Indemnifying Party assumes the defense of a Third-Party Claim, the Indemnitee shall immediately deliver to the Indemnifying Party all original notices and documents (including court papers) received by the Indemnitee in connection with the Third-Party Claim.

(d) The Indemnifying Party shall, if it wishes to have conduct of any Third-Party Claim, reimburse the Indemnitee for any cost or liability arising out of the conduct of the Third-Party Claim by the Indemnifying Party, and shall fully and regularly inform the Indemnitee of the progress of the defense and of any settlement discussions in respect of a Third-Party Claim.

(e) The Indemnitee shall at all times take all reasonable steps to minimize and mitigate any loss for which the Indemnitee is entitled to exercise a right of indemnity against the Indemnifying Party pursuant to this Agreement.

(f) Each of the Indemnitee and the Indemnifying Party shall cooperate with all reasonable requests of the other made in respect of any Third-Party Claim.

(g) Notwithstanding anything to the contrary herein, neither the Indemnitee nor the Indemnifying Party shall enter into any settlement in respect of a Third-Party Claim without the other party's written consent.

(h) The assumption of the defense of a Third-Party Claim by the Indemnifying Party shall not be construed as an acknowledgment that the Indemnifying Party is liable to indemnify the Indemnitee in respect of the Third-Party Claim, nor shall it constitute a waiver by the Indemnifying Party of any defenses it may assert against any Indemnitee's claim for indemnification.

(i) Should the Indemnifying Party assume the defense of a Third-Party Claim, the Indemnifying Party shall not be liable to the Indemnitee for any legal expenses subsequently incurred by such Indemnified Party in connection with the analysis, defense, or settlement of the Third-Party Claim.

(j) In the event that it is ultimately determined that the Indemnifying Party is not obligated to indemnify, defend, or hold harmless the Indemnitee from and against the Third-Party Claim, the Indemnitee shall reimburse the Indemnifying Party for any and all costs and expenses (including attorneys' fees and costs of suit) and any losses incurred by the Indemnifying Party in its defense of the Third-Party Claim with respect to such Indemnitee.

ARTICLE 15.

HAZARDOUS MATERIALS

Section 15.01 General Obligations

(a) Except as otherwise specified in Section 15.02 and Section 15.03, the Developer will be responsible for the management, treatment, handling, storage, monitoring, remediation, removal, transport and/or disposal of any Hazardous Materials that are discovered on, in or under the Project Right of Way on which the Work is performed.

(b) If the Developer encounters any Hazardous Materials that must be managed, treated, handled, stored, monitored, remediated, removed, transported or disposed of, in accordance with Law (collectively, "Remedial Actions"), then the Developer will promptly notify the LA DOTD of the Hazardous Materials and any obligation to notify State or Federal Agencies under applicable Law. The Developer will thereafter proceed with such Remedial Actions in accordance with the Hazardous Materials and Wastes Management Plan.

(c) The Developer will obtain all Governmental Approvals relating to Remedial Actions. Subject to Section 15.02 and Section 15.03, the Developer will be solely responsible for compliance with such Governmental Approvals and applicable Environmental Laws concerning or relating to Hazardous Materials. In carrying out Remedial Actions that are compensable by the LA DOTD pursuant to this Agreement, the Developer will not take any steps or actions which impair the LA DOTD's potential Claims for indemnity and contribution, statutory or otherwise.

(d) Except as provided in Section 15.02 and Section 15.03, the Developer will bear all costs and expenses of preparing and complying with the Hazardous Materials and Wastes Management Plan, of complying with Law and obtaining and complying with Governmental Approvals pertaining to Hazardous Materials, and otherwise of carrying out Remedial Actions.

(e) Notwithstanding any other provision of the Contract Documents, no compensation or time extension shall be allowed with respect to lead, lead-containing materials, asbestos, or asbestos-containing materials.

Section 15.02 Ethylene Dichloride (EDC)

(a) Except as provided in Section 15.02(b), the LA DOTD will defend, hold harmless, and fully indemnify the Developer from any and all suits, actions, claims, fines, costs, and expenses related thereto asserted by a third party (including any Governmental Authority) for injuries or damages (or any legal non-compliances) sustained by any person or property as a result of an EDC Event.

(b) The Developer shall be responsible for any Third-Party Claims related to an EDC Event if the Developer fails to comply with: (i) the parameters set forth in Sections 3.4.11 or 3.4.12 of the Technical Provisions pertaining to wells located within EDC Area 1 or EDC Area 2; (ii) the parameters set forth in Section 13.3.1.21 of the Technical Provisions; or (iii) unless such failure did not cause an EDC Event, the requirements of the Contract Documents. In such instance, the Developer shall indemnify the LA DOTD with respect to such Third-Party Claims in accordance with Section 14.01.

Section 15.03 Generator and Arranger Status

(a) As between the Developer and the LA DOTD, with respect to Hazardous Materials introduced, released, or brought onto the Project Right of Way by a Developer Party and Hazardous materials that migrate into, onto, or under the Project Right of Way where the source of such Hazardous Materials is a Developer Party, the Developer shall be responsible for and deemed the sole generator under 40 CFR Part 262 and the sole arranger under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

(b) As between the Developer and the LA DOTD, with respect to Pre-Existing Hazardous Materials and Third-Party Hazardous Materials, the LA DOTD shall be responsible for and deemed the sole generator under 40 CFR Part 262 and the arranger under

Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), subject to the following conditions:

(i) if a court of competent jurisdiction identifies and ascribes generator status under 40 CFR Part 262 and/or arranger status under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) to a third party for any such Pre-Existing Hazardous Materials or Third-Party Hazardous Materials, then, as between the Developer and the LA DOTD, the LA DOTD shall no longer be responsible for or deemed the sole generator under 40 CFR Part 262 or arranger under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for such Hazardous Materials; and

(ii) if such Hazardous Materials are not managed, treated, handled, stored, remediated, removed, transported (where applicable), and disposed of by the Developer or Developer Party strictly in accordance with the Contract Documents, the Hazardous Materials and Wastes Management Plan (HM/WMP), all applicable Laws, and Good Industry Practice, then, as between the Developer and the LA DOTD, the Developer shall be responsible for and deemed the sole generator under 40 CFR Part 262 and arranger under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for such Hazardous Materials.

(c) The status ascribed in Section 15.03(b) shall not preclude or limit any rights or remedies that the LA DOTD may otherwise have against the Developer, a Developer Party, third parties and/or prior owners, lessees, licensees, and occupants of the Project Right of Way.

(d) As between the Developer and the LA DOTD, with respect to all Hazardous Materials, the Developer or appropriate Developer Party shall be the transporter under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

ARTICLE 16.

INSURANCE; PERFORMANCE SECURITY

Section 16.01 Insurance Coverage Required

(a) Required Insurance for the Design-Build Period. The Developer will provide and maintain at its own expense, or cause the Design-Build Contractor to provide and maintain, for the Design-Build Period the insurance coverages specified in Section 1 of Exhibit H.

(b) Required Insurance for Operating Period. The Developer will provide and maintain at its own expense, or, if the Developer is not self-performing the O&M Work, cause

the O&M Contractor to provide and maintain, for the Operating Period, the insurance coverages specified in Section 2 of Exhibit H.

Section 16.02 Verification of Coverage

(a) Policies.

(i) The Developer acknowledges that evidence of all required insurance has been delivered to the LA DOTD as of the Agreement Date.

(ii) The LA DOTD will have no duty to pay or perform under this Agreement until such certificate(s) and endorsements, in compliance with all insurance requirements of this ARTICLE 16, have been provided. Upon the LA DOTD's request, certified, true, and exact copies of each of the insurance policies (including renewal policies) required under this ARTICLE 16 must be provided to the LA DOTD.

(b) Renewal Policies. The Developer will promptly deliver to the LA DOTD a certificate of insurance and copies of all endorsements with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverages for the terms specified herein. Such certificate must be delivered not less than 5 days prior to the expiration date of any policy. Evidence of payment of the premium therefor must be provided to the LA DOTD no later than 45 days after providing such certificate. If requested by the LA DOTD from time to time, certified duplicate copies of the renewal policy must also be provided.

Section 16.03 Endorsement and Waivers

All insurance policies required to be provided will contain or be endorsed to comply with the following provisions, provided that, (i) for the Workers' Compensation coverage required under Sections 1(a) and 2(a) of Exhibit H, only Section 16.03(d) and Section 16.03(f) are applicable, (ii) for the professional liability coverage required under Sections 1(g) and 2(i) of Exhibit H, Section 16.03(b) and Section 16.03(f) are not applicable, and (iii) for the builder's risk and delayed start up coverage required under Section 1(e) of Exhibit H and for the property and business interruption coverage required under Section 2(f) of Exhibit H, Section 16.03(c) is not applicable:

(a) For claims covered by the insurance specified herein, such insurance coverage must be primary insurance with respect to the insureds, the LA DOTD, and their respective members, directors, officers, employees, agents, and consultants. Any insurance or self-insurance maintained by the State of Louisiana or the LA DOTD shall be excess and non-contributory of any other insurance policies required under this Agreement;

(b) Any failure on the part of a named insured to comply with reporting provisions or other conditions of the policies, any breach of warranty, any action or inaction of a named insured or others or any change in ownership of all or any portion of the Project must not affect coverage provided to the other insureds or additional insureds (and their respective members, directors, officers, employees, agents, and consultants);

(c) The insurance must apply separately to each insured and additional insured against whom a claim is made or suit is brought, except with respect to the aggregate limits of the insurer's liability;

(d) Each policy must be endorsed to state that coverage will not be suspended, voided, canceled, materially modified, or reduced in coverage or in limits other than as the result of claim payments except after 30 days' prior written notice (10 days in the event of non-payment of premium) by certified mail, return receipt requested, has been given to the LA DOTD. Such endorsement must not include any limitation of liability of the insurer for failure to provide such notice;

(e) All endorsements adding additional insureds to required policies must be on a form providing additional insureds with coverage for "completed operations" where applicable;

(f) Each policy must provide coverage on an "occurrence" basis and not a "claims made" basis (with the exception of those policies allowed to be made on a claims-made basis); and

(g) The Developer shall include all Subcontractors as insureds under the Commercial General Liability insurance policy or shall ensure that each Subcontractor maintain its own Commercial General Liability insurance policy consistent with the requirements set forth in this ARTICLE 16 and Exhibit H. The LA DOTD reserves the right to request evidence of such Subcontractor insurance at any time.

Section 16.04 Commercial Unavailability of Required Coverages

If, through no fault of the Developer or the applicable Subcontractor providing insurance coverage, any of the coverages required under this ARTICLE 16 (or any of the required terms of such coverages, including policy limits) become unavailable or are available only with commercially unreasonable premiums, the LA DOTD will work with the Developer to find commercially reasonable alternatives to the required coverages comparable to those contemplated in Section 16.01 as is commercially reasonable under then-existing insurance market conditions and that are mutually agreeable to the parties. The Developer will not be entitled to any additional compensation for increased costs resulting from the unavailability of coverage and the requirement to provide acceptable alternatives.

Section 16.05 Prosecution of Claims

Unless otherwise directed by the LA DOTD in writing, the Developer will be responsible for reporting and processing all potential claims by the LA DOTD or the Developer against the insurance required to be provided under this ARTICLE 16. The Developer agrees to report timely to the insurer(s) any and all matters which may give rise to an insurance claim and to promptly and diligently pursue any and all insurance claims on behalf of the LA DOTD, whether for defense or indemnity or both. The LA DOTD agrees to promptly notify the Developer of the LA DOTD's incidents, potential claims, and matters which may give rise to an insurance claim

by the LA DOTD, to tender its defense or the claim to the Developer, and to cooperate with the Developer as necessary for the Developer to fulfill its duties under this Section 16.05.

Section 16.06 Failure to Obtain Insurance Coverage; Disclaimer

(a) If the Developer or any Subcontractor fails to provide insurance as required under this ARTICLE 16, the LA DOTD will have the right, but not the obligation, to purchase such insurance or to suspend the Developer's right to proceed with the Work until proper evidence of insurance is provided. Any amounts paid by the LA DOTD will, at the LA DOTD's sole option, be deducted from amounts payable to the Developer or reimbursed by the Developer upon demand, with interest thereon from the date of payment by the LA DOTD to the reimbursement date. Nothing herein will preclude the LA DOTD from exercising any other rights and remedies under this Agreement as a result of the failure of the Developer or any Subcontractor to satisfy its insurance obligations under this ARTICLE 16.

(b) The Developer and each Subcontractor has the responsibility to make sure that their insurance programs fit their particular needs, and it is their responsibility to arrange for and secure any insurance coverage which they deem advisable, whether or not specified or required under this Agreement.

Section 16.07 Performance Security

(a) Design-Build Performance Security.

(i) The Developer will furnish, or require the Design-Build Contractor to furnish, to the LA DOTD: (A) a performance bond in the amount of 50% of the value of the Design-Build Work; and (B) a payment bond in the amount of 50% of the value of the Design-Build Work, securing the performance of the Design-Build Work in substantially the form set forth in Exhibit I ("Design-Build Performance Security").

(ii) If the Design-Build Performance Security is furnished by the Design-Build Contractor, the Design-Build Performance Security will name the LA DOTD as an additional obligee in accordance with the form provided in Exhibit I.

(iii) Multiple Design-Build Performance Security may be furnished; provided that: (A) each Subcontractor furnishing the Design-Build Performance Security has a direct Subcontract for the Design-Build Work with the Developer or with an Affiliate of an Equity Member; (B) each Design-Build Performance Security names the LA DOTD as an additional obligee in accordance with the form provided in Exhibit I; and (C) the Design-Build Performance Security in the aggregate amounts to 50% of the value of the Design-Build Work for the performance bonds and payment bonds.

(b) O&M Performance Security. During the Operating Period, the Developer will furnish, or require the O&M Contractor to furnish, to the LA DOTD a

performance bond to secure the Developer's obligations with respect to the O&M Work and a payment bond to secure the Developer's obligations with respect to the O&M Work in substantially the form set forth in Exhibit J ("O&M Performance Security") and in accordance with the following:

(i) The O&M Performance Security will be in the amount equal to the Developer's annual budgeted amount of the Renewal Work and Routine Maintenance with an expiration date one year after the date of issuance. No later than 30 days prior to the expiration date of the O&M Performance Security, the Developer will, or will require the O&M Contractor, to renew or replace the O&M Performance Security and deliver the same to the LA DOTD.

(ii) If the Developer fails to renew or replace the O&M Performance Security in the amount and by the date required under this Agreement, the LA DOTD may draw on such O&M Performance Security and hold such amounts for the sole purpose of securing the Developer's obligations as contemplated by this Section 16.07(b), and such failure shall not be a Developer Default under Section 18.01(l).

(iii) If the O&M Performance Security is furnished by the O&M Contractor, the O&M Performance Security will name the LA DOTD as an additional obligee in accordance with the form provided in Exhibit J.

(iv) In lieu of the performance bond required under this Section 16.07(b), the Developer may furnish an irrevocable letter of credit using the form set forth in Exhibit R, or such other form reasonably acceptable to the LA DOTD. The letter of credit will be in an amount and for the duration set forth in Section 16.07(b)(i). No later than 30 days prior to the expiration date of the letter of credit, the Developer will renew or replace the letter of credit and deliver the same to the LA DOTD. If the Developer fails to renew or replace the letter of credit within the time required, the LA DOTD may draw on such O&M Performance Security and hold such amounts for the sole purpose of securing the Developer's obligations as contemplated by this Section 16.07(b), and such failure shall not be a Developer Default under Section 18.01(l). The LA DOTD will be the named beneficiary under the letter of credit.

(c) Additional Bonding Requirements.

(i) The Design-Build Performance Security and O&M Performance Security will be issued by a surety or insurance company that is in good standing and currently licensed to write surety bonds in the State of Louisiana by the Louisiana Department of Insurance and conform to the requirements of L.R.S. § 48:255(D).

(ii) The LA DOTD's remedies against any Design-Build Performance Security or O&M Performance Security will not be conditioned on prior resort to any other security of, or provided for the benefit of, any Developer Party. The

LA DOTD agrees to forebear from exercising remedies under any Design-Build Performance Security or O&M Performance Security so long as the Developer, a Lender or any other obligee under the Design-Build Performance Security or O&M Performance Security is diligently pursuing remedies thereunder; provided, however, that in no event shall such forbearance by the LA DOTD exceed 330 days from the date that any obligee calls upon the Design-Build Performance Security or O&M Performance Security.

(iii) The Developer will obtain and furnish all Design-Build Performance Security and O&M Performance Security and replacements thereof at its sole cost and expense, and will pay all charges imposed in connection thereof.

(iv) In the event the LA DOTD makes a permitted assignment of its rights and interests under this Agreement, the Developer will cooperate so that concurrently with the effectiveness of such assignment, either replacement Design-Build Performance Security or O&M Performance Security for, or appropriate amendments to, the outstanding Design-Build Performance Security or O&M Performance Security will be delivered to the assignee naming the assignee as replacement obligee, at no cost to the Developer.

(v) With respect to payment bond claims under either the Design-Build Performance Security or the O&M Performance Security, the LA DOTD and Developer agree to be bound by and to comply with the requirements and procedures set forth in L.R.S. §§ 48:256.6 through 48:256.12, and the Developer agrees to include in its Subcontracts a requirement that all eligible payment bond claimants be bound by and comply with the requirements and procedures set forth in L.R.S. §§ 48:256.6 through 48:256.12.

(d) Guarantees. In the event the Developer, any Affiliate or any Lender receives from any Person a guaranty of payment or performance of any obligation(s) for the DB Work or O&M Work of a Key Member, the Developer will cause such Person to (A) expressly include the LA DOTD as a guaranteed party under such guaranty, with the same protections and rights of notice, enforcement and collection as are available to any other guaranteed party, and (ii) deliver to the LA DOTD a duplicate original of such guaranty. Such guaranty will provide that the rights and protections of the LA DOTD will not be reduced, waived, released or adversely affected by the acts or omissions of any other guaranteed party, other than through the rendering of payment and performance to another guaranteed party. The LA DOTD agrees to forebear from exercising remedies under any such guaranty so long as the Developer or a Lender is diligently pursuing remedies thereunder.

ARTICLE 17.

OWNERSHIP AND ACCESS TO RECORDS

Section 17.01 Maintenance of Records

The Developer will maintain or cause to be maintained proper books, records and accounts in which complete and correct entries will be made of its transactions hereunder in accordance with GAAP or any other generally accepted accounting standards which are acceptable to the LA DOTD. Further, the Developer will maintain or cause to be maintained such books, records and accounts in accordance with applicable Law, including Laws applicable to the Project as a result of the costs of the Project being paid in part with State funds and federal-aid funds.

Section 17.02 Public Records

(a) The Developer acknowledges that any Work Product the LA DOTD owns and any document of which the LA DOTD obtains a copy that relates to the Project is subject to the Public Record Laws (L.R.S. § 44:32 et seq.). In the event of a request for disclosure of any such information, the LA DOTD will comply with Law.

(b) If the Developer believes that any Work Product or any document subject to transmittal to or review by the LA DOTD under the terms of Contract Documents contains proprietary or confidential information or trade secrets that are exempt or protected from disclosure pursuant to Law, the Developer will use its reasonable efforts to identify such information prior to such transmittal or review and the Developer and the LA DOTD will confer on appropriate means of ensuring compliance with such Law prior to transmittal or review. Upon the written request of either party, the Developer and the LA DOTD will mutually develop a protocol for the transmittal, review and disclosure of Work Product or other documents produced or obtained by the Developer so as to avoid violations of any Law and to protect, consistent with the requirements of Law, appropriate information from disclosure.

Section 17.03 Ownership of Work Product

(a) All Work Product (including records thereof in software form), including reports, studies, data, information, logs, records and similar terms, which is prepared or procured by or on behalf of the LA DOTD or its other contractors, whether before or after the Agreement Date, will be and remain the exclusive property of the LA DOTD; provided that the LA DOTD will make available to the Developer, without charge, and without representation or warranty of any kind, any documents in the possession of the LA DOTD relating to the planning, design, engineering and permitting of the Project and any LA DOTD Enhancement that the Developer carries out.

(b) Prior to the expiration or earlier termination of this Agreement, all Work Product prepared by or on behalf of the Developer will remain exclusively the property of the Developer, notwithstanding any delivery of copies thereof to the LA DOTD. Upon the expiration or earlier termination of this Agreement for any reason, including termination by the

Developer for a LA DOTD Default, (i) the Developer will promptly turn over to the LA DOTD a copy of all Work Product the Developer owns and (ii) subject to Section 17.04, all such Work Product will be considered the sole and exclusive property of the LA DOTD (other than Proprietary Work Product), without compensation due the Developer or any other party. The LA DOTD will enter into a confidentiality agreement reasonably requested by the Developer with respect to any Proprietary Work Product, subject to Section 17.02. The Developer will continue to have a full and complete right to use any and all duplicates or other originals of such Proprietary Work Product in any manner it chooses.

Section 17.04 Ownership of Proprietary Intellectual Property

(a) All Proprietary Intellectual Property of the Developer will remain exclusively the property of the Developer, notwithstanding any delivery of copies thereof to the LA DOTD. Upon the expiration or earlier termination of, or any assignment by the Developer of its rights under, this Agreement for any reason whatsoever, the LA DOTD will have a nonexclusive, nontransferable, irrevocable, fully paid up license to use the Proprietary Intellectual Property of the Developer in connection with the Project and other State Highways for the purpose of maintaining interoperability or connectivity with the Project. The LA DOTD will not at any time sell any such Proprietary Intellectual Property or use or allow any party to use any such Proprietary Intellectual Property for any purpose whatsoever other than in connection with the Project or other State Highways for the purpose of maintaining interoperability or connectivity with the Project. Subject to Section 17.02, the LA DOTD will not disclose any Proprietary Intellectual Property of the Developer (other than to its contractors, employees, attorneys and agents in connection with the development and operation of the Project who agree to be bound by any confidentiality obligations of the LA DOTD relating thereto), and the LA DOTD will enter into a confidentiality agreement reasonably requested by the Developer with respect to any such Proprietary Intellectual Property. Notwithstanding anything to the contrary herein, traffic data relating to the Project will not be considered Proprietary Intellectual Property and the LA DOTD reserves the right to use such traffic data for any purpose.

(b) With respect to any Proprietary Intellectual Property owned by a Person other than the Developer or the LA DOTD, the Developer will obtain from such owner, concurrently with execution of any Subcontract or purchase order with such owner, both for the Developer and the LA DOTD, nonexclusive, nontransferable, irrevocable, fully paid up (other than with respect to ongoing maintenance and support fees) licenses to use such Proprietary Intellectual Property solely in connection with the Project, of at least identical scope, purpose, duration and applicability as the licenses granted by Section 17.04(a); provided that the foregoing requirement will not apply to standard, pre-specified manufacturer licenses of mass-marketed products (including software products) or equipment where the license cannot be extended to the LA DOTD using commercially reasonable efforts or to other licenses of products or equipment where the products or equipment are not reasonably necessary for the operation or maintenance of the Project. The limitations on sale and disclosure by the LA DOTD set forth in Section 17.04(a) will also apply to the LA DOTD's licenses in such Proprietary Intellectual Property.

(c) Except as specified otherwise by the LA DOTD, the Developer Marks may appear on the Elements, including supplies, materials, stationery and similar consumable items at the Project until the last day of the Term. The parties agree that the Developer will remain the owner or licensee, as applicable, of the Developer Marks at the end of the Term, and the Developer will remove, at its expense, the Developer Marks prior to the end of the Term. If the Developer fails to do so, the LA DOTD will be entitled to remove the Developer Marks and, in such case, the LA DOTD will be entitled to payment of its Allocable Costs in so doing from the Developer. The LA DOTD acknowledges and agrees that it will have no right, title, interest or license in the Developer Marks.

(d) On or before the Agreement Date, the LA DOTD will grant to the Developer a nonexclusive, nontransferable, irrevocable, fully paid up license to use any Proprietary Intellectual Property of the LA DOTD that has been developed for the Existing Bridge, solely in connection with the development, construction, operation, maintenance and other incidental activities of the Existing Bridge. The Developer will not at any time sell such Proprietary Intellectual Property or use or allow any party to use such Proprietary Intellectual Property for any purpose whatsoever other than in connection with the Project. On or before the Agreement Date, the LA DOTD will also assign in favor of the Developer the LA DOTD's rights with respect to any license by the LA DOTD's software suppliers (to the extent permitted by, and subject to the terms of, such license) for the use of any Proprietary Intellectual Property for the Existing Bridge. The Developer will not disclose any such Proprietary Intellectual Property (other than to its Subcontractors, employees, attorneys, agents and Affiliates in connection with the Project who agree to be bound by any confidentiality obligations of the Developer relating thereto), and the Developer will enter into a confidentiality agreement reasonably requested by the LA DOTD with respect to any such Proprietary Intellectual Property. The LA DOTD will continue to have a full and complete right to use any and all duplicates or other originals of its Proprietary Intellectual Property in any manner it chooses.

Section 17.05 Source Code Escrow

(a) The LA DOTD and the Developer acknowledge that the Developer and/or the Developer's Software suppliers may not wish to disclose directly to the LA DOTD at the time of installation the Source Code and Source Code Documentation, as public disclosure could deprive the Developer and/or the Developer's software suppliers of commercial value. Notwithstanding the foregoing, the LA DOTD must be ensured access to, and will be granted a nonexclusive, transferrable, irrevocable, fully paid right and license to use, reproduce, and disclose such Source Code and Source Code Documentation, subject to all continuing obligations with respect to protecting Developer and its Subcontractors' proprietary and confidential information from unauthorized disclosure, (a) from and after the expiration or earlier termination of the Agreement for any reason whatsoever; (b) during any time that the LA DOTD is exercising any step-in rights; and (c) during any time that a receiver is appointed for the Developer, or during any time that there is pending a voluntary or involuntary proceeding in bankruptcy in which the Developer is the debtor.

(b) By no later than the Final Acceptance Date, the LA DOTD and the Developer will execute the Escrow Agreement to establish one or more escrows ("Source Code

Escrows") into which such Source Code and Source Code Documentation will be escrowed. As necessary, the Developer will update the Source Code and Source Code Documentation so that it is not, and does not become, obsolete.

(c) The escrow provided for herein will survive any termination of this Agreement regardless of the reason.

(d) Throughout the Term, the Developer will pay the costs and expenses for Source Code Escrows.

Section 17.06 Inspection and Audit Rights

(a) The Developer will make available to the LA DOTD and the FHWA (including their employees, contractors, consultants, agents or designees), and allow each of them access to, such books, records and documents as they may reasonably request in connection with the Project as are in the possession and control of the Developer or any Developer Party for any purpose related to the Project or this Agreement. Any such books, records and documents are subject to the confidentiality provisions set forth in Section 17.02. The LA DOTD will provide the Developer 48 hours prior written notice prior to exercising its rights to access and audit the Developer's books, records and documents pursuant to this Section 17.06(a); provided, however, that the LA DOTD may exercise such rights unannounced and without prior notice during a Developer Default or where there is suspicion of fraud or a crime.

(b) The Developer, at its expense, will cause a reputable independent auditor to annually audit its books and records relating to the Project, according to GAAP or any other generally accepted accounting standards, which are acceptable to the LA DOTD. The Developer will deliver the audit report to the FHWA and the LA DOTD promptly after it is completed, but in any event within 150 days of the end of each of the Developer's fiscal years.

(c) Nothing contained in this Agreement will in any way limit the constitutional and statutory powers, duties and rights of a State Party in carrying out its legal authority, including the Louisiana Legislative Auditor.

(d) The Developer will cooperate with the LA DOTD, the FHWA and the other Persons mentioned in this Section 17.06 in the exercise of their rights hereunder. At the request of the LA DOTD, the Developer will furnish or cause to be furnished to the LA DOTD such information relating to the Work as the LA DOTD may reasonably request for any purpose related to the Project or this Agreement and as will be in the possession and control of the Developer, any Developer Party, or any of their Representatives.

Section 17.07 Provision of Financial Statements

Within 150 days following the end of each of the Developer's fiscal years throughout the Term, the Developer will provide the Developer's audited financial statements to the LA DOTD.

Section 17.08 Reports and Records

(a) Within 150 days following the end of each of the Developer's fiscal years throughout the Operating Period, the Developer will submit to the LA DOTD a report with key actual and forecasted cost, revenue, operational, and traffic data in a format and level of detail to be mutually agreed by the LA DOTD and the Developer. The Developer shall also provide in a timely manner additional data that the LA DOTD may reasonably request from time to time.

(b) The Developer will provide the LA DOTD throughout the Term, promptly after the sending or the receipt thereof:

(i) copies of final ratings presentations sent to, and any notices, reports or other written materials received from, any Rating Agency that has provided, or is being requested to provide, a rating with respect to any indebtedness of the Developer that is or will be secured or paid from the Toll Revenues;

(ii) copies of any notices, reports or other written materials received from or submitted to the Lenders under the Project Financing Agreements with respect to the Project or any indebtedness of the Developer that is or will be secured or paid from the Toll Revenues; and

(iii) copies of any notices, reports or other written materials received from or submitted to the Lenders' technical advisors or the Lenders' traffic and revenue consultants.

Section 17.09 Retention of Records

The Developer will retain all records for five years from expiration of the Term or from the effective date of any earlier termination. Required records include all accounts, papers, maps, plans, drawings, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by the Developer in connection with this Agreement. Legible copies, including microfilm copies, are acceptable, provided they are so arranged, identified, and indexed that any individual document, or component of the records, can be located with reasonable facility.

Section 17.10 Escrowed Proposal Documents

(a) Scope.

(i) Prior to execution of this Agreement, the Developer has submitted the Escrowed Proposal Documents in accordance with the requirements of the ITP, including the requirement that the Developer provide supporting data and pricing back-up for the Initial Base Case Financial Model, the entire Design-Build Price, and assumptions related to Routine Maintenance and Renewal Work – organized in a logical way across design and other professional services costs, direct construction and maintenance costs (including, labor, materials, equipment,

subcontracts), and indirect construction and maintenance costs (including, staffing/supervision, bonds/insurances, contingencies, and profit margins). Concurrently with submission of quotations or revisions to quotations provided in connection with formally proposed amendments to this Agreement and concurrently with approval of each Change Order, as applicable, one copy of all documentary information used in preparation of the quotation, amendment or Change Order, as applicable, shall be added to the Escrowed Proposal Documents.

(ii) The Developer agrees that in the event the Escrowed Proposal Documents omit information used by the Developer in estimating its costs for the Proposal or in negotiating Change Orders or amendments to the Agreement, then the Developer shall forfeit the ability, in connection with any claim, change, or litigation, to prove what it carried in its Proposal or in preparation of the quotation, amendment or Change Order, as applicable, for the cost of the relevant item of work for which the information was omitted.

(b) Ownership.

(i) The Escrowed Proposal Documents are, and shall always remain, the property of the Developer, subject to joint review by the LA DOTD and the Developer as provided herein. The Escrowed Proposal Documents shall be considered confidential proprietary and/or trade secret information belonging to the Developer.

(ii) The LA DOTD stipulates and expressly acknowledges that the Escrowed Proposal Documents constitute trade secrets. This acknowledgement is based on the LA DOTD's express understanding that the information contained in the Escrowed Proposal Documents is not known outside the business of the Developer Parties, is known only to a limited extent and only to a limited number of employees of the Developer Parties, is safeguarded while in the possession of the Developer Parties, is extremely valuable to the Developer Parties, and could be extremely valuable to competitors of the Developer Parties. The LA DOTD acknowledges that the Developer Parties expended substantial sums of money in developing the information included in the Escrowed Proposal Documents and further acknowledges that it would be difficult for a competitor to replicate the information contained therein. The LA DOTD further acknowledges that the Escrowed Proposal Documents include a compilation of information used in the Developer's business, intended to give the Developer an opportunity to obtain an advantage over competitors who do not know of or use the contents of the documentation. The LA DOTD further agrees to safeguard the Escrowed Proposal Documents, and all information contained therein, against disclosure to the fullest extent permitted by law.

(c) Payment. There will be no separate payment for compilation of the data, container, or cost of verification of the Escrowed Proposal Documents.

(d) Updating of the Escrowed Proposal Documents. In addition to the updates to the Escrowed Proposal Documents described in Section 17.10(a)(i), upon each Financial Model Update (other than any such update that does not change the Financial Model Formulas), such update, along with any attending software update, will be submitted by the Developer to the Escrow Agent promptly and in any event within seven days after an update has not been disputed or any such dispute has been resolved pursuant to Section 6.03. For the avoidance of doubt, previous undisputed versions of the Escrowed Proposal Documents will remain in escrow with the Escrow Agent.

(e) Storage. The Escrowed Proposal Documents of the Developer shall be retained in escrow for the Term of the Agreement with the Escrow Agent. The cost of storage will be shared between the LA DOTD and the Developer as set forth in the escrow agreement signed and submitted by the Developer with the Proposal.

(f) Examination.

(i) The Escrowed Proposal Documents shall be examined by the duly designated representatives of both the LA DOTD and the Developer, at any time deemed necessary by the LA DOTD and/or the Developer, including for the purpose of determining the basis of costs related to any Allocable Costs, Net Cost Impact, Net Cost Saving, or any other cost-related component of a Change Order under this Agreement, consistent with Section 2.1(ii)(d) of Exhibit G; provided, however, that the Escrowed Proposal Documents may only be examined for the purpose of determining the costs carried in the Proposal or in preparation of the quotation, amendment or Change Order, as applicable, for those specific items of work that are the subject of negotiation of price adjustments and Change Orders or the settlement of Disputes and Claims. No other documents may be examined. The LA DOTD may delegate review of relevant Escrowed Proposal Documents to members of its construction management staff and/or consultants.

(ii) Examination of the Escrowed Proposal Documents is subject to the following conditions:

(A) As trade secrets, the Escrowed Proposal Documents are proprietary and confidential to the extent provided by law.

(B) Access to the Escrowed Proposal Documents may take place only in the presence of duly designated representatives of both the LA DOTD and the Developer. The LA DOTD and the Developer shall provide written direction signed by the LA DOTD and the Developer to the Escrow Agent directing that the Escrowed Proposal Documents be made available for such joint examination. The LA DOTD or the Developer shall give at least seven days written notice to the other's project manager of its request to examine the Escrowed Proposal Documents. Unreasonable refusal by the Developer to be present or to cooperate in any way in the review of the documents after the provision of

the written notice by the LA DOTD may serve as the basis for the LA DOTD to reject the subject Claim.

(iii) The LA DOTD agrees to notify the Developer of its receipt of any request made pursuant to the Louisiana Public Records Act (Louisiana R.S. 44:1 *et seq.*) to inspect or examine any material contained in the Escrowed Proposal Documents

(g) Final Disposition. The Escrowed Proposal Documents will be promptly released to the Developer by the Escrow Agent when all of the following have occurred: all Disputes have been settled, the performance of the Agreement is complete, any final payment has been made and accepted, and the LA DOTD and the Developer have provided joint written confirmation to the Escrow Agent to allow the Escrow Agent to release the Escrowed Proposal Documents.

Section 17.11 Subcontractor Pricing Documents

The Developer shall require the Design-Build Contractor, the Operations and Maintenance Contractor, the Lead Designer, the Toll System Provider, and the Tolling Operator to submit to the Developer a copy of all documentary information used in determining its Subcontract price (or the price for Subcontract Work included in any Change Order or amendment to this Agreement), immediately prior to executing the Subcontract and each Change Order and Subcontract amendment, to be added to and held in the same manner as the Escrowed Proposal Documents and which shall be accessible by the Developer and its successors and assigns (including the LA DOTD), on terms substantially similar to those contained herein. Each such Subcontract shall include a representation and warranty from the Subcontractor, for the benefit of the Developer and the LA DOTD, stating that its pricing documents described in this Section 17.11 constitute all the documentary information used in establishing its Subcontract price, and agreeing to provide a sworn certification in favor of the Developer and the LA DOTD together with each supplemental set of pricing documents, stating that the information contained therein is complete, accurate, and current. Each Subcontract that is not subject to the foregoing requirement shall include a provision requiring the Subcontractor to preserve all documentary information used in establishing its Subcontract price and to provide such documentation to the Developer and/or the LA DOTD in connection with any Claim made by such Subcontractor.

ARTICLE 18.

DEFAULTS AND REMEDIES

Section 18.01 Developer Defaults

The occurrence of any one or more of the following events during the Term will constitute a "Developer Default" pursuant to this Agreement:

(a) the Developer fails to begin the Work within 30 days following the issuance of the Limited Notice to Proceed or the Notice to Proceed, as the case may be, unless such failure is solely caused by a Compensation Event or Delay Event;

(b) the Developer abandons all or a material part of the Project, which abandonment will have occurred if (i) the Developer clearly demonstrates through statements or acts an intent not to continue to construct or operate all or a material part of the Project or (ii) no significant Work on the Project or a material part thereof is performed for a continuous period of more than 45 days (other than as a result of a Delay Event that materially interferes with the Developer's ability to continue performing the Work); and, in either instance, such abandonment is not cured within 30 days after the LA DOTD gives notice of such abandonment to the Developer;

(c) any representation or warranty made by the Developer under the Contract Documents is false or materially misleading in any respect on the date made, and a material adverse effect upon the Project or the LA DOTD's rights or obligations under the Contract Documents results therefrom and such representation or warranty is not cured within 90 days following the date the LA DOTD delivers to the Developer written notice thereof; provided that: (i) if the Developer Default is of such a nature that the cure cannot with diligence be completed within such time period and (ii) the Developer has commenced meaningful steps to cure after receiving notice thereof, the Developer will have such additional period of time up to a maximum cure period of 120 days;

(d) the Developer fails to comply with, perform or observe any other material obligation, covenant, agreement, term or condition in the Contract Documents, which failure materially and adversely affects the LA DOTD's rights or obligations under the Contract Documents, and such failure continues without cure for a period of 90 days following the date the LA DOTD delivers to the Developer written notice thereof (giving particulars of the failure in reasonable detail) or for such longer period as may be reasonably necessary to cure such failure up to a maximum cure period of 180 days; provided, that this Section 18.01(d) will not apply to events covered by other provisions of this Section 18.01;

(e) the Developer fails to follow Federal, State, or local laws, rules, and regulations concerning safety and health standards or permits conditions upon the site of the Work which are unsanitary, hazardous, or dangerous to the health or safety of the workers or the public; and such failure continues without cure for a period of 10 days following the date the LA DOTD delivers to the Developer written notice thereof, provided that the Developer will have an additional period of time up to a maximum cure period of 120 days if (i) the Developer Default is of such a nature that the cure cannot with diligence be completed within such 10 day period, (ii) within such initial 10 day period the Developer has instituted temporary measures to remediate any immediate hazardous or dangerous condition to the workers or the public to the reasonable satisfaction of the LA DOTD, and (iii) within such initial 10 day period and the Developer has provided the LA DOTD with a written work plan that outlines the actions the Developer will take to diligently cure such Developer Default;

(f) the Developer fails to pay to the LA DOTD when due any undisputed amount payable to the LA DOTD pursuant to the Contract Documents, and such failure, including any failure to pay interest at the Bank Rate from the date due, continues without cure for a period of 90 days following the date the LA DOTD delivers to the Developer written notice thereof;

(g) there occurs a Persistent Closure;

(h) there occurs a Noncompliance Developer Default Trigger;

(i) the Developer closes all or part of the Project to traffic, at any time, other than as permitted or in accordance with the terms of the Contract Documents, and such closure continues without cure for a period of 10 days following the date the LA DOTD delivers to the Developer written notice thereof;

(j) the Developer fails to achieve Partial Acceptance by the Long Stop Date;

(k) the Developer fails to achieve Financial Close by the Financial Close Deadline under circumstances specified in Section 20.02;

(l) the Developer fails to maintain, or to cause to be maintained, in effect the insurance, guarantees, letters of credit or other performance security as and when required pursuant to this Agreement for the benefit of relevant parties, or fails to comply with any requirement of this Agreement pertaining to the amount, terms or coverage of the same and such failure continues without cure for a period of 14 days following the date the LA DOTD delivers to the Developer written notice thereof;

(m) this Agreement or all or any portion of the Developer's Interest is Transferred, or there occurs a Restricted Equity Transfer, in contravention of Section 25.01;

(n) the certification required to be delivered in Section 24.01(e)(ii) is incorrect in any material respect;

(o) after exhaustion of all rights of appeal, (i) there occurs any suspension or debarment (distinguished from ineligibility due to lack of financial qualifications), or there goes into effect an agreement for voluntary exclusion, of the Developer, any affiliate of the Developer (as "affiliate" is defined in 2 CFR §180.905 or successor regulation of similar import) or the Design-Build Contractor whose work, in each case, is not completed, from bidding, proposing or contracting with any Federal or State department or agency or (ii) the Developer or the Design-Build Contractor who have ongoing Work, or any of their respective officers, directors, or Administering Employees have been convicted of, or plead guilty or nolo contendere to, a violation of Law for fraud, conspiracy, collusion, bribery, perjury, or material misrepresentation, as a result in whole or in part of activities relating to any project in the State, and such failure continues without cure for a period of 90 days following the date the LA DOTD delivers to the Developer written notice thereof (giving particulars of the failure in reasonable detail). If the offending Person is an officer, director or Administering Employee, cure will be regarded as complete when the Developer proves that such Person has been removed from any position or ability to manage, direct or control the decisions of the Developer or the Design-Build Contractor (as applicable) or to perform Work; and if the Person debarred or suspended or subject to an agreement for voluntary exclusion is an affiliate of the Developer (as "affiliate" is defined in 2 CFR §180.905 or successor regulation of similar import) or the Design-Build Contractor, cure will be regarded as complete when the Developer replaces such Person in accordance with this Agreement;

(p) the Developer (i) admits, in writing, that it is unable to pay its debts as they become due, (ii) makes an assignment for the benefit of its creditors, (iii) files a voluntary petition under Title 11 of the U.S. Code, or files any other petition or answer seeking, consenting to or acquiescing in any reorganization, liquidation, dissolution or similar relief under the present or any future U.S. bankruptcy code or any similar Law, or (iv) seeks or consents to or acquiesces in the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of the Developer, or of all or any substantial part of its properties or of the Project or any interest therein (so long as the Developer continues to have obligations hereunder);

(q) within 90 days after the commencement of any proceeding against the Developer seeking any reorganization, liquidation, dissolution or similar relief under the present or any future U.S. bankruptcy code or any similar Law, such proceeding has not been dismissed, or, within 90 days after the appointment, without the consent or acquiescence of the Developer, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of the Developer or of all or any substantial part of its properties or of the Project or any interest therein, such appointment has not been vacated or stayed on appeal or otherwise, or, within 90 days after the expiration of any such stay, such appointment has not been vacated; and

(r) a levy under execution or attachment has been made against all or any part of the Project or any interest therein (including the Developer's Interest) as a result of any Lien (other than a Lien relating to permitted Developer Debt) created, incurred, assumed or suffered to exist by the Developer or any Person claiming through it, and such execution or attachment has not been vacated, removed or stayed by court order, bonding or otherwise within a period of 60 days, unless such levy resulted from actions or omissions of the LA DOTD.

Section 18.02 Notice of Developer Default

(a) General. The LA DOTD will give written notice to the Developer, with a copy to the Collateral Agent and surety (as applicable), of the LA DOTD's determination that a Developer Default has occurred ("Developer Default Notice").

(b) Surety Obligations for Developer Default.

(i) Subject to the provisions of the Direct Agreement, if a Developer Default occurs, the surety furnishing the applicable Performance Security must, within 30 days of receipt of the Developer Default Notice, present to the LA DOTD either: (1) a plan to assume performance of this Agreement and procure completion of the Work or (2) provide the LA DOTD in writing with a reasonable response for the Developer Default.

(ii) If no plan is presented by the surety within 30 days, or at any time if immediate action must be taken to protect the public interest or the safety of the public or workers, the LA DOTD will take prosecution of the Work out of the hands of the Developer or surety and may appropriate or use the materials and/or equipment on the Project or may enter into an agreement for completion of the Project or use other methods as required for completion of the Work in an

acceptable manner. The surety will then be responsible for payment to the LA DOTD of the cost of completion of the Work and any liquidated damages assessed by the LA DOTD up to the total amount of applicable Performance Security.

(iii) If the surety has not timely completed the Work and a court of competent jurisdiction has determined that the surety has in bad faith refused to take over the Project, the surety will be responsible for the payment of any liquidated damages for any delay in completion of the Work as specified in this Agreement and any reasonable attorney's fees and court costs incurred by the LA DOTD in enforcing its rights and remedies under this Agreement.

Section 18.03 LA DOTD Remedies upon Developer Default

(a) Upon the occurrence and during the continuance of a Developer Default, the LA DOTD may, subject to the provisions of the Direct Agreement, do any or all of the following as the LA DOTD, in its sole discretion, will determine:

(i) the LA DOTD may terminate this Agreement, to the extent provided in Section 20.03;

(ii) the LA DOTD may exercise any rights and remedies against the Performance Security;

(iii) the LA DOTD may cure the Developer Default (but this will not obligate the LA DOTD to cure or attempt to cure a Developer Default or, after having commenced to cure or attempted to cure a Developer Default, to continue to do so), and all costs and expenses reasonably incurred by the LA DOTD in curing or attempting to cure the Developer Default, including the LA DOTD's Allocable Costs, will be payable by the Developer to the LA DOTD within ten days of demand, including accrued interest at the Bank Rate from the date such costs or expenses were incurred to the repayment date; provided, that (i) the LA DOTD will not incur any liability to the Developer, and the Developer hereby irrevocably waives and releases any liability of the LA DOTD to the Developer, for any act or omission of the LA DOTD or any other Person in the course of remedying or attempting to remedy any Developer Default and (ii) the LA DOTD's cure of any Developer Default will not waive or affect the LA DOTD's rights against the Developer by reason of the Developer Default; and

(iv) the LA DOTD may exercise any of its other rights and remedies provided for under the Contract Documents or at Law or in equity, subject to any limitations thereon set forth in this Agreement or under applicable Law.

(b) The Developer waives any and all rights that the Developer may have under L.R.S. § 48:2084.9.B with respect to the entry of a final declaratory judgment regarding a Developer Default, and the Developer agrees that the LA DOTD may exercise any remedies

under this Agreement relating to a Developer Default without entry of such final declaratory judgment.

Section 18.04 LA DOTD Default

The occurrence of any one or more of the following events during the Term will constitute a "LA DOTD Default" pursuant to this Agreement:

(a) any representation or warranty made by the LA DOTD under the Contract Documents is false or materially misleading on the date made and a material adverse effect upon the Project or the Developer's rights or obligations under the Contract Documents results therefrom, and such circumstance continues without cure for a period of 60 days following the date the Developer delivers to the LA DOTD written notice thereof; provided that: (i) if the LA DOTD Default is of such a nature that the cure cannot with diligence be completed within such time period and (ii) the LA DOTD has commenced meaningful steps to cure after receiving notice thereof, the LA DOTD will have such additional period of time up to a maximum of 120 days, with cure regarded as complete only when the adverse effects are remedied;

(b) the LA DOTD fails to comply with, perform or observe any material obligation, covenant, agreement, term or condition in the Contract Documents, which failure materially adversely affects the Developer's Interest, and such failure continues without cure for a period of 60 days following the date the Developer delivers to the LA DOTD written notice thereof (giving particulars of the failure in reasonable detail); provided that: (i) if the LA DOTD Default is of such a nature that the cure cannot with diligence be completed within such time period and (ii) the LA DOTD has commenced meaningful steps to cure after receiving notice thereof, the LA DOTD will have such additional period of time up to a maximum cure period of 120 days; provided further that this Section 18.04(b) will not apply to LA DOTD failures that constitute a Delay Event or Compensation Event and the Developer's sole recourse with respect to such failures will be to seek remedies pursuant to ARTICLE 12 and ARTICLE 13; or

(c) the LA DOTD fails to pay to the Developer when due any undisputed amount payable to the Developer pursuant to this Agreement, and such failure continues without cure for a period of 60 days following the date on which the Developer delivers to the LA DOTD written notice thereof.

Section 18.05 Developer Remedies upon LA DOTD Default

Upon the occurrence of a LA DOTD Default pursuant to this Agreement, the Developer may by notice to the LA DOTD declare the LA DOTD to be in default and may do any or all of the following as the Developer, in its discretion, will determine:

(a) the Developer may terminate this Agreement, to the extent provided in Section 20.04; and

(b) the Developer may exercise any of its other rights and remedies provided for under the Contract Documents or at Law or equity, subject to any limitations thereon set forth in this Agreement.

ARTICLE 19.

HANDBACK REQUIREMENTS

Section 19.01 Condition of the Project on Handback

For the purpose of this Agreement, the "Handback Requirements" mean the required condition of the Project when the following conditions have been satisfied:

(a) The Project and each of the Elements have been designed and built in accordance with the applicable Design Life requirements specified in Article 23 of the Technical Provisions; provided that if the Design Life of an Element, as specified in Article 23 of the Technical Provisions, has been extended through Good Industry Practice, the Developer shall demonstrate that the Residual Life of an Element is 3 years or greater at the end of the Term, unless specified otherwise in the Contract Documents;

(b) The Developer has performed the O&M Work in accordance with the Contract Documents, including Article 22 of the Technical Provisions;

(c) The Developer has complied with the remaining Residual Life standards established in Article 23 of the Technical Provisions, compliance with which shall be determined using the methodology and criteria specified therein and in the Residual Life Methodology in the Handback Work Plan; and

(d) The Developer has otherwise complied with the requirements of this ARTICLE 19 and the Contract Documents.

Section 19.02 Project Handback Inspections

(a) The LA DOTD and the Developer will perform a joint inspection of the Project and Developer shall produce and deliver to the LA DOTD a report (a "Preliminary Project Handback Condition Report"), for approval by the LA DOTD, in accordance with Section 23.3 of the Technical Provisions not less than 61 months prior to the scheduled end of the Term that:

(i) Identifies the condition and each Element of the Project in relation to the Handback Requirements;

(ii) Assesses the Developer's plan related to capital replacement and the Developer's proposed strategy and the consistency of the Developer's proposed strategy with the Project Management Plan;

(iii) Identifies any works required to ensure all the Elements of the Project will meet the Handback Requirements on the expiration of the Term (the "Handback Work"), and specifying the year in which each Element of the Handback Work would be required;

(iv) Specifies an estimate of the costs to perform the Handback Work (the "Handback Work Costs"); and

(v) Details how the Developer calculated the Handback Work Costs.

(b) The LA DOTD and the Developer will perform subsequent inspections of the Project in accordance with the procedures specified in the Handback Work Plan and the Developer shall produce and deliver to the LA DOTD, for the LA DOTD's approval, an updated Project Handback Condition Report (a "Prefinal Project Handback Condition Report") on each anniversary of the date of the original Preliminary Project Handback Condition Report. The Prefinal Project Handback Condition Report shall include an updated schedule and cost estimate for the remaining Handback Work and detailed information on previous Handback Work performed and completed.

(c) The Developer shall amend and update the Project Management Plan, as applicable, to include all Handback Work identified in the Preliminary Project Handback Condition Report and each Prefinal Project Handback Condition Report, to the extent a Prefinal Project Handback Condition Report identifies Handback Work not already included in the then current Project Management Plan.

(d) The Developer shall carry out the Handback Work at its own cost notwithstanding that the actual cost of the Handback Work may be higher than the Handback Work Costs.

(e) Either party may dispute the Preliminary Project Handback Condition Report or the Prefinal Project Handback Condition Report, including the Handback Work and the Handback Work Costs, in accordance with ARTICLE 21. In the event that a final determination in accordance with ARTICLE 21 specifies Handback Work or Handback Work Costs which are different than those set out in either the Preliminary Project Handback Condition Report or the Prefinal Project Handback Condition Report, then either the Preliminary Project Handback Condition Report or the Prefinal Project Handback Condition Report, as applicable, as well as the Project Management Plan, will be deemed to be amended accordingly, as amended by Section 19.02(c) and all deductions and payments permitted or required by Section 19.03 shall be adjusted accordingly.

Section 19.03 Payment to and from Handback Account

(a) 60 months prior to the scheduled end of the Term, the Developer shall deposit in the Handback Account an amount equal to the Handback Work Costs.

(b) The LA DOTD will instruct the Escrow Agent, in accordance with the Escrow Agreement, to pay from the Handback Account the amounts necessary to reimburse the

Developer upon the Developer's submittal to LA DOTD of (i) certified requisitions with full supporting receipts or other evidence of payment for work actually expended in the performance of the Handback Work; and (ii) confirmation that the applicable Handback Work has been completed in accordance with the Contract Documents.

(c) If, at any time after the initial deposit of funds into the Handback Account, the LA DOTD determines that the balance of funds held in the Handback Account may be insufficient to pay for the Handback Work yet to be performed or paid for, then the LA DOTD may give Notice to the Developer setting forth the insufficient amount, including the basis therefor, and requiring the Developer to replenish the Handback Account with additional funds necessary to make up the insufficiency. The Developer shall deposit such additional funds into the Handback Account not later than 30 days after such Notice from the LA DOTD.

(d) If the LA DOTD determines that the funds in the Handback Account exceed the value (based on the Handback Work Costs) of all or any part of the Handback Work yet to be performed, then the LA DOTD will instruct the Escrow Agent, in accordance with the Escrow Agreement, to pay the excess to the Developer from the Handback Account within 30 days thereafter. As a condition to the LA DOTD performing such an analysis, the Developer shall make a request in writing and shall include with its request all information reasonably required by the LA DOTD to evaluate such request.

(e) The LA DOTD:

(i) Is not obliged to pay the Developer interest on the Handback Account;

(ii) If the Handback Work is not completed before this Agreement is terminated, will be absolutely and irrevocably entitled to retain and use all amounts within the Handback Account for the LA DOTD's own account, in its sole discretion;

(iii) May, at any time after expiration of the Term:

(A) perform any Handback Work remaining to be performed to completed the Handback Requirements; and

(B) use the funds in the Handback Account to reimburse itself for the costs (including any liability) incurred in performing the Handback Work referred to in Section 19.03(e)(iii)(A), in accordance with Section 19.05(b).

(f) In lieu of the establishment or funding of the Handback Account, the Developer may deliver to the LA DOTD one or more letters of credit to cover all or any portion of the amounts required to be on deposit in the Handback Account, whereupon (to the extent that the Handback Account has already been established) the LA DOTD will instruct the Escrow Agent to release from the Handback Account to the Developer such amount equal to the undrawn amount of the letters of credit. The LA DOTD will only return such letters of credit

where the Developer is entitled to receive any remaining funds in the Handback Account, in accordance with Section 19.05.

Section 19.04 The Developer Not Relieved of Obligations

The Developer shall not be relieved or released from any obligation to conduct any other inspection or to perform any other works to the extent otherwise required by the Contract Documents, notwithstanding (A) any agreement of the LA DOTD to any Handback Work and Handback Work Costs, (B) any participation of the LA DOTD in any inspection under this ARTICLE 19, or (C) the complete or partial carrying out of the Handback Work.

Section 19.05 Final Project Condition Report

(a) The LA DOTD and the Developer will perform a joint inspection of the Project in accordance with the procedures specified in the Handback Work Plan and the Developer shall produce and deliver to the LA DOTD a final condition report within 45 days after expiration of the Term (the "Final Project Handback Condition Report") that documents whether the Project met the Handback Requirements on the expiration of the Term and, if not, any Handback Work remaining to be performed and the associated Handback Work Costs.

(b) If the Final Project Handback Condition Report identifies any remaining or deficient Handback Work, the LA DOTD may withdraw from the Handback Account an amount equivalent to 100% of the Handback Work Costs applicable to such remaining or deficient Handback Work, and, following completion of such remaining or deficient Handback Work, the LA DOTD will instruct the Escrow Agent, in accordance with the Escrow Agreement, to pay to the Developer any remaining funds in the Handback Account.

(c) If no Handback Work is identified in the Final Project Handback Condition Report, the LA DOTD will, within 45 days after receipt by the LA DOTD of the Final Project Handback Condition Report, instruct the Escrow Agent, in accordance with the Escrow Agreement, to pay to the Developer the funds in the Handback Account (including any interest accrued), unless the LA DOTD disputes the Final Project Handback Condition Report, in which case the Handback Account shall be dealt with as determined in accordance with ARTICLE 21.

Section 19.06 Assistance in Security Continuity

The Developer shall, before expiration of the Term, do all things reasonably required by the LA DOTD to ensure the smooth and orderly transfer of responsibility for the Project to the LA DOTD or its nominee, including:

(a) Meet with the LA DOTD and such other persons identified by the LA DOTD to discuss the Project;

(b) Provide full access to its operations for the purpose of familiarization;

(c) Provide accurate and comprehensive information to the LA DOTD and its nominee to determine the status and condition of the Project;

(d) Comply with Section 20.01; and

(e) Perform any other activities specified in the Handback Work Plan.

ARTICLE 20.

TERMINATION

Section 20.01 Termination Upon Expiration of Term

Unless earlier terminated in accordance with the terms of this ARTICLE 20, all the rights and obligations of the parties hereunder will cease and terminate, without notice or demand, on the last day of the Term. Not later than 365 days preceding the scheduled end of the Term, the Developer will develop and submit to the LA DOTD a plan ("Transition Plan") to assure the orderly transition of the Project to the LA DOTD. The parties will then diligently implement the Transition Plan in accordance with the Contract Documents.

Section 20.02 Termination for Failure to Achieve Financial Close; Liability Upon Termination

(a) Failure to achieve Financial Close by the Financial Close Deadline will be considered a Developer Default and the LA DOTD will be entitled to terminate this Agreement under this Section 20.02, unless such failure is due to:

(i) the LA DOTD's failure to satisfy its obligations under Section 7.03(c)(viii) through Section 7.03(c)(xi);

(ii) the occurrence and continuation of an event or circumstance that would constitute a Delay Event or Compensation Event, and not to any act or omission of the Developer or any Developer Party;

(iii) an LA DOTD Default;

(iv) the LA DOTD's determination, in its sole discretion, that changes in Benchmark Rates and/or Baseline Credit Spreads between the Interest Rate Protection Start Date and the Pricing Date, collectively, have resulted, or are reasonably likely to result, in an upward revision to the Public Funds Amount of more than $85,000,000, except to the extent waived in writing by the LA DOTD prior to the Pricing Date; or

(v) a PABs Event.

(b) In the event of termination under this Section 20.02, the LA DOTD will be entitled to the Financial Close Security.

(c) Notwithstanding Section 20.02(a), the parties may mutually agree to take any actions to mitigate the failure to achieve Financial Close as are acceptable to both parties in the circumstances, provided that if the parties mutually agree to extend the Financial Close Deadline, then the Developer shall extend the expiration date of the Financial Close Security so that such security remains valid until the new Financial Close Deadline (as extended).

(d) If any of the exceptions set forth in Section 20.02(a)(i) through Section 20.02(a)(v) cause the failure to achieve Financial Close by the Financial Close Deadline, or if no extension of the Financial Close Deadline is agreed between the parties through an amendment to this Agreement before the Financial Close Deadline as set forth in Section 20.02(c), then the LA DOTD will return the Financial Close Security to the Developer and will pay the Developer $2,750,000, subject to the Developer satisfying its obligations under ARTICLE 17.

Section 20.03 Termination for Developer Default

(a) Subject to the provisions of the Direct Agreement, at any time after the occurrence and during the continuance of a Developer Default, the LA DOTD is entitled to terminate this Agreement.

(b) If the LA DOTD elects to terminate pursuant to this Section 20.03, the LA DOTD will deliver to the Developer written notice of its election to terminate, which termination will take effect not less than 60 days after the delivery of such notice.

(c) In the event of a termination under this Section 20.03, the LA DOTD will pay the Developer Default Termination Amount to the Developer; provided, however, that the Developer will not be entitled to any compensation if this Agreement is terminated for Developer Default due to the Developer's failure to achieve Financial Close.

(d) As a condition to payment of the Developer Default Termination Amount, the Developer will provide, or cause to be provided, to the LA DOTD a statement from the Collateral Agent of the Developer Default Termination Amount and evidence of all Credit and Cash Balances, together with Developer's certification that the amounts shown are true, correct and complete. Such statement is without prejudice to the LA DOTD's right to dispute any calculations contained in such statement in accordance with the dispute resolution procedures set forth in ARTICLE 21.

(e) A termination by the LA DOTD for a Developer Default that is later determined by a court of competent jurisdiction to be wrongful or in violation of this Agreement will entitle the Developer to, as the Developer's sole compensation from the LA DOTD, the LA DOTD Termination Amount.

Section 20.04 Termination for LA DOTD Default

(a) Subject to the provisions of this Section 20.04, the Developer is entitled to terminate this Agreement in the event of a LA DOTD Default.

(b) If the Developer elects to terminate pursuant to this Section 20.04, the Developer will deliver to the LA DOTD a written notice of intent to terminate this Agreement. Upon receipt of such notice of intent to terminate, the LA DOTD will be entitled to cure such LA DOTD Default by providing the Developer with a written work plan within the 90-day period after the LA DOTD receives the written notice of intent to terminate. The work plan will outline the actions by which the LA DOTD will ensure future compliance with the obligation, covenant, agreement, term or condition in this Agreement that the LA DOTD failed to perform or observe. The work plan will be subject to the Developer's written approval (which approval will not be unreasonably withheld, delayed or conditioned).

(c) If (i) the LA DOTD fails to provide the Developer with the work plan required pursuant to Section 20.04(b) or (ii) the LA DOTD fails to comply in any material respect with the work plan approved by the Developer pursuant to Section 20.04(b) and in the case of this clause (ii), such failure continues without cure for 30 days following the date the Developer delivers to the LA DOTD written notice thereof, the Developer may terminate this Agreement by delivering to the LA DOTD written notice of its election to terminate, which termination will take effect not less than 60 days after the delivery of such notice.

(d) In the event of a termination pursuant to this Section 20.04, the LA DOTD will pay the LA DOTD Termination Amount to the Developer.

Section 20.05 Termination for Extended Force Majeure

(a) Either party may, by written notice, terminate this Agreement when a Force Majeure Event prevents the Developer from performing the Work as originally contracted for a period in excess of 180 days, or such other period as mutually agreed by the parties.

(b) If the LA DOTD elects to terminate pursuant to Section 20.05(a), (i) the LA DOTD will deliver written notice of its intent to terminate; (ii) the Developer may submit to the LA DOTD within 30 days following receipt of such notice (or such longer period as mutually agreed by the parties) a plan to restore any damage, destruction, or delay of the Work or the Project, which plan shall be prepared and implemented at the sole cost and risk of the Developer; (iii) if the LA DOTD accepts a plan submitted by the Developer pursuant to clause (ii) of this Section 20.05(b), the LA DOTD will deliver written notice of its acceptance of the plan in lieu of its election to terminate; and (iv) if the LA DOTD does not accept a plan submitted by the Developer pursuant to clause (ii) of this Section 20.05(b) or if the Developer elects not to submit such a plan, the LA DOTD will deliver written notice of its rejection of the plan and its election to terminate, which termination will take effect no less than 90 days after delivery of such notice, and the LA DOTD will pay the Extended Force Majeure Termination Amount to the Developer. Notwithstanding the foregoing, any implementation of a restoration plan described in this Section 20.05(b) shall not be interpreted to eliminate the later right of the LA DOTD to terminate pursuant to Section 20.05(a) if the Developer fails to implement such plan in accordance with the terms thereof or in accordance with the Contract Documents, as determined by the LA DOTD.

(c) If the Developer elects to terminate pursuant to Section 20.05(a), (i) the Developer shall deliver a termination notice of its intent to terminate; (ii) the LA DOTD may

submit to the Developer written notice of its intent to continue with this Agreement within 30 days following receipt of such termination notice; (iii) if the LA DOTD delivers such continuation notice to the Developer pursuant to clause (ii) of this Section 20.05(c), the Developer shall submit to the LA DOTD within 30 days following receipt of LA DOTD's continuation notice (or such longer period as mutually agreed by the parties) a plan to restore any damage, destruction, or delay of the Work or the Project, for which the Developer shall be entitled to Developer Damages in accordance with Section 13.01(c) and relief in accordance with Section 12.02 and Section 12.03; and (iv) if the LA DOTD fails to deliver such continuation notice to the Developer pursuant to clause (ii) of this Section 20.05(c) or does not elect to continue with the Agreement, the termination of the Agreement as notified by the Developer will take effect no less than 90 days after delivery of such termination notice, and the LA DOTD will pay the Extended Force Majeure Termination Amount to the Developer. Notwithstanding the foregoing, any implementation of a restoration plan described in this Section 20.05(c) shall not be interpreted to eliminate the later right of the LA DOTD to terminate pursuant to Section 20.05(a) if the Developer fails to implement such plan in accordance with the terms thereof or in accordance with the Contract Documents, as determined by the LA DOTD.

Section 20.06 Termination in the Public Interest

(a) The LA DOTD may, by written notice, terminate this Agreement when termination would be in the public interest.

(b) If the LA DOTD elects to terminate pursuant to Section 20.06(a), (i) the LA DOTD will deliver written notice of its election to terminate, which termination will take effect no less than 90 days after delivery of such notice; and (ii) the LA DOTD will pay the LA DOTD Termination Amount to the Developer.

Section 20.07 Termination due to LA DOTD's Exercise of Early Handback Option

(a) Commencing at the start of the Operating Period, the LA DOTD, in the LA DOTD's sole discretion, may exercise an option for the Developer to handback the Project to the LA DOTD prior to expiration of the Term ("Early Handback Option").

(b) If the LA DOTD elects to exercise the Early Handback Option, the LA DOTD will provide notice to the Developer no later than 180 days before the start of the next anniversary of the Partial Acceptance Date, which Early Handback Option will take effect on the start of such next anniversary of the Partial Acceptance Date. The LA DOTD's exercise of the Early Handback Option will result in the termination of this Agreement and the parties will comply with the terms and conditions of this Agreement with respect to termination.

(c) In the event of the LA DOTD's exercise of the Early Handback Option, the LA DOTD will pay the LA DOTD Termination Amount to the Developer.

Section 20.08 Termination due to Judicial Order

(a) Subject to the provisions of this Section 20.08, either party may terminate this Agreement by written notice to the other party, in the event that a court of competent jurisdiction issues a final, non-appealable judicial order (i) finding that this Agreement is invalid or unenforceable, or (ii) upholding the binding effect of a change in Law that causes impossibility of the Developer's or the LA DOTD's performance of a fundamental obligation under this Agreement.

(b) Upon receipt of any notice provided under Section 20.08(a), the party receiving such notice will, within 14 days, respond in writing to such notice either:

(i) agreeing that the events described in Section 20.08(a) have occurred; or

(ii) disagreeing that the events described in Section 20.08(a) have occurred, in which case the responding party will include in its response an outline statement of its position regarding the Dispute, in accordance with Section 21.03(a).

(c) In the event of a termination under this Section 20.08, the LA DOTD will pay the LA DOTD Termination Amount to the Developer.

Section 20.09 Termination due to NEPA Documents Alternative Selection Other than Alternative 5G

If the NEPA Documents select the "no-build" alternative or select an alternative other than Alternative 5G, the LA DOTD will deliver written notice to the Developer, which termination will take effect no less than 45 days after delivery of such notice. In the event of a termination under this Section 20.09, the LA DOTD will pay [●].

Section 20.10 Developer Actions Upon Termination

(a) On delivery of notice of termination of this Agreement for any reason prior to the expiration of the Term, the provisions of this Section 20.10 will apply. The Developer will timely comply with such provisions independently of, and without regard to, the timing for determining, adjusting, settling and paying any amounts due to the Developer or the LA DOTD on account of termination. In connection with the expiration of the Term, certain provisions of this Section 20.10, as specified, will apply.

(b) The Developer will conduct all discussions and negotiations to determine the amount of any termination compensation, and will share with the LA DOTD all data, documents and information pertaining thereto, on an Open Book Basis.

(c) Except as otherwise specified in this Agreement, within 15 days after the Developer receives a notice of termination from the LA DOTD or the LA DOTD receives a notice of election to terminate pursuant to Section 20.04(c) from the Developer, the Developer

will meet and confer with the LA DOTD for the purpose of developing an interim Transition Plan for the orderly transition of Work, demobilization and transfer to the LA DOTD of control of the Project and Project Right of Way. The parties will use diligent efforts to complete preparation of the interim Transition Plan within 15 days after such meeting. The parties will use diligent efforts to complete a final Transition Plan within 30 days after such meeting. The Transition Plan will be in form and substance acceptable to the LA DOTD and will include and be consistent with the other provisions and procedures set forth in this Section 20.10, all of which procedures the Developer will promptly follow, regardless of any delay in preparation or acceptance of the Transition Plan.

(d) Upon receipt of a notice of termination, or, if applicable, before the expiration of the Term, the Developer will take all action that may be necessary, or that the LA DOTD may reasonably direct, for the protection and preservation of the Project, the Work and such materials, goods, machinery, equipment, parts, supplies and other property. For the avoidance of doubt, during the period from its receipt of a notice of termination until the expiration of the Term, the Developer will continue to perform its obligations and be entitled to receive Toll Revenues pursuant to this Agreement.

(e) The Developer will deliver to the LA DOTD on the date of expiration of the Term or on the effective date of any earlier termination:

(i) all tangible personal property, reports, books, and records necessary or useful for the Project in possession of the Developer or its Subcontractors, and, to the extent provided in ARTICLE 17, Work Product and Intellectual Property (other than the Source Code and the Source Code Documents) used or owned by the Developer or any Subcontractor relating to the Project or the Work; excluding, however, all personal property, machinery, equipment and tools owned or leased by any Subcontractor and not incorporated or intended to be incorporated into the Project;

(ii) possession and control of the Project, free and clear of any and all Liens created, incurred or suffered by the Developer, any Developer Party or any Affiliate or anyone claiming under any of them; provided that release of the Liens of the Lenders will be subject to payment of termination compensation owing by the LA DOTD;

(iii) all other intangible personal property used or owned by the Developer and relating to or derived from the Project and the Work; and

(iv) a notice of termination of this Agreement and the Developer's Interest, in the form reasonably required by the LA DOTD (other than in respect of a termination pursuant to Section 20.04), executed and acknowledged by the Developer.

Section 20.11 Liability After Termination; Consequences of Termination

(a) If this Agreement is terminated by reason of a Developer Default or a LA DOTD Default, such termination will not excuse the defaulting party from any liability arising out of such default. If any outstanding Claim of the Developer against the LA DOTD that is independent of the event of termination and determination of the termination compensation is resolved prior to payment of the termination compensation (if any), the parties will adjust the termination compensation by the amount of the unpaid award, if any, on the Claim. Notwithstanding the foregoing, any termination of this Agreement will automatically extinguish any Claim of the Developer to payment of Developer Damages for adverse Net Cost Impacts and Net Revenue Impacts accruing after the effective date of termination from Compensation Events that occurred prior to termination; provided, however, that (i) Claims for any such Net Cost Impacts that cannot reasonably be avoided by the Developer will not be extinguished and (ii) the foregoing will not limit any Claim of the Developer for interest on unpaid amounts owing or to become owing by the LA DOTD as provided herein.

(b) The LA DOTD will, as of the effective date of termination of this Agreement or the Developer's rights hereunder, whether due to expiration or earlier termination of the Agreement, assume full responsibility for the Project or, if Final Acceptance has not been achieved or other Work has otherwise not been completed as of such date, be permitted to assume full responsibility for such outstanding Work.

(c) Regardless of the LA DOTD's prior actual or constructive knowledge thereof, no contract or agreement to which the Developer is a party (unless the LA DOTD is also a party thereto) as of the effective date of termination will bind the LA DOTD, unless the LA DOTD elects to assume such contract or agreement in writing. Except in the case of the LA DOTD's express written assumption, no such contract or agreement will entitle the contracting party to continue performance of work or services respecting the Project following the effective date of termination, or to any Claim, legal or equitable, against the LA DOTD.

(d) As of the effective date of termination of this Agreement, whether due to expiration or earlier termination of the Agreement, the Permit and all of the Developer's Interest will automatically terminate and expire; provided, however, that the foregoing will not prohibit any Liens on revenues that may be permitted pursuant to L.R.S. §48:2084.8.B.

Section 20.12 Exclusive Termination Remedies

(a) Each of the LA DOTD and the Developer hereby acknowledges and agrees that it may only terminate this Agreement in accordance with the express terms hereof.

(b) ARTICLE 18 and this ARTICLE 20 set forth the entire and exclusive provisions and rights of the LA DOTD and the Developer regarding termination of this Agreement, and any and all other rights at law or in equity to terminate or to payment of compensation upon termination are hereby waived to the maximum extent permitted by Law. The parties hereto agree that, upon any termination of this Agreement, the payments provided herein will constitute the Developer's sole compensation (and the Developer will have no

further liability to the LA DOTD except as otherwise provided herein) pursuant to this Agreement.

(c) In the event the LA DOTD or any designee or licensee of the LA DOTD imposes tolls for travel on the Project after termination of this Agreement, neither the Developer nor any beneficiary or Lender as a result of a Financing Assignment will be entitled to any further compensation in respect thereof; provided, however, that any revenues subject to a Lien will be collected for the benefit of and paid to secured parties in accordance with L.R.S. § 48:2084.8.B.

Section 20.13 Determination of Project Value

(a) In the event the LA DOTD owes the Developer an amount calculated by reference to the Project Value, Project Value will be determined according to the following procedures:

(i) within 30 days after a party requests the appointment of an appraiser, the LA DOTD and the Developer will confer in good faith to mutually appoint an independent third-party appraiser to determine the Project Value by written appraisal. This appraiser must be nationally recognized and experienced in appraising similar assets;

(ii) if the parties are unable to agree upon such a single appraiser within such 30-day period, then within 10 days thereafter the LA DOTD and the Developer will each appoint an independent third-party appraiser and both such appraisers will be instructed jointly to select, within 15 days after they are appointed, a third independent third-party appraiser who is nationally recognized and experienced in appraising similar assets to make the appraisal referred to above;

(iii) if the appraisers appointed by the parties are unable to appoint an independent third-party appraiser under Section 20.13(a)(ii) within 60 days after a party has requested the appointment of an appraiser under Section 20.13(a)(i), then either party may petition a State court of competent jurisdiction as set forth in Section 21.06 to appoint an independent third-party appraiser having such reputation and experience;

(iv) each party will pay the costs of its own appraiser. The LA DOTD and the Developer will pay in equal shares the reasonable costs and expenses of the third independent appraiser;

(v) each party will diligently cooperate with the appraiser, including promptly providing the appraiser with data and information regarding the Project, Project Right of Way, asset condition, historical cost and revenue data, the Developer's performance history under the Contract Documents, any remedial plans which have been agreed between the Developer and the LA DOTD in respect of the Work that may be ongoing at the time of determination of the

Project Value, and any other information the appraiser may request that is in the possession of or reasonably available to the party. Each party will provide the appraiser with access to the party's books and records regarding the Project on an Open Book Basis; and

(vi) once appointed, the independent third-party appraiser will conduct an appraisal of the Project Value and deliver to both parties a draft appraisal report and draft valuation within 60 days following its appointment. The appraisal will determine Project Value as of the effective date of termination of the Agreement, based on the then condition of the Project (but without regard to any damage or loss resulting from a LA DOTD Default, and assuming that for purposes of this Agreement the Equity within the Developer is unencumbered and fully transferable). The appraiser will appraise Project Value by taking into account the terms and conditions of the Contract Documents, the then current Project Financing Agreements and any relevant Subcontracts, actual Project condition, historical cost and revenue data, the Developer's performance history under the Contract Documents, and updated projected cash flows and projected costs of the Project for the remainder of the projected Term (had this Agreement not been terminated), as well as the market for similar projects and market-based discount rates and multiples, in each case as determined by the appraiser. In conducting the appraisal, and before issuing a draft appraisal report, the independent appraiser will afford reasonable and comparable opportunity to each party to provide the appraiser with information, data, analysis and reasons supporting each party's view on the Project Value. The parties will have 15 days after receipt of the draft appraisal report to comment thereon. After the opportunity to comment has expired, the independent third-party appraiser will consider and evaluate all comments, prepare a final appraisal report stating the Project Value, and deliver the final appraisal report to both parties.

(b) If either party disagrees with the Project Value, either party may invoke the dispute resolution procedures set forth in ARTICLE 21, by delivery of notice to the other party within 60 days following receipt of the appraiser's report. Failure to invoke the dispute resolution procedures within such time period will conclusively constitute acceptance of the Project Value.

Section 20.14 Payment of Termination Compensation

(a) The LA DOTD will pay any termination compensation due pursuant to this ARTICLE 20 within 60 days after the date of determination of the applicable termination compensation amount, or in the event of a dispute related to such sum, within 60 days after the date that the dispute is settled or determined as provided herein; provided, in each case, that the LA DOTD may defer payment of such sum for up to an additional 270 days if it reasonably determines that such additional period is necessary in order to obtain funds to pay such sum.

(b) If the LA DOTD elects to defer payment of any termination compensation beyond 60 days pursuant to this Section 20.14, then any payment of such

termination compensation will be made together with interest thereon at the Bank Rate until the date of payment thereof; provided that to the extent that any portion of such payment:

(i) is based on the Developer Debt Termination Amount or the amounts at par paid by the Equity Members in the form of Equity Contributions or the amounts received by the Equity Members from the Developer as Distributions, then without double counting any interest payable at the Bank Rate, such portion shall be re-calculated as of the date of payment; or

(ii) is based on the fair market value of projected Distributions as part of the calculation of Project Value for the LA DOTD Termination Amount, then without double counting any interest payable at the Bank Rate, such portion shall include interest thereon at the market-based discount rate determined by the independent third-party appraiser under Section 20.13.

(c) Except where such other period is set forth in this ARTICLE 20, this Agreement shall nevertheless terminate on the date that is 60 days after the date of determination of the applicable termination compensation amount, with the LA DOTD's obligation to pay termination compensation hereunder surviving such termination.

ARTICLE 21.

DISPUTE RESOLUTION

Section 21.01 Scope of the Procedure

The following dispute resolution procedure in this ARTICLE 21 covers all Disputes between the LA DOTD and the Developer arising from this Agreement. This procedure is non-binding. Compliance with this procedure is a condition precedent to any litigation. All communications, testimony, and documents prepared for use in this procedure by either party from the time of filing the claim until the conclusion of the procedure will be deemed to be settlement negotiations and not admissible in any subsequent litigation. The result of the dispute resolution process will not be admissible in any subsequent litigation, except to enforce the terms of settlement.

Section 21.02 Continuation of Performance

At all times during the pendency of a Dispute under this procedure, the Developer will continue the Work pursuant to the terms of this Agreement and the LA DOTD will continue to pay the Developer in accordance with Section 7.08. After resolution, the parties will pay to the other party any amounts due after conclusion of the dispute resolution procedure.

Section 21.03 Informal Mediation

(a) If a Dispute arises between the LA DOTD and the Developer regarding this Agreement, the party seeking to invoke this dispute resolution procedure will submit an

outline statement of its position regarding the Dispute to the other party and the LA DOTD Chief Engineer.

(b) Within 21 days after the submission of the Dispute to the LA DOTD Chief Engineer, the parties will meet with the LA DOTD Chief Engineer to attempt to resolve the dispute through the informal mediation process. Informal mediation shall be held at LA DOTD headquarters in Baton Rouge, Louisiana. The parties agree that attorneys will not be present for informal mediation meetings. However, the parties recognize that each shall have the ability to consult with legal counsel in preparation for informal mediation meetings and before signing any documents which result from the informal mediation.

(c) If within 30 days after the submission to the LA DOTD Chief Engineer the parties cannot resolve the Dispute, the parties will initiate the process established in Section 21.04 and the Dispute will be resolved in accordance with that process.

Section 21.04 Formal Mediation

If the informal mediation process described in Section 21.03 fails to result in any resolution of the Dispute by the parties, then the parties shall submit the Dispute to formal mediation, as described in this Section 21.04, conducted by a mediator.

(a) Mediator. No later than 30 days following the submission of the Dispute to formal mediation pursuant to this Section 21.04, the LA DOTD and the Developer shall jointly select a mediator who has an understanding of Louisiana construction and contract law and, preferably, an understanding of alternative project delivery methods. The LA DOTD and the Developer recognize that at the formal mediation and at every other point in the proceedings, including in the event that matters mediated are ultimately litigated, the mediator will not be acting as a legal advisor representative for any or all parties. If the LA DOTD and the Developer cannot mutually agree on a mediator within such 30 day period from the failure of informal mediation to result in any resolution of the Dispute by the parties, the mediator shall be selected pursuant to the mediation rules established by the American Arbitration Association or other dispute resolution organization agreed to by the LA DOTD and the Developer.

(b) Formal Mediation Procedure. Formal mediation shall follow the following process and conditions:

(i) Formal mediation shall be scheduled within 45 days of the failure of informal mediation to result in any resolution of the Dispute by the parties.

(ii) Formal mediation shall be held at LA DOTD headquarters in Baton Rouge, Louisiana.

(iii) The LA DOTD and Developer shall each pay one-half of the fees and administrative costs charged by the selected mediator.

(iv) Other parties, such as Subcontractors, may be invited to the non-binding mediation as may be appropriate for the non-binding mediation, but shall

not have the same rights to participate as a party in the mediation by virtue of not being a party to this Agreement.

(v) The LA DOTD and the Developer may mutually agree in writing to submit one or more Disputes, whether or not factually related, to a single, non-binding mediation. In such event, time periods may be extended by mutual written agreement to facilitate preparation for the non-binding mediation.

(vi) The formal mediation will involve the LA DOTD and the Developer meeting with a mediator in an attempt to reach a voluntary settlement for any Dispute that rises to the level of formal mediation. Formal mediation involves no court procedures or rules of evidence, and the mediator will not render a binding decision or force an agreement on the LA DOTD and the Developer. The LA DOTD and the Developer will consult with legal counsel before signing documents which result from the formal mediation.

(vii) If the Dispute has not been settled within 45 days following the commencement of the mediation or within such other longer period agreed by the parties in writing, such Dispute may be submitted to litigation by either party in accordance with Section 21.06. In accordance with the confidentiality provisions in Section 21.04(c), all documents that are not otherwise subject to the attorney-client confidentiality privilege, prepared for use in, and the result of, the non-binding mediation by either party will remain confidential unless and until such documents may be used in any subsequent litigation.

(c) Confidentiality. The LA DOTD and the Developer recognize that informal and formal mediation proceedings are settlement negotiations, and that all offers, promises, conduct, and verbal statements made in the course of the proceedings, are inadmissible in any arbitration or court proceeding, to the extent allowed by Louisiana state law. The LA DOTD and the Developer agree to not subpoena or otherwise require the mediator or its employees to testify or produce records, notes, or work product in any future proceedings, and no recording or stenographic record will be made of the informal and formal mediation sessions. Evidence that is otherwise admissible or discoverable will not be rendered inadmissible or non-discoverable as a result of its use in the informal and formal mediation sessions. In the event the parties do reach a settlement agreement, the terms of that settlement will be admissible in any court or arbitration proceeding required to enforce it, unless the parties agree otherwise. Information disclosed to the mediator in a private caucus will remain confidential unless the party authorizes disclosure.

Section 21.05 Judicial Authority

The process contained in this ARTICLE 21 must be exhausted prior to an appeal to any judicial authority.

Section 21.06 Venue

Any legal proceedings relating to any dispute under this Agreement will be filed in a State court of competent jurisdiction in East Baton Rouge Parish, Louisiana.

ARTICLE 22.

RESERVED RIGHTS

Section 22.01 Exclusions from the Developer's Interest

The Developer's rights and interests in the Project have been granted to the Developer under the Permit in order to enable it to accomplish the Project Purposes. Subject to Section 22.04, the Developer's rights and interests consist only of those expressly granted by the Contract Documents and specifically exclude all Reserved Rights.

Section 22.02 LA DOTD Reservation of Rights

(a) The LA DOTD may, at any time at its sole cost and expense, devote, use or take advantage of the Reserved Rights for any public purpose without any financial participation whatsoever by the Developer. The LA DOTD hereby reserves to itself all ownership, development, maintenance, repair, replacement, operation, use and enjoyment of, and access to, the Reserved Rights.

(b) The Developer acknowledges and agrees that all rights to own, lease, sell, assign, transfer, utilize, develop or take advantage of the Reserved Rights are hereby reserved to the LA DOTD, and the Developer will not engage in any activity infringing upon the Reserved Rights.

Section 22.03 Disgorgement

If a Developer Default concerns a breach of the provisions of Section 22.01 or Section 22.02, in addition to any other remedies pursuant to this Agreement, the LA DOTD will be entitled to disgorgement of all profits from the prohibited activity and to sole title to and ownership of the prohibited assets and improvements.

Section 22.04 Alternate Treatment of Reserved Rights

Notwithstanding Section 22.01 or Section 22.02, the LA DOTD may elect in its sole discretion to treat any development of improvements respecting Reserved Rights that it undertakes as LA DOTD Enhancements, in which case all of the provisions of Section 11.01 will apply.

ARTICLE 23.

REPRESENTATIONS, WARRANTIES AND FINDINGS

Section 23.01 LA DOTD Representations and Warranties

The LA DOTD, as of the Agreement Date, hereby represents and warrants to the Developer as follows:

(a) the LA DOTD is an agency of the State, and has full power, right and authority to execute, deliver and perform its obligations under, in accordance with, and subject to the terms and conditions of this Agreement and other Contract Documents to which the LA DOTD is a party;

(b) each person executing this Agreement or any other Contract Document on behalf of the LA DOTD to which the LA DOTD is a party has been or at such time will be duly authorized to execute and deliver each such document on behalf of the LA DOTD;

(c) the execution and delivery by the LA DOTD of this Agreement and the other Contract Documents executed concurrently herewith to which the LA DOTD is a party, and the performance of its obligations hereunder and thereunder, will not conflict with or will result, at the time of execution, in a default under or violation of (i) any other agreements or instruments to which it is a party or by which it is bound or (ii) to its knowledge, any Law, where such violation will have a material adverse effect on the ability of the LA DOTD to perform its obligations under this Agreement;

(d) there is no action, suit, proceeding, investigation or litigation pending and served on the LA DOTD which challenges the LA DOTD's authority to execute, deliver or perform, or the validity or enforceability of, this Agreement and the other Contract Documents to which the LA DOTD is a party, or which challenges the authority of the LA DOTD official executing this Agreement or the other Contract Documents, and the LA DOTD has disclosed to the Developer any pending and unserved or threatened action, suit, proceeding, investigation or litigation with respect to such matters of which the LA DOTD is aware;

(e) this Agreement, and any other Contract Document to which the LA DOTD is a party, have been duly authorized, executed and delivered by the LA DOTD and constitutes a valid and legally binding obligation of the LA DOTD, enforceable against it in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity;

(f) the LA DOTD has taken or caused to be taken all requisite action to authorize the execution and delivery of, and the performance of its obligations under, this Agreement and the other Contract Documents to which the LA DOTD is a party;

(g) as of the Agreement Date, no agreement, contract, option, commitment or other right exists that binds, or that in the future may become binding on, the LA DOTD to sell,

transfer, convey, dispose of or encumber the Project. The LA DOTD has not granted or assigned any interest in Gross Revenues to any other party other than the Developer pursuant to this Agreement;

(h) other than with respect to portions of the Project Right of Way not yet acquired as of the Agreement Date, the LA DOTD has good and sufficient title and interest to the Project Right of Way, free and clear of all Liens or other exceptions to title, except Permitted Encumbrances;

(i) the LA DOTD has the right, power, and authority to impose and collect tolls from the New Bridge, and such right, power, and authority has been properly transferred to the Developer under this Agreement; the transfer of such right, power and authority from the LA DOTD to the Developer is valid, binding, and enforceable; and

(j) the Project (including the demolition of the Existing Bridge) is eligible to receive assistance under Title 23 of the United States Code and is eligible to receive an allocation of Private Activity Bonds.

Section 23.02 Developer Representations and Warranties

The Developer, as of the Agreement Date, hereby represents and warrants to the LA DOTD as follows:

(a) the Developer is a duly organized limited liability company created under the laws of [●], is qualified to conduct business in the State, has the requisite power and all required licenses to carry on its present and proposed activities, and has full power, right and authority to execute and perform each and all of its obligations under the Contract Documents to which it is a party;

(b) the Developer has taken or caused to be taken all requisite action to authorize the execution and delivery of, and the performance of its obligations under, this Agreement and the other Contract Documents to which the Developer is a party;

(c) each person executing this Agreement or any other Contract Document on behalf of the Developer has been or will at such time be duly authorized to execute and deliver each such document on behalf of the Developer;

(d) this Agreement and each Contract Document to which the Developer is a party have been duly authorized, executed and delivered by the Developer and constitutes a valid and legally binding obligation of the Developer, enforceable against it in accordance with its terms, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity;

(e) neither the execution and delivery by the Developer of this Agreement and the other Contract Documents to which the Developer is a party, nor the consummation of the transactions contemplated hereby or thereby, is in conflict with or will result in a default under or a violation of (i) the governing instruments of the Developer or any other agreements

or instruments to which it is a party or by which it is bound or (ii) to its knowledge, any Law, where such violation will have a material adverse effect on the ability of the Developer to perform its obligations under this Agreement;

(f) there is no action, suit, proceeding, investigation or litigation pending and served on the Developer which challenges the Developer's authority to execute, deliver or perform, or the validity or enforceability of, this Agreement and the other Contract Documents to which the Developer is a party, or which challenges the authority of the Developer official executing this Agreement or the other Contract Documents; and the Developer has disclosed to the LA DOTD any pending and unserved or threatened action, suit, proceeding, investigation or litigation with respect to such matters of which the Developer is aware;

(g) the Developer is in material compliance with all Laws applicable to the Developer or its activities in connection with this Agreement and the other Contract Documents to which the Developer is a party;

(h) none of the Developer, any affiliate of the Developer (as "affiliate" is defined in 2 CFR §180.905), or the Design-Build Contractor or their affiliates (as so defined) is suspended or debarred, subject to a proceeding to suspend or debar it, or subject to an agreement for voluntary exclusion, from bidding, proposing or contracting with any Federal or State department or agency;

(i) no event which, with the passage of time or the giving of notice, would constitute a Developer Default has occurred, to the best of the Developer's knowledge after diligent inquiry;

(j) no event which, with the passage of time or the giving of notice, would constitute a Delay Event or a Compensation Event under this Agreement has occurred, to the best of the Developer's knowledge after diligent inquiry; and

(k) the Initial Base Case Financial Model (i) was prepared by or on the Developer's behalf in good faith, (ii) fully discloses all Financial Model Formulas, and all cost, revenue and other financial assumptions and projections that the Developer used or is using in making its decision to enter into this Agreement, (iii) fully discloses all Financial Model Formulas disclosed to the Lenders under the Project Financing Agreements and (iv) as of the Agreement Date, represents the projections that the Developer believes in good faith are realistic and reasonable for the Project; provided that such projections are based upon a number of estimates and assumptions and are subject to significant business, economic and competitive uncertainties and contingencies and that, accordingly, no representation or warranty is made that any of the assumptions are correct, that such projections will be achieved or that the forward-looking statements expressed in such projections will correspond to actual results.

ARTICLE 24.

CONTRACTING PRACTICES AND LABOR PRACTICES

Section 24.01 Contracting

(a) General.

(i) The Developer may perform the Work through use of its own personnel, materials and equipment, or by contracting to Persons with the expertise, qualifications, experience, competence, skills and know-how to perform the responsibilities being contracted in accordance with all Law, all Governmental Approvals, and the terms, conditions and standards set forth in this Agreement.

(ii) The Developer will not enter into any Subcontract at any level with any Person if that Person or any of its affiliates (as "affiliate" is defined in 2 CFR §180.905), or any of their respective officers, directors and employees, (i) at the time the Subcontract is entered into, is suspended or debarred, subject to a proceeding to suspend or debar it, or subject to an agreement for voluntary exclusion, from bidding, proposing or contracting with any Federal or State department or agency, (ii) has been convicted, pled guilty or *nolo contendere* to a violation of Law involving fraud, conspiracy, collusion, bribery, perjury, material misrepresentation, or any other violation that shows a similar lack of moral or ethical integrity or (iii) is then barred or restricted from owning, operating or providing services for the Project under Law, including the Foreign Investment and National Security Act of 2007, 50 USC App. 2170 (HR556), in the State or the U.S.

(iii) The appointment of Subcontractors will not relieve the Developer of its responsibility hereunder or for the quality of work, materials and services provided by it. The Developer will at all times be held fully responsible to the LA DOTD for the acts and omissions of its Subcontractors in respect of the Work and persons employed by them and no Subcontract entered into by the Developer will impose any obligation or liability upon the LA DOTD to any such Subcontractor or any of its employees. Further, except as provided herein or otherwise, absent the LA DOTD's express written Approval, no Subcontract or delegation of Work thereunder will affect the obligation of the Developer to directly communicate with the LA DOTD and to oversee the Work of the Subcontractor. Nothing in this Agreement will create any contractual relationship between the LA DOTD and a Subcontractor.

(b) Subcontract Reporting.

(i) Within 14 days after issuance of the Notice to Proceed, the Developer shall submit a list of Subcontractors to the LA DOTD for information. In addition, the Developer will update the list of Subcontractors as the Work progresses so that the LA DOTD will have, at all times, a current and accurate list

of Subcontractors along with the Work that they perform. In submitting and updating such lists, the Developer shall use the Subcontractor information form set forth in Exhibit M. This Section 24.01(b)(i) shall not be interpreted to limit the responsibilities of the Developer under Section 24.04.

(ii) All Subcontracts must be in writing and must contain all applicable provisions of the Contract Documents (with appropriate changes in the names of the parties) and comply with all Federal and State Laws. All Subcontractors performing the Work on the Project must be appropriately licensed with the Louisiana State Licensing Board for contractors and/or the Louisiana Professional Engineering and Land Surveying Board (LAPELS), as appropriate.

(iii) The Developer will allow the LA DOTD access to all Subcontracts at all tiers and records regarding the Subcontracts and will provide copies of said Subcontracts to the LA DOTD within 14 days of the LA DOTD's request for a Subcontract. No Subcontractor will work on the Project while on the LA DOTD's disqualified contractors' list.

(iv) The intent of this Section 24.01(b) will not be circumvented by the Developer by placing a Subcontractor's employees directly on the Developer's payroll. If a person or group of people generally operated as an independent contractor, the LA DOTD will treat them as independent contractors for purposes of this Section 24.01(b).

(v) The Developer's and any surety's liability under this Agreement and the Performance Security will not be waived or in any way diminished by subcontracting or other assignment of interest under this Agreement.

(c) Affiliate Subcontracts. The Developer will not enter into or materially amend an Affiliate Subcontract without notice to and Approval by the LA DOTD, which Approval will not be unreasonably withheld or delayed if the Subcontract is entered into in the ordinary course of business and the Developer demonstrates to the LA DOTD's satisfaction that the Affiliate Subcontract is on overall terms no less favorable or unfavorable to the Developer than terms the Developer could obtain in an arm's-length transaction for comparable services with a Person that is not an Affiliate of the Developer; provided that no Approval by the LA DOTD will be required for (i) reasonable overhead sharing fees and reimbursement of third-party costs payable to an Affiliate for legal, accounting, tax, computer and other centralized management services provided to the Developer in lieu of the Developer having its own employees for such functions; or (ii) the joint ownership of assets or property used for the operation or maintenance of the Project and other projects owned or operated by Affiliates of the Developer so long as the cost of such assets and properties are reasonably shared and documented.

(d) Replacement of Design-Build Contractor, O&M Contractor, or Tolling Operator. The Developer may only enter into a Subcontract replacing the Design-Build Contractor, O&M Contractor, or Tolling Operator, as applicable, after the following conditions are satisfied:

(i) the Developer shall submit a true and complete copy of the proposed Subcontract to the LA DOTD;

(ii) the Developer shall deliver a certification to the LA DOTD that the proposed Subcontract is consistent with this Agreement and includes all provisions required under Section 24.01(f); and

(iii) the LA DOTD does not disapprove of the replacement Subcontractor within 30 days of receiving a true and complete copy of the proposed Subcontract, or such other period as agreed by the parties, after taking into account the following factors:

(A) whether the Work to be performed thereunder is consistent with this Agreement;

(B) the financial strength and integrity of the proposed Subcontractor, each of its direct Subcontractors, and their respective direct or indirect beneficial owners, any proposed managers or operating partners and each of their respective Affiliates;

(C) the capitalization of the proposed Subcontractor or any parent guarantor, as applicable;

(D) the experience of the proposed Subcontractor and each of its direct Subcontractors in constructing or operating toll roads or highways and performing other projects;

(E) the presence of any actions, suits or proceedings, at law or in equity, or before any Governmental Authority, pending or, to the best of such Subcontractor's knowledge, threatened against such Subcontractor, that would or could reasonably be expected to have a material adverse effect on its ability to perform its obligations under the Subcontract; and

(F) the background of the proposed Subcontractor, each of its direct Subcontractors, and their respective direct or indirect beneficial owners, any proposed managers or operating partners, each of their respective officers, directors and employees and each of their respective Affiliates (including the absence of criminal, civil or regulatory Claims or actions against any such Person and the quality of any such Person's past or present performance on other projects).

(f) Additional Requirements. Each Subcontract for the performance of the Work that the Developer executes at a minimum:

(i) will set forth a standard of professional responsibility or a standard for commercial practice equal to prudent industry standards for work of similar

scope and scale and will set forth effective procedures for Claims and change orders;

(ii) will establish provisions for prompt payment by the Developer in accordance with Law;

(iii) will require the Subcontractor to maintain all registrations and licenses applicable to its scope of work;

(iv) will require the Subcontractor to carry out its scope of work in accordance with Law, the Technical Provisions, all Governmental Approvals, Good Industry Practice and the terms, conditions and standards set forth in the Contract Documents;

(v) will set forth warranties, guaranties and liability provisions of the contracting party in accordance with Good Industry Practice for work of similar, scope and scale;

(vi) will be fully assignable to the LA DOTD upon termination of this Agreement, such assignability to include the benefit of all Subcontractor warranties, indemnities, guarantees and professional responsibility in accordance with the terms hereof;

(vii) will include express requirements that, if the LA DOTD succeeds to the Developer's rights under the subject Subcontract (by assignment or otherwise), then the relevant Subcontractor agrees that it will (A) maintain usual and customary books and records for the type and scope of operations of business in which it is engaged in respect of the Project (e.g., constructor, equipment supplier, designer, service provider), (B) permit audit thereof by the Developer, and provide progress reports to the Developer appropriate for the type of Subcontract it is performing sufficient to enable the Developer to provide the reports it is required to furnish the LA DOTD pursuant to this Agreement and (C) allow the LA DOTD, to assume the benefit of the Developer's Subcontract rights and the work performed thereunder, with liability only for those remaining obligations accruing after the date of assumption, but excluding any monetary claims or obligations that the Developer may have against such Subcontractor that existed prior to the LA DOTD's assumption of such Subcontract;

(viii) will not be assignable by the Subcontractor without the Developer's prior written consent; provided, that the foregoing will not limit permitted subcontracting of the Work;

(ix) will expressly require the Subcontractor to participate in meetings between the Developer and the LA DOTD, upon the LA DOTD's reasonable request, concerning matters pertaining to such Subcontractor or its work; provided that: (A) all direction to such Subcontractor will be provided by the Developer; and nothing in this Section 24.01(f)(ix) will limit the authority of the LA DOTD

to give such direction or take such action which in the opinion of the LA DOTD is necessary to remove an immediate and present threat to the safety of life or property;

(x) will expressly provide that all Liens and claims of any Subcontractors at any time will not attach to any interest of the LA DOTD in the Project or the Project Right of Way; and

(xi) will be consistent in all other material respects with the terms and conditions of the Contract Documents to the extent such terms and conditions are applicable to the scope of work of such Subcontractor.

Section 24.02 Key Personnel

(a) The Developer will retain, employ and utilize the individuals specifically listed in its Proposal to fill the corresponding Key Personnel positions listed therein. The Developer will not change or substitute any such individuals except due to internal promotion, retirement, death, disability, incapacity, or voluntary or involuntary termination of employment, or as otherwise approved by the LA DOTD pursuant to Section 24.02(b).

(b) The Developer will notify the LA DOTD of any proposed replacement for any Key Personnel position. The LA DOTD will have the right to review the qualifications and character of each individual to be appointed to a Key Personnel position (including personnel employed by Subcontractors to fill any such position) and to approve or disapprove use of such individual in such position prior to the commencement of any Work by such individual.

(c) Except for instances described in Section 8.12(c)(iii), if the Developer reasonably believes that any Key Personnel will be unable to fulfill the specific responsibilities of such Key Personnel under the Contract Documents for a period of 14 consecutive days or more, or if, in fact, any Key Personnel is unable to fulfill the specific responsibilities of such Key Personnel under the Contract Documents for a period of 14 consecutive days or more, the Developer shall, by giving written notice to the LA DOTD, promptly appoint an individual to fulfill the specific responsibilities that would otherwise be performed by such Key Personnel on an interim basis, provided that the LA DOTD may require the Developer to replace the interim individual if the LA DOTD, in its sole discretion, determines that the interim individual is unqualified or unable to fulfill the specific responsibilities of such Key Personnel. Notwithstanding the foregoing, if an interim individual is required to fulfill the specific responsibilities any individual Key Personnel under this Section 24.02(c) for a cumulative period of 45 days in any rolling 365-day period, the Developer will be subject to the liquidated damages described in Section 8.12(c) for such Key Personnel.

(d) The Developer will cause each individual filling a Key Personnel position to dedicate the full amount of time necessary for the proper performance of the Work.

(e) The Developer will provide the LA DOTD with telephone number and email addresses for all Key Personnel. The LA DOTD requires the ability to contact Key

Personnel, or, subject to the specific requirements in Section 2.3.5 of the Technical Provisions, an LA DOTD approved designee, 24 hours per day, seven days per week.

(f) If the Developer fails to comply with the requirements of Section 2.3.5 of the Technical Provisions and this Section 24.02, the LA DOTD will be entitled to assess liquidated damages, in accordance with Section 8.12(c).

Section 24.03 Health, Safety and Welfare

The parties recognize and agree that protection of the health, safety and welfare of the public and all persons engaged in connection with the performance of the Developer's obligations pursuant to the Contract Documents is a priority. Accordingly, the Developer will comply with the following provisions, along with all other Laws and the Technical Requirements:

(a) the Developer will comply, and will require all Subcontractors to comply, with all construction safety and health standards established by Law, including the State and Federal Occupational Health and Safety Acts. Neither the Developer nor any Subcontractor will require any worker to work in surroundings or under working conditions that are unsanitary, hazardous or dangerous to their health or safety, as determined under construction safety and health standards promulgated by the U.S. Secretary of Labor in accordance with Section 107 of the Contract Work Hours and Safety Standards Act; and

(b) the LA DOTD will be entitled to require the Developer, at the Developer's sole cost and risk, to suspend any Work or other activities related to the Project, which in the sole discretion the LA DOTD, presents a risk to the public health, safety or welfare, and to take such other actions as the LA DOTD may require to prevent such risk; provided, that if it is determined in accordance with the dispute resolution procedures in ARTICLE 21 that the Developer was in compliance with its obligations under this Agreement, then the suspension order and other actions will be treated as a LA DOTD Change pursuant to Section 13.02.

Section 24.04 DBE Participation

(a) In accordance with the DBE Participation in Federal Aid Design-Build Contracts requirements set forth in Attachment B to Exhibit K, this Project is subject to the DBE program and will have a DBE participation goal.

(b) The DBE participation goal is 10.34% percent of the Design-Build Work. Before performing any Design-Build Work, the Developer will submit DOTD Form OMF-1A (DB) (Request to Sublet) to the LA DOTD for approval.

(c) The Developer will encourage DBE participation in the Operating Period O&M Work in accordance with this Section 24.04(c).

(i) The LA DOTD will establish, no later than the Partial Acceptance Date, a DBE participation goal for the Operating Period O&M Work for the

period beginning at the Partial Acceptance Date and continuing until September 30, 2029. For the three-year period beginning on October 1, 2029, and every three years thereafter for the remainder of the Term, the LA DOTD will establish a DBE participation goal for the Operating Period O&M Work prior to expiration of the preceding three-year period.

(ii) No later than the July 1st prior to the expiration of each such period, the Developer will submit to the LA DOTD a summary of all anticipated Renewal Work and a Routine Maintenance Plan for the upcoming three-year period.

(iii) Throughout the Operating Period, within 15 days after each calendar quarter ends, the Developer will submit to the LA DOTD a report describing the Developer's efforts to satisfy the applicable DBE participation goal.

(iv) The Developer will make good faith efforts to achieve or exceed the DBE participation goals established for the Operating Period O&M Work under this Section 24.04(c). Before performing any Operating Period O&M Work during any such period, the Developer will submit DOTD Form OMF-1A (DB) (Request to Sublet) to the LA DOTD for approval.

(d) Only those businesses certified by the LA DOTD Unified Certification Program as Disadvantaged Business Enterprises (DBEs) may be utilized in fulfillment of the DBE goal requirement. Such businesses are those certified on the basis of ownership and control by persons found to be socially and economically disadvantaged in accordance with Section 8(a) of the Small Business Act, as amended and Title 49, Code of Federal Regulations, Part 26 (49 CFR Part 26).

Section 24.05 Non-Discrimination; Equal Opportunity

(a) The Developer will not, and will cause its Subcontractors to not, discriminate on the basis of race, color, national origin or sex in the performance of the Work. The Developer will carry out, and will cause its Subcontractors to carry out, applicable requirements of 49 CFR Part 26. Failure by the Developer to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement for Developer Default or such other remedy as LA DOTD deems appropriate (subject to the Developer's rights to notice and opportunity to cure as set forth in this Agreement).

(b) The Developer will include the provisions of this Section 24.05 in every Subcontract (including purchase orders and in every Subcontract of any Affiliate for the Work), and will require that they be included in all Subcontracts at lower tiers, so that such provisions will be binding upon each Subcontractor.

(c) The Developer confirms for itself and all Subcontractors that the Developer and each Subcontractor has an equal employment opportunity policy ensuring equal employment opportunity without regard to race, color, national origin, sex, age, religion or

handicap; and that the Developer and each Subcontractor maintains no employee facilities segregated on the basis of race, color, religion or national origin. The Developer will comply with all applicable laws relating to Equal Employment Opportunity (EEO) and nondiscrimination and will require its Subcontractors to comply with such provisions, including those set forth in the Required Contract Provisions for Federal-Aid Construction Contracts and the LA DOTD's Supplemental Specifications for Female and Minority Participation in construction which are included Exhibit K.

Section 24.06 Prevailing Wages

(a) The Developer will pay or cause to be paid to all applicable workers employed by it or its Subcontractors to perform the Work not less than the prevailing rates of wages, as provided in the statutes and regulations applicable to public work contracts, including Davis-Bacon Act, and as provided in Exhibit K. The Developer will comply and cause its Subcontractors to comply with all Laws pertaining to prevailing wages.

(b) It is the Developer's sole responsibility to determine the wage rates required to be paid. In the event rates of wages and benefits change while this Agreement is in effect, the Developer will bear the cost of such changes and will have no Claim against the LA DOTD on account of such changes.

(c) The Developer will comply and cause its Subcontractors to comply with all Laws regarding notice and posting of intent to pay prevailing wages, of prevailing wage requirements and of prevailing wage rates.

Section 24.07 Buy America Provisions

(a) Pursuant to the Build America Buy America provisions of the Infrastructure Investment and Jobs Act enacted on November 15, 2021 (Pub. L. No. 117-58), all iron and steel materials (including the application of a coating), manufactured products manufactured in the United States and having the cost of the components greater than 55 percent of the total cost of all components of the manufactured product, as well as construction materials permanently installed in the Project shall be manufactured and produced in the United States, unless a waiver of these provisions is granted. Coating includes all processes which protect or enhance the value of the material to which the coating is applied. The request for waiver must be presented in writing to the LA DOTD by the Developer. Such waiver may be granted if it is determined that:

(i) the application of domestic content procurement preference would be inconsistent with the public interest;

(ii) such materials are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

(b) Minimal use of foreign steel and iron materials will be allowed without waiver; provided that the cost of these materials does not exceed 0.1 percent of the value of the Design-Build Work or $2,500, whichever is greater. However, the Developer will make written request to the LA DOTD's Chief Construction Division Engineer for permission to use such foreign materials and will furnish a listing of the materials, their monetary value, and their origin and place of production.

(c) The burden of proof for the origin and place of production and any request for waiver is the responsibility of the Developer.

(d) Prior to the use of iron and steel materials (including the application of a coating), manufactured products manufactured in the United States and having the cost of the components greater than 55 percent of the total cost of all components of the manufactured product, or construction materials to be permanently installed in the Project, the Developer shall provide a certification using the form included in Exhibit T from the Supplier for each applicable material.

Section 24.08 Participation in Job Training

(a) The Developer will demonstrate reasonable efforts to participate in job training during the DB Period and Operating Period, as provided by the LA DOTD's Supplemental Specifications for On-the-Job Training which is included in Exhibit K, the Developer will submit a written request to the LA DOTD with a copy to the Compliance Program Section. If, after making reasonable efforts, the Developer is unable to participate in job training, the Developer shall notify the LA DOTD of the reasons for such failure.

(b) According to the design formula, the number of potential trainees has been established as 12. For the purposes of reimbursement, this number of trainees has been translated into an estimated one thousand trainee hours per trainee. The pay item for Trainee Reimbursement will be established in this Agreement in accordance with the Supplemental Specifications for On-The-Job Training in Exhibit K and the above hours.

(c) Should the design formula not indicate that this Agreement could support training, the Developer may still train upon the approval of the LA DOTD.

Section 24.09 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

(a) Pursuant to section 889 of the National Defense Authorization Act of 2019 (H.R. 5515 at pp. 282-284; Pub. L. 115-232) (NDAA), and as promulgated at 2 C.F.R. § 200.216, the Developer shall not procure or obtain the Covered Equipment and Services in the performance of this Project.

(b) Covered Equipment and Services is defined to include any telecommunication or video surveillance equipment, systems, or services produced or provided by any of the following entities, or any subsidiary or affiliate of the following entities:

(i) Huawei Technologies Company;

(ii) ZTE Corporation;

(iii) Hytera Communications Corporation;

(iv) Hangzhou Hikivision Digital Technology Company;

(v) Dahua Technology Company; or

(vi) Any entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(c) The burden of proof for the origin or place of production of telecommunications or video surveillance equipment, systems, or services is the responsibility of the Developer.

(d) Prior to the use of any telecommunication or video surveillance equipment, systems, or services pursuant to this Agreement, the Developer shall furnish a certification to the LA DOTD stating that the telecommunication or video surveillance equipment, systems, or services are not Covered Equipment and Services pursuant to this Section 24.09, 2 C.F.R. § 200.216, and the NDAA.

ARTICLE 25.

MISCELLANEOUS

Section 25.01 No Change of Developer Organization or Name and Restrictions on Transfers and Equity Transfers

(a) The Developer shall not change the legal form of its organization, or change its name, without the prior written Approval of the LA DOTD, which Approval will not be unreasonably withheld or delayed.

(b) The Developer shall not, without the prior written Approval of the LA DOTD in its sole discretion, Transfer, or otherwise permit the Transfer of, any or all of the Developer's Interest, except with respect to the grant of any security for any financing extended to the Developer (directly or indirectly) under the Project Financing Agreements, or to the enforcement thereof; provided, that an Equity Transfer shall not be considered a Transfer of the Developer's Interest.

(c) The Developer shall not, and shall not permit any Equity-Related Entity to, voluntarily or involuntarily cause, permit, or suffer any Restricted Equity Transfer, without the prior written Approval of the LA DOTD, in its sole discretion.

(d) The Developer shall provide the LA DOTD with at least 45 days' prior written notice of any Equity Transfer, except with respect to any change in legal or beneficial ownership of any shares that are listed on a recognized stock exchange, or that are issued pursuant to an employee or management incentive plan.

(e) To request the Approval of the LA DOTD to any proposed Restricted Equity Transfer, or for any transaction about which the Developer is unsure if it constitutes a Restricted Equity Transfer, to seek the LA DOTD's confirmation as to whether any proposed transaction involving the Developer or an Equity-Related Entity may or may not be a Restricted Equity Transfer, the Developer shall provide the LA DOTD, both (i) within the prior written notice required under Section 25.01(d), a written request from the Developer for the Approval of the LA DOTD or the LA DOTD's confirmation, including an outline of the overall transaction structure, reasonable details on the proposed transferee, and a description of the process leading to the planned closing or execution of the proposed Equity Transfer, and (ii) all such information, evidence, and supporting documentation concerning the transaction or the proposed transferee as the LA DOTD may request. In evaluating whether to Approve, or to withhold Approval from, any Restricted Equity Transfer, the LA DOTD shall review (A) the financial strength and integrity of the proposed transferee and its direct or indirect beneficial owners, (B) the experience of the proposed transferee in operating toll roads or highways, and (C) the background of the proposed transferee, each of its direct subcontractors, and their direct or indirect beneficial owners, any proposed managers or operating partners, each of their respective officers, directors and employees and each of their respective Affiliates (including the absence of criminal, civil or regulatory claims or actions against any such Person and the quality of any such Person's past or present performance on other projects). The LA DOTD will provide a response to the Developer, including (if requested) its Approval or its withholding of Approval to any proposed Restricted Equity Transfer, within 30 days of the later of receipt of (x) the Developer's written notice under Section 25.01(d) and (y) the Developer's provision of all information, evidence and supporting documentation requested by the LA DOTD, provided that to the extent there are any changes to the information originally provided with the Developer's written notice under Section 25.01(d), then such changes shall require the LA DOTD's further written approval prior to the closing or execution of any Equity Transfer.

(f) If the LA DOTD incurs any expenses (including fees of consultants and legal counsel) in connection with its review of any Equity Transfer, the Developer shall pay to the LA DOTD the amount of the expenses so incurred within 14 days following receipt of an LA DOTD invoice for such amount.

(g) Any change in the legal form of the Developer's organization, any change in the Developer's name, and any Equity Transfer or any Transfer or other sale, transfer, disposition or other transaction made in violation of this Section 25.01 will be null and void *ab initio* and of no force and effect.

Section 25.02 Assignment

The LA DOTD may assign, transfer, convey, sublet, or dispose of its interest in this Agreement to any other public agency or public entity of the State as permitted by Law;

provided, that the assignee: (i) has assumed all of the LA DOTD's obligations, duties and liabilities pursuant to this Agreement and the Direct Agreement then in effect, (ii) possesses the authority necessary for the Developer to continue performance of, and maintain its rights under, the Contract Documents, and (iii) has a credit rating at least equal to the LA DOTD's credit rating.

Section 25.03 Ethical Standards

(a) The Developer shall, no later than five days after issuance of the Notice to Proceed, provide copies to the LA DOTD of its written policies establishing ethical standards of conduct for all its directors, officers and supervisory or management personnel in dealing with the LA DOTD and employment relations. Such policies including any amendments or modifications shall include standards of ethical conduct concerning the following:

(i) restrictions on gifts and contributions to, and lobbying of, any State Party and any of their respective commissioners, directors, officers and employees;

(ii) protection of employees from unethical practices in the selection, use, hiring, compensation or other terms and conditions of employment, or in firing, promotion and termination of employees;

(iii) protection of employees from retaliatory actions (including discharge, demotion, suspension, threat, harassment, pay reduction or other discrimination in the terms and conditions of employment) in response to reporting of illegal (including the making of a false Claim), unethical or unsafe actions or failures to act by the Developer or its personnel or any Subcontractors;

(iv) restrictions on directors, members, officers or supervisory or management personnel of the Developer engaging in any transaction or activity, including receiving or offering a financial incentive, benefit, loan or other financial interest, that is, or to a reasonable person appears to be, in conflict with or incompatible with the proper discharge of duties or independence of judgment or action in the performance of duties, or adverse to the interests of the Project or employees;

(v) restrictions on use of an office or job position for a purpose that is, or would to a reasonable person appear to be, primarily for the private benefit of a director, member, officer or supervisory or management person, rather than primarily for the benefit of the Developer or the Project, or primarily to achieve a private gain or an exemption from duty or responsibility for a director, member, officer or supervisory or management person; and

(vi) adherence to the LA DOTD's organizational conflict of interest rules and policies pertaining to the hiring of any consultant which has assisted the LA DOTD in connection with the negotiation of this Agreement or the conduct of Oversight Services for the Project.

(b) The Developer will cause its directors, members, officers and supervisory and management personnel, and require those of its Subcontractors, to adhere to and enforce the adopted policy on ethical standards of conduct. The Developer will establish reasonable systems and procedures to promote and monitor compliance with the policy.

Section 25.04 Authorized Representatives

(a) Each of the Developer and the LA DOTD hereby designates the following individuals as its initial Developer Representative(s) and LA DOTD Representative(s), respectively, to administer this Agreement on its respective behalf:

(i) For the Developer:

[To be completed prior to execution.]

(ii) For the LA DOTD:

[To be completed prior to execution.]

(b) The Developer Representatives and the LA DOTD Representatives will be reasonably available to each other during the Term and will have the authority to issue instructions and other communications on behalf of the Developer and the LA DOTD, respectively, and will be the recipient of notices and other written communications from the other party pursuant to this Agreement (except any notice initiating or relating to the dispute resolution procedures of ARTICLE 21 will be given in accordance with Section 25.05). However, such Representatives will not have the authority to make decisions or give instructions binding upon the Developer or the LA DOTD, except to the extent expressly authorized by the Developer or the LA DOTD, as the case may be, in writing. In the event the Developer or the LA DOTD designates different Representatives, it will give the other party written notice of the identity of and contact information for the new Developer Representative(s) or LA DOTD Representative(s), as the case may be.

Section 25.05 Notices

(a) Whenever under the provisions of this Agreement it will be necessary or desirable for one party to serve any notice, request, demand, report or other communication on another party, the same will be in writing and will not be effective for any purpose unless and until actually received by the addressee or unless (i) delivered personally, (ii) sent by certified mail, return receipt requested, (iii) sent by a recognized overnight mail or courier service, with delivery receipt requested, or (iv) sent by facsimile or email communication followed by a hard copy and with receipt confirmed by telephone, addressed as follows:

If to the LA DOTD:

[To be completed prior to execution.]

With copies to:

[To be completed prior to execution.]

If to the Developer:

[To be completed prior to execution.]

With copies to:

[To be completed prior to execution.]

(b) Any party may, from time to time, by notice in writing served upon the other party as aforesaid, designate an additional and/or a different mailing address or an additional and/or a different person to whom all such notices, requests, demands, reports and communications are thereafter to be addressed. Any notice, request, demand, report or other communication served personally will be deemed delivered upon receipt, if served by mail or independent courier will be deemed delivered on the date of receipt as shown by the addressee's registry or certification receipt or on the date receipt at the appropriate address is refused, as shown on the records or manifest of the United States Postal Service or independent courier, and if served by facsimile transmission or e-mail will be deemed delivered on the date of receipt as shown on the received facsimile or e-mail (provided, that the original is thereafter delivered as aforesaid).

Section 25.06 Binding Effect

Subject to the limitations of Section 25.01 and Section 25.02, this Agreement will be binding upon and will inure to the benefit of the parties hereto and their respective legal representatives, successors and permitted assigns, and wherever a reference in this Agreement is made to any of the parties hereto, such reference also will be deemed to include, wherever applicable, a reference to the legal representatives, successors and permitted assigns of such party, as if in every case so expressed.

Section 25.07 Relationship of Parties

(a) The relationship of the Developer to the LA DOTD will be one of an independent contractor, not an agent, partner, lessee, joint or co-venturer or employee, and neither the LA DOTD nor the Developer will have any rights to direct or control the activities of the other or their respective Affiliates, contractors or consultants, except as otherwise expressly provided in this Agreement.

(b) Officials, employees and agents of the Developer or the LA DOTD will in no event be considered employees, agents, partners or representatives of the other.

Section 25.08 No Third-Party Beneficiaries

Nothing contained in this Agreement is intended or will be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligations of the parties hereto

toward, any person or entity not a party to this Agreement, except rights expressly contained herein for the benefit of the Lenders or the Collateral Agent.

Section 25.09 Taxes

The Developer is solely responsible for the payment of Taxes accrued or arising out of the performance of its obligations pursuant to this Agreement.

Section 25.10 Payments to the LA DOTD or Developer

(a) Except as otherwise expressly provided in the Contract Documents, payments due to the LA DOTD or the Developer hereunder, as applicable, will be due and payable within 45 days of receipt by the Developer or the LA DOTD, as applicable, of an invoice therefor, together with any supporting documentation.

(b) Each party will be entitled to deduct, offset or withhold from any amounts due from one party to the other party any amounts then due and owing from such other party.

(c) Except as otherwise provided, neither party is required to pay amounts due that are being contested in accordance with the dispute resolution procedures described in ARTICLE 21.

Section 25.11 Interest on Overdue Amounts

Any amount not paid when due pursuant to this Agreement will bear interest from the date such payment is due until payment is made (after as well as before judgment) at a variable rate per annum at all times equal to the Bank Rate, which interest will be payable on demand. Interest will be compounded annually and payable on the date on which the related overdue amount is paid.

Section 25.12 Limitation on Consequential Damages

Except as expressly provided in this Agreement to the contrary, neither party will be liable to the other for punitive damages or special, indirect, incidental or consequential damages of any nature, whether arising in contract, tort (including negligence) or other legal theory. The foregoing limitation will not, however, in any manner:

(a) prejudice the LA DOTD's right to recover any or all of liquidated damages from the Developer as provided in this Agreement;

(b) limit the Developer's liability for any type of damage arising out of the Developer's indemnity obligations under ARTICLE 14;

(c) limit the Developer's liability for any type of damage to the extent covered by the proceeds of insurance required hereunder; or

(d) limit the amounts expressly provided to be payable by the LA DOTD or the Developer pursuant to this Agreement.

Section 25.13 Waiver

(a) No waiver by any party of any right or remedy pursuant to the Contract Documents will be deemed to be a waiver of any other or subsequent right or remedy pursuant to the Contract Documents. The consent by one party to any act by the other party requiring such consent will not be deemed to render unnecessary the obtaining of consent to any subsequent act for which consent is required, regardless of whether similar to the act for which consent is given.

(b) No act, delay or omission done, suffered or permitted by one party or its agents will be deemed to waive, exhaust or impair any right, remedy or power of such party pursuant to the Contract Documents, or to relieve the other party from the full performance of its obligations pursuant to the Contract Documents.

(c) No waiver of any term, covenant or condition of the Contract Documents will be valid unless in writing and executed by the obligee party.

(d) The acceptance of any payment or payment by a party will not (i) waive any preceding or then-existing breach or default by the other party of any term, covenant or condition of the Contract Documents, other than the other party's prior failure to pay the particular amount or part thereof so accepted, regardless of the paid party's knowledge of such preceding or then-existing breach or default at the time of acceptance of such payment or payment or (ii) continue, extend or affect (A) the service of any notice, any suit, arbitration or other legal proceeding or final judgment, (B) any time within which the other party is required to perform any obligation or (C) any other notice or demand.

(e) No custom or practice between the parties in the administration of the terms of this Agreement will be construed to waive or lessen the right of a party to insist upon performance by the other party in strict compliance with the terms of the Contract Documents.

Section 25.14 Governing Law; Compliance with Law and Federal Requirements

(a) This Agreement will be governed by and construed in accordance with the Laws of the State applicable to contracts executed and to be performed within the State without regard to conflicts of laws principles.

(b) The Developer will keep fully informed of and comply and require its Subcontractors to comply with Law. The Developer will execute and file the documents, statements, and affidavits required under any Law required by or affecting this Agreement or the execution of the Work. The Developer will permit examination of any records made subject to such examination by such Law.

(c) The Developer will comply and require its Subcontractors to comply with all Laws applicable to the Project as a result of the costs of the Project being funded in part with

State funds and federal-aid funds, including the applicable Federal Requirements attached as Exhibit K. In Exhibit K, all references to "design-builder" shall mean "the Developer."

(d) The Developer acknowledges and agrees that the USDOT will have certain approval rights with respect to the Project, including the right to provide certain oversight and technical services with respect to the Work. The Developer will cooperate with USDOT and provide such access to the Project and information as USDOT may request in the exercise of USDOT's duties, rights and responsibilities in connection with the Project.

(e) In accordance with Executive Order Number JBE 2018-15, for any contract for $100,000 or more and for any contractor with five or more employees, Developer, or any Subcontractor, will certify it is not engaging in a boycott of Israel, and will, for the duration of this Agreement, refrain from a boycott of Israel. The Developer will cause each relevant Subcontractor to submit such certification promptly, but in no event later than 30 days, after execution of such Subcontract. The LA DOTD reserves the right to terminate this Agreement if the Developer, or any Subcontractor, engages in a boycott of Israel during the term of this Agreement.

Section 25.15 Use of Police Power

Nothing in this Agreement limits the authority of the LA DOTD to exercise its regulatory and police powers granted by Law.

Section 25.16 Survival

The liquidated damages provisions, handback provisions, dispute resolution procedures, the indemnifications, limitations, releases, obligations to pay termination compensation, records retention provisions, and all other provisions which by their inherent character should survive expiration or earlier termination of this Agreement and/or completion of the Work will survive the expiration or earlier termination of this Agreement and/or the completion of the Work.

Section 25.17 Construction and Interpretation of Agreement

(a) The language in all parts of this Agreement will in all cases be construed simply, as a whole and in accordance with its fair meaning and not strictly for or against any party.

(b) This Agreement will be deemed for all purposes prepared by the joint efforts of the parties and will not be construed against one party or the other as a result of the preparation, drafting, submittal, or other event of negotiation, drafting, or execution of this Agreement. This Section 25.17(b) specifically excludes the Proposal and any additional plans, specifications, means, methods, or other documentation prepared by the Developer pursuant to this Agreement.

(c) If any court of competent jurisdiction issues a final, non-appealable judicial order finding that a term or provision of this Agreement is invalid or unenforceable, the remainder of this Agreement will not be affected thereby and each other term and provision of

this Agreement will be valid and enforceable to the fullest extent permitted by Law. It is the intention of the parties to this Agreement, and the parties hereto agree, that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, the parties in good faith will supply as a part of this Agreement an enforceable clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible.

(d) The captions of the articles and sections herein are inserted solely for convenience and under no circumstances are they or any of them to be treated or construed as part of this instrument.

(e) Any references to any covenant, condition, obligation and/or undertaking "herein," "hereunder" or "pursuant hereto" (or language of like import) mean, refer to and include the covenants, conditions, obligations and undertakings existing pursuant to this instrument and any riders, exhibits, addenda, attachments or other documents affixed to or expressly incorporated by reference in this instrument. All terms defined in this instrument will be deemed to have the same meanings in all riders, exhibits, addenda, attachments or other documents affixed to or expressly incorporated by reference in this instrument unless the context thereof clearly requires the contrary. All references to a subsection or clause "above" or "below" refer to the denoted subsection or clause within the section in which the reference appears. Unless expressly provided otherwise, all references to Articles and Sections refer to the Articles and Sections set forth in this Agreement. Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meaning. Wherever the word "including," "includes" or "include" is used in the Contract Documents, except where immediately preceded by the word "not", it will be deemed to be followed by the words "without limitation". Wherever reference is made in the Contract Documents to a particular Governmental Authority, it includes any public agency succeeding to the powers and authority of such Governmental Authority.

(f) As used in the Contract Documents and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and vice versa.

(g) In cases where sole discretion of the LA DOTD is specified, the decision shall not be subject to the dispute resolution procedures or other legal challenge.

(h) Whenever separate publications, including the LA DOTD Standard Specifications, are referenced in the Contract Documents, it is understood to mean the publication, as amended, which is current as of the Setting Date, unless otherwise noted.

Section 25.18 Reference Documents

Except as otherwise specified in the Contract Documents, including Exhibit Q, the LA DOTD does not represent, warrant or guarantee the accuracy or completeness of the Reference Documents or the information contained in the Reference Documents or that such information is in conformity with the requirements of the Contract Documents, Governmental Approvals or Laws. Except as otherwise provided in the Contract Documents, the LA DOTD will not be

responsible or liable in any respect for any causes of action, claims or losses by reason of any use of information, opinions or recommendations contained in, any conclusions the Developer may draw from, or any action or forbearance in reliance on, the Reference Documents.

Section 25.19 Counterparts

This instrument may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

Section 25.20 Entire Agreement; Amendment

This Agreement and the Contract Documents constitute the entire and exclusive agreement between the parties relating to the specific matters covered herein and therein. All prior written and prior or contemporaneous verbal agreements, understandings, representations and/or practices relative to the foregoing are hereby superseded, revoked and rendered ineffective for any purpose. This Agreement may be altered, amended or revoked only by an instrument in writing signed by each party hereto, or its permitted successor or assignee, except to the extent the LA DOTD has the right to amend by an LA DOTD Change or Directive Letter pursuant to ARTICLE 13. Where this Agreement references changes to this Agreement or revision to this Agreement by "amendment," the mechanism for such change or revision will be execution of a Change Order, including as a result of any Delay Event, Compensation Event, LA DOTD Change, Directive Letter, Developer Change Request, or other change to the terms or compensation provided under this Agreement, in each case consistent with the underlying terms of this Agreement governing such event. No verbal agreement or implied covenant will be held to vary the terms hereof, any statute, law or custom to the contrary notwithstanding.

[SIGNATURE PAGE(S) TO FOLLOW]

IN WITNESS WHEREOF, the parties, intending to be legally bound, have executed this Agreement as of the date first written above.

Louisiana Department of Transportation and Development
an Agency of the State of Louisiana

By: _____
Name: Eric Kalivoda
Title: Secretary of the Louisiana Department of Transportation and Development

Witnessed By: _____

Name: _____

Witnessed By: _____

Name: _____

[Name of Developer to be inserted prior to execution.]
a [●]

By: _____
Name:
Title:

Witnessed By: _____

Name: _____

Witnessed By: _____

Name: _____

EXHIBIT A

ABBREVIATIONS AND DEFINITIONS

Unless otherwise specified, wherever the following abbreviations or terms are used in the Agreement and the Technical Provisions, they have the meanings set forth below:

AASHTO	American Association of State Highway and Transportation Officials
AC	Advisory Circular
ACH	Automated Clearing House
ADA	Americans with Disabilities Act, 42 USC § 12101, et seq.
AREMA	American Railway Engineering and Maintenance-of-Way Association
AET	All Electronic Tolling
AGO	Attorney General Office
AML	Approved Materials List
AMRL	AASHTO Materials Reference Laboratory
ASCE	American Society of Civil Engineers
ASTM	American Society of Testing and Materials
ATC	Alternative Technical Concept
ATMS	Advanced Traffic Management System
AVI	Automatic Vehicle Identification
BDEM	Bridge Design and Evaluation Manual
BDTM	Bridge Design Technical Memorandum
BECR	Baseline Element Condition Report
BGEPA	Bald and Golden Eagle Protection Act
BICSI	Building Industry Consulting Services International
BMP	Best Management Practice
BNSF	Burlington Northern Santa Fe
BOS	Back Office System
CAD	Computer-Aided Design
CAM	Construction Administration Manual
CAP	(Environmental) Compliance Action Plan
CBR	California Bearing Ratio
CCTV	Closed Circuit Television
CDD	Critical Design Document
CDR	Critical Design Review
CEI	Construction Engineering and Inspection
CEPP	Comprehensive Environmental Protection Program

CET	Controlled Environment Testing
CFR	Code of Federal Regulations
CM	Construction Manager
CMP	Construction Monitoring Plan
CMS	Changeable Message Signs
COC	Constituents of Concern
COGO	Coordinate Geometry
ConOps	Concept of Operations
COTS	Commercial off-the-shelf
CP	Communication Plan
CPM	Critical Path Method
CPRA	Louisiana Coastal Protection and Restoration Authority
CQAF	(Independent) Construction Quality Acceptance Firm
CQAP	Construction Quality Assurance Program
CQCM	Construction Quality Control Manager
CQMP	Construction Quality Management Plan
CSC	Customer Service Center
CUSIOP HUB	Central US Interoperability Hub
CWA	Clean Water Act
DALI	Digital Addressable Lighting Interface
DB	Design-Build
DBCPM	Design-Build Contractor's Project Manager
DBE	Disadvantaged Business Enterprise
DDD	Detailed Design Document
DEIS	Draft Environmental Impact Statement
DM	Design Manager
DMS	Dynamic Message Signs
DMX	Digital Multiplex
DPM	Diesel Particulate Matter or Deputy Project Manager, depending on context
DQM	Design Quality Manager
DQPM	Design Quality Management Plan
DSS	Data Security Standard
DTOE	LA DOTD District Traffic Operations Engineer
ECI	Environmental Compliance Inspector
ECM	Environmental Compliance Manager
ECMP	Environmental Compliance and Mitigation Plan
EDC	Ethylene dichloride

EDSM	LA DOTD Engineering Directives and Standards Manual
EFH	Essential Fish Habitat
EJ	Environmental Justice
EMS	Environmental Management System
EOR	Engineer of Record
EPA	Environmental Protection Agency
EPTP	Environmental Protection Training Plan
ESA	Endangered Species Act of 1973, as amended
ET	Environmental Team
ETC	Electronic Toll Collection
ETCS	Electronic Toll Collection System
FAA	Federal Aviation Administration
FAQ	Frequently Asked Questions
FAST Act	Fixing America's Surface Transportation Act
FAT	Factory Acceptance Testing
FDD	Final Design Document
FDR	Final Design Review
FEMA	Federal Emergency Management Agency
FHWA	Federal Highway Administration
FRA	Federal Railroad Administration
FS	Finish to Start
FWCA	Fish and Wildlife Coordination Act
GBEPA	Golden and Bald Eagle Protection Act
GEC	General Engineering Circular
GIS	Geographical Information System
GIF	Graphics Interchange Format
GNOEC	Greater New Orleans Expressway Commission
HASP	Health and Safety Plan
HB1	LA23 Belle Chasse Bridge and Tunnel
HEC	Hydraulic Engineering Circular
HM/WMP	Hazardous Materials and Wastes Management Plan
HMM	Hazardous Material Manager
HPS	High Pressure Sodium
HVAC	Heating Ventilation and Air Conditioning
HW	Hazardous Waste
IA	Independent Assurance
IAG	InterAgency Group

ICD	Interface Control Document
ID	Identification
IDD	Infrastructure Design Document
IDR	Infrastructure Design Review
IEEE	Institute of Electrical and Electronics Engineers
IES	Illuminating Engineering Society
IMP	Incident Management Plan
IPS	Image Processing System
IRI	International Roughness Index
IVR	Interactive Voice Response
ISO	International Standards Organization or International Organization for Standardization
ITP	Instructions to Proposers
ITS	Intelligent Transportation System
IWP	Investigative Work Plan
JPA	Joint Coastal Use and Section 404 Individual Permit Application
JPEG	Joint Photographic Experts Group
KCS	Kansas City Southern Railroad
KPIs	Key Performance Indicators
LA DOTD	Louisiana Department of Transportation and Development
LAN	Local Area Network
LCN	Lane Closure Notice
LDEQ	Louisiana Department of Environmental Quality
LDWF	Louisiana Department of Wildlife and Fisheries
LED	Light-emitting Diode
LNTP	Limited Notice to Proceed
LPDES	Louisiana Pollutant Discharge Elimination System
LRFD	Load and Resistance Factor Design
LSM	LA DOTD Location and Survey Manual
LSP	Louisiana State Police
LSSRB	Louisiana Standard Specifications for Roads and Bridges
MAP	LA DOTD's Motorist Assistance Program
MASH	AASHTO Manual for Assessing Safety Hardware
MBTA	Migratory Birds Treaty Act
MF	Maintenance Failure
MLT	Manual Lane Terminal
MMP	Maintenance Management Plan

MMS	Maintenance Management System
MOA	Memorandum of Agreement(s)
MOMS	Maintenance On-line Management System
MOT	Maintenance of Traffic
MOU	Memorandum of Understanding
MQM	Maintenance Quality Manager
MSE	Mechanically Stabilized Earth
MTP	Master Testing Plan
MUTCD	Manual of Uniform Traffic Control Devices
NAGPRA	Native American Graves Protection and Repatriation Act
NAVD	North American Vertical Datum
NBIS	National Bridge Inspection Standard
NBI	National Bridge Inventory
NCHRP	National Cooperative Highway Research Program
NCR	Nonconformance Report
NEC	National Electrical Code
NESC	National Electrical Safety Code
NEPA	National Environmental Policy Act
NGVD	National Geodetic Vertical Datum
NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Agency
NOI	Notice of Intent
NPDES	National Pollutant Discharge Elimination System
NRHP	National Register of Historic Places
NSDI	No Direct and Significant Impacts
NSF	Non-Sufficient Funds
NTP	Notice to Proceed
NTTA	North Texas Tollway Authority
O&M	Operation and Maintenance
OCR	Optical Character Recognition
ODR	Office of Debt Recovery
OIT	Onsite Integration Testing
OMAT	Office of Materials and Testing
OMM	Operations and Maintenance Manager
OMV	Office of Motor Vehicles
ORT	Open Road Tolling

OSHA	Occupational Safety and Health Administration
OV	Owner Verification
PA	Payment Application
PABs	Private Activity Bonds
PBS	Project Baseline Schedule
PCI	Payment Card Industry
PEMP	Project Environmental Mitigation Plan
PDD	Preliminary Design Document
PDR	Preliminary Design Review
PDF	Portable Document Format
PE	Professional Engineer
PER	Pay Estimate Request
PIC	Public Information Coordinator
PICP	Public Information and Communications Plan
PIM	Public Information Manager
PM	Developer's Project Manager
PMP	Project Management Plan
PPE	Personal Protective Equipment
PPP	Public Private Partnership
PSQMP	Professional Services Quality Management Plan
PTOE	Professional Traffic Operations Engineer
PTZ	Pan-Tilt-Zoom
QA	Quality Assurance
QAP	Quality Acceptance Program
QC	Quality Control
QM	Quality Manager
QMP	Quality Management Plan
QPL	Quality Products List
RD(s)	Reference Document(s)
RECAP	Risk Evaluation and Corrective Action Program
RFC	Released for Construction Documents
RFI	Request For Information
RFID	Radio Frequency Identification
RFP	Request for Proposals
RGBA	Red Green Blue Amber
RFBW	Red Green Blue White
RHA	River and Harbors Act

ROD	Record of Decision
ROW	Right of Way
RP	Recycling Plan
RR	Railroad
RSS	Reinforced Soil Slope
RT	Referee Testing
RTCS	Roadside Toll Collection System
RTM	Requirements Traceability Matrix
SAT	System Acceptance Testing
SDS	Safety Data Sheets
SeGo	Super eGo
SHPO	Louisiana State Historic Preservation Office
SICP	Snow and Ice Control Plan
SIR	Site Investigation Report
SM	Safety Manager
SNTP	Simple Network Time Protocol
SP	State Project
SWPPP	Storm Water Pollution Prevention Plan
T&E	Threatened and Endangered
T&R	Traffic and Revenue
TCP	Traffic Control Plan
TDM	Time Division Multiplexing
TDRMS	Toll Rate Dynamic Message Signs
TIFF	Tagged Image Format
TIFIA	Transportation Infrastructure Finance and Innovation Act
TL	Testing Level
TLS	Transport Layer Security
TMC	Traffic Management Center
TMP	Transportation Management Plan
TOMP	Toll Management Plan
TP	Technical Provisions
TRB	Transportation Research Board
TTC	Temporary Traffic Control
UAT	Utility Adjustment Team
UP	Union Pacific Railroad
UPS	Universal Power Supplies
URA	Utility Relocation Agreement

USACE	United States Army Corps of Engineers
USDOT	United States Department of Transportation
USC	United States Code
USCG	United States Coast Guard
USFWS	United States Fish and Wildlife Service
USGS	United States Geological Survey
UST	Underground Storage Tank
VE	Value Engineering
VOC	Volatile Organic Compounds
VPS	Violations Processing Center
WAN	Wide Area Network
WECS	Worksite Erosion Control Supervisor
WBS	Work Breakdown Structure
WQC	Water Quality Certification
XML	Extensible Markup Language

25% Completion Certificate means the certificate issued by the LA DOTD in accordance with Section 8.08(a).

50% Completion Certificate means the certificate issued by the LA DOTD in accordance with Section 8.08(b).

75% Completion Certificate means the certificate issued by the LA DOTD in accordance with Section 8.08(c).

Access to Information Form means the form titled "In Re: Access to Select Information from the Credential and Vehicle Databases Of the Louisiana Department of Public Safety Office of Motor Vehicles" provided in the Reference Documents and available at https://public.powerdms.com/LADPSC/documents/377635.

Acquisition Agent Consultant means an individual that has the qualifications stated in the LA DOTD Right-of-Way Contract Services–Minimum Requirements document and responsibilities stated in Section 4.7.10 of the Technical Provisions.

Active Transportation Allowance means the allowance described in Section 8.15.

Active Transportation Facility means facilities such as shared use paths, bicycle lanes, pedestrian facilities, trails, or other infrastructure supporting human-powered mobility systems.

Administering Employee means any employee of the Developer and the Key Members whose work related to the Project has not been completed that are involved in the administration of Federal or State funds.

Advanced Traffic Management System means an integrated solution to manage highway traffic through real time information collection, processing, analysis and finally dissemination to the users, concerned agencies and Stakeholders.

Affiliate means, when used to indicate a relationship with a specified Person, a Person that: (a) directly or indirectly, through one or more intermediaries has a 10% or more voting or economic interest in such specified Person or (b) controls, is controlled by or is under common control with such specified Person, and a Person is deemed to be controlled by another Person, if controlled in any manner whatsoever that results in control in fact by that other Person (or that other Person and any Person or Persons with whom that other Person is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

Affiliate Debt means any indebtedness incurred by the Developer to an Affiliate of the Developer unless the terms of such indebtedness are comparable to terms, or are no less favorable to the Developer than terms that could have been obtained on an arm's length basis from a Person that is not an Affiliate of the Developer.

Affiliate Subcontract means a Subcontract with an Affiliate.

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

Agreement or **Comprehensive Agreement** means this Comprehensive Agreement relating to the I-10 Calcasieu River Bridge Public-Private Partnership Project, dated as of the Agreement Date, including all exhibits, as supplemented or further amended from time to time.

Agreement Date means the date written on the cover page of the Agreement, which date will be the date on which the parties have executed and delivered the Agreement.

Agreement Year means (a) the period beginning on the Partial Acceptance Date and ending December 31 following the Partial Acceptance Date, (b) each succeeding full calendar year during which the Agreement remains in effect, and (c) the period beginning January 1st of the calendar year in which the Agreement terminates and ending on the Termination Date.

Air Quality Specialist means a member of the Developer's environmental team responsible for the assessment of air quality and the need for any permits or control technologies related to the Work, as more particularly described in Section 3.3.6 of the Technical Provisions.

Airspace means any and all real property, including the surface of the ground, within the vertical column extending above and below the surface boundaries of the Project Right of Way and not necessary or required for the Project (including LA DOTD Enhancements) or

developing, permitting, designing, financing, constructing, installing, equipping, operating, maintaining, tolling, repairing, reconstructing, restoring, rehabilitating, renewing or replacing the Project (including LA DOTD Enhancements) or the Developer's timely fulfillment of its obligations under the Contract Documents.

All-Electronic Tolling (AET) means the identification and processing of all vehicles for the purpose of collecting tolls in an open-road non-stop environment through electronic means, including the use of Transponders using radio frequency identification technology, cameras capturing images of license plates, shape-based identification technology, or other technology consistent with the LA DOTD's tolling interoperability goals as may be approved by LA DOTD for the purpose of collecting tolls on the New Bridge.

Allocable Costs has the meaning set forth in Section 2.1(i)(a) of Exhibit G.

Alternative Facility means the construction by the LA DOTD or its separate contractors that increases the number of travel or auxiliary lanes crossing the Calcasieu River main navigation channel, including and between the I-210 bridge crossing the Calcasieu River and the US 171 bridge crossing the Calcasieu River, from the number of travel or auxiliary lanes that existed as of the Setting Date and are open to traffic during the Term. An Alternative Facility excludes, however, the following:

(a) A LA DOTD Enhancement that the Developer builds; or

(b) A LA DOTD Enhancement for which LA DOTD grants to the Developer the exclusive right to operate, toll and maintain during the Term under the terms and conditions of the Agreement.

Alternative Technical Concepts means the alternative technical concepts approved by the LA DOTD included in the Proposal.

Annual Operations and Maintenance Report has the meaning set forth in Section 22.7.3 of the Technical Provisions.

Anticipated Milestone Payment Date means **[to be inserted from Proposal Form FP-2A prior to execution]**.

Appraiser means a Person that holds a current, valid license to appraise all types of real estate regardless of complexity or transaction value, issued by the Louisiana Real Estate Appraisers Board.

Approval, Approve, Approved, or Approving (whether or not capitalized) means LA DOTD's confirmation, in writing, of any Submittal for compliance of such Submittal with requirements of the Contract Documents, as more particularly described in Section 10.05(c).

Archaeologist means a member of the Developer's environmental team responsible for assessment of cultural resources potentially impacted by the Work, as more particularly described in Section 3.3.6 of the Technical Provisions.

Archaeology Mitigation means the mitigation Work described in the Norris Point site MOA in accordance with Section 3.4.8 of the Technical Provisions.

Asbestos/Lead Inspection and Abatement Worker/Supervisor means the Persons retained or employed by the Developer who are responsible for performing and overseeing lead and asbestos inspections and abatement related to the Work, as described in Section 3.3.6 of the Technical Provisions.

As-Built Plans means drawings revised to show changes made during the construction process; usually based on marked-up Final Design Documents furnished by Developer.

Automated Clearing House (ACH) means a computer and network based system that processes electronic financial transactions between participating depositaries for the purpose of transferring funds.

Authorized Representatives means the individuals identified in Section 25.04.

Auto means motor vehicles without trailers that are less than 20 feet in length, less than 8.5 feet in width, and less than 12 feet in height.

Auto - Local means an Auto registered in Allen Parish, Beauregard Parish, Calcasieu Parish, Cameron Parish, or Jefferson Davis Parish, the owner of which has established and maintains a valid Transponder account for payment of tolls for use of the New Bridge.

Award means the decision of the LA DOTD to accept a responsive Proposal from a responsible proposer for the Work identified in the RFP, subject to the execution and approval of a satisfactory comprehensive agreement; provision of bonds to secure the payment and performance thereof; provision of such insurance as is required under such comprehensive agreement; and the satisfaction of such other conditions as may be specified or otherwise required by Law.

Back Office System (BOS) means the hardware and software provided to support customer service and toll transaction processing activities which will interface with various other external systems, including the RTCS, for the purpose of toll collection.

Bank Rate means the prime rate of interest announced publicly by *The Wall Street Journal* (or its successors) as the so-called "prime rate."

Base Case Equity IRR means the nominal post-tax Internal Rate of Return calculated on the Committed Investment on a cash on cash basis over the full Term projected in the Base Case Financial Model.

Base Case Financial Model means the Initial Base Case Financial Model, as may be adjusted at Financial Close.

Base ROW Map means the preliminary ROW plans and drawings prepared by the Developer to identify the ROW required for the Project.

Baseline Credit Spreads means the set of credit spreads issued by the LA DOTD in accordance with Section 2.9.2 of the ITP for the range of maturities, ratings, types of Bonds, and coupon structure that will serve as the basis for credit spread risk mitigation provided pursuant to Exhibit P.

Baseline Element Condition Report (BECR) means the report prepared by Developer as part of the Operations and Maintenance Plan providing the existing condition of all Elements, as more particularly described in Sections 2.5.3 and 22.9 of the Technical Provisions.

Baseline Inspections means the inspections to determine the existing condition of each Element, as more particularly described in Sections 2.5.3 and 22.9 of the Technical Provisions.

Basic Project Configuration means the salient characteristics of the Project as defined on the DB Limits drawings, including any permitted deviations thereto contained in the Proposal. Basic Project Configuration elements include the following:

(a) the horizontal and vertical alignments;

(b) number, locations, configurations, and limits of interchanges;

(c) number, locations, configurations, and limits of bridges and walls;

(d) number of lanes and ramp configurations (including tapers, transitions and intersections);

(e) number, locations, and configurations of service roads;

(f) the general location and length of the limits of the Project;

(g) the minimum vertical and horizontal clearances; and

(h) the Right-of-Way limits.

Benchmark Rates mean the underlying benchmark index interest rates as approved by the LA DOTD prior to the Proposal Due Date and used in the Initial Base Case Financial Model.

Best Management Practices (BMP) has the meaning set forth in *Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices* (EPA Document 832 R 92-005).

Bonds means any (a) tax-exempt bond issued by a Conduit Issuer, the proceeds of which bond are used for a defined, tax-qualified purpose by a private entity (other than the government entity issuing the bonds), acting as the conduit borrower, or (b) taxable bond.

Breakage Costs means any prepayment premiums or penalties, make-whole payments or other prepayment amounts (including premiums) that the Developer must pay under any Project Financing Agreement as a result of the early repayment of Developer Debt prior to its scheduled maturity date.

Bridge Engineer means the LA DOTD Bridge Design Administrator.

Business Day means any day on which the LA DOTD is officially open for business.

Business Valuation means the process and set of procedures used to estimate the economic value of a business.

Calendar Quarter means, as the context may require, the 3-month period from January through March, or from April through June, or from July through September, or from October through December.

Calendar Year means the 12-month period from January through December.

Category 1 Key Personnel means the following Key Personnel:

(a) During the Design-Build Period:

(i) Principal-in-Charge;

(ii) Developer's Project Manager;

(iii) Deputy Project Manager;

(iv) Design-Build Contractor's Project Manager;

(v) Construction Manager;

(vi) Operations and Maintenance Manager;

(vii) Design Manager; and

(viii) Quality Manager; and

(b) During the Operating Period:

(i) Principal-in-Charge;

(ii) Developer's Project Manager; and

(iii) Operations and Maintenance Manager.

Category 2 Key Personnel means the following Key Personnel:

(a) During the Design-Build Period:

(i) Toll Collection System Manager;

(ii) Tolling Operations Manager;

(iii) Design Quality Manager;

(iv) Construction Quality Control Manager;

(v) Maintenance Quality Manager;

(vi) Environmental Compliance Manager;

(vii) Hazardous Materials Manager;

(viii) Safety Manager;

(ix) Lead Bridge Design Engineer;

(x) Lead Project Scheduler; and

(xi) Lead Geotechnical Engineer; and

(b) During the Operating Period:

(i) Toll Collection System Manager;

(ii) Tolling Operations Manager;

(iii) Maintenance Quality Manager;

(iv) Environmental Compliance Manager; and

(v) Safety Manager.

Category 3 Key Personnel means the following Key Personnel:

(a) During the Design-Build Period:

(i) Public Information Manager;

(ii) Lead Roadway Engineer;

(iii) Lead Traffic Engineer;

(iv) Utility Coordinator;

(v) Demolitions Manager; and

(vi) ROW Acquisition Manager; and

(b) During the Operating Period:

(i) Public Information Manager.

CCTV Roadway Overview Cameras means cameras having a view of the roadway and the toll zone that are used to monitor activities and roadway conditions at the toll facility.

Central US Interoperability Hub means the Central US Interoperability Hub, as created under the Hub Governing Documents, or any successor entity.

Certificate of Final Inspection and Payment means the document with this title available at http://www.dotd.la.gov/Inside_LaDOTD/Divisions/Engineering/Pages/Engineering_Docs.aspx.

Certified Storm Water Inspector means a Person holding the appropriate State certification, if any, retained or employed by the Developer to perform storm water inspections.

Change Order means a general term delineating changes in the Work or in the terms or conditions of Contract Documents.

Change Proposal is defined in Section 13.02(b)(ii).

Claim means any and all claims, disputes, disagreements, causes of action, demands, suits, proceedings, damages, injuries, liabilities, obligations, losses, costs and expenses.

Closed Circuit Television (CCTV) means a camera system that captures and transmits video to specified locations (as opposed to broadcasting openly).

Collateral Agent means the Institutional Lender (or representatives thereof) acting on behalf of or at the direction of the other Lenders or the Person or Persons so designated in an intercreditor agreement or other document executed by all Lenders to whom Financing Assignments are outstanding at the time of execution of such document, a copy of which will be delivered by the Developer to the LA DOTD.

Commencement of Construction means the date on which the LA DOTD issues the Commencement of Construction Certificate, in accordance with Section 8.07. Commencement of Construction is a one-time event.

Commencement of Construction Certificate means the certificate issued by the LA DOTD in accordance with Section 8.07(b).

Committed Investment means (a) any form of direct investment by Equity Members, including the purchase of Equity shares in the Developer; (b) any bona fide indebtedness of the Developer for funds borrowed that: (i) is held by any Equity Member and (ii) is subordinated in priority of payment and security to all Developer Debt held by Persons who are not Equity Members; or (c) an irrevocable on-demand letter of credit issued by or for the account of an Equity Member naming the Developer or the Collateral Agent as beneficiary and guaranteeing the provision of the direct investment or loan referenced in clause (a) or (b) of this definition.

Compensation Event means any of the following events (subject to any other limitations, requirements and other conditions set forth in the Agreement):

(a) LA DOTD-Caused Delay;

(b) LA DOTD Change or LA DOTD Enhancement;

(c) an order by the LA DOTD suspending tolls on the New Bridge or a closure by a State Party, subject to the conditions set forth in Section 5.04(b) and Section 5.04(c), respectively;

(d) the issuance by a court having jurisdiction over the Project of any injunction or other order enjoining or estopping the Developer or the LA DOTD from the performance of its rights or obligations pursuant to the Contract Documents, in any case for more than 45 days in the aggregate;

(e) discovery within the Project Right of Way of archaeological, paleontological or cultural resources (including historic properties), excluding any such resources known to Developer prior to the Setting Date or set forth in the Reference Documents or Contract Documents;

(f) discovery within the Project Right of Way of any threatened or endangered species (regardless of whether the species is listed as threatened or endangered prior to the Setting Date), excluding any such presence of species known to the Developer prior to the Setting Date or set forth in the Reference Documents or Contract Documents;

(g) discovery of a Differing Site Condition;

(h) any suspension of the Work by the LA DOTD or by any Governmental Authority having jurisdiction due to an EDC Event, but only if the Developer complied with (i) the parameters set forth in Sections 3.4.11 or 3.4.12 of the Technical Provisions pertaining to wells located within EDC Area 1 or EDC Area 2 and (ii) the parameters set forth in Section 13.3.1.21 of the Technical Provisions;

(i) the LA DOTD's lack of good and sufficient title or right to enter or occupy any parcel that the LA DOTD owns as of the Agreement Date;

(j) discovery of a Utility which could not have been reasonably discovered pursuant to, or the existence of which could not have been reasonably inferred from, the Developer's examinations, review, and other activities undertaken prior to the Setting Date or as reasonably inferred from information contained in the Reference Documents or Contract Documents;

(k) Discriminatory Change in Law;

(l) Alternative Facilities;

(m) Pipe Racks Delay;

(n) Third-Party Right-of-Way Delay;

(o) Railroad Delay;

(p) failure by the LA DOTD to Approve a Design Deviation identified in Table 2-7 of the Technical Provisions, provided that the Developer has satisfied all requirements set forth in the Technical Provisions to request such Design Deviation;

(q) East End Improvement Construction Lane Closure;

(r) discovery of Unknown Pre-Existing Hazardous Materials;

(s) discovery of Third-Party Hazardous Materials; or

(t) an unreasonable delay or failure by the LA DOTD in performing any of its material obligations pursuant to the Agreement, provided that such delay or failure has a direct, negative impact on the Permit.

provided that each of the above events does not arise as a result of the breach of contract, negligence or other culpable act or omission of the Developer or any other Developer Party.

Compensation Event Notice is defined in Section 13.01(a).

Compliance Action Plan (CAP) means the Developer's Plan, to be prepared as part of the ECMP, for identifying the triggers and appropriate compliance action necessary to ensure the ongoing validity of and compliance with the Environmental Standards, as more particularly described in Section 3.3.3 of the Technical Provisions.

Comprehensive Environmental Protection Program (CEPP) means the Developer's Plan for protect the environment and documenting the measures taken during the performance of the Work to avoid and minimize impacts to the environment, as more particularly described in Article 3 of the Technical Provisions.

Conceptual Stage Relocation Plan means the Plan that identifies parcels that may require relocation services based on the Definitive Design.

Concurrent Noncompliance Events is defined in Section 1.06(a) of Exhibit O.

Conduit Issuer means the entity that will issue Private Activity Bonds in connection with the Project.

Construction Documents means all documents necessary for construction of the Project, including As-Built Plans, shop drawings, working drawings, fabrication plans, material and hardware descriptions, specifications, construction quality control reports, construction quality assurance reports and samples, in accordance with the Contract Documents, the Governmental Approvals and applicable Law.

Construction Management Plan means the management Plan for Construction Work, as more particularly described in Section 2.5.1 of the Technical Provisions.

Construction Manager (CM) means the Person designated by the Developer who is (a) responsible for ensuring that the Project is constructed in accordance with the Contract Documents, (b) assigned to the Project full time no later than Commencement of Construction, (c) co-located/on-site, and (d) responsible for managing the Developer's construction personnel, scheduling of construction quality assurance personnel, and administering all construction requirements, as more particularly described in Section 2.3.5.5 of the Technical Provisions.

Construction Monitoring Plan (CMP) means the plan indicating times, locations, and other conditions under which monitoring of construction activities are to be performed to maintain and ensure compliance with Environmental Laws and the Contract Documents, as more particularly described in the Technical Provisions.

Construction Quality Assurance Program (CQAP) means the overall quality program and associated activities including the LA DOTD's OV and field inspection for QA, the Developer's internal QC and independent quality control firm's QC, the quality requirements of the Contract Documents, and the Construction Quality Management Plan.

Construction Quality Control Manager (CQCM) means the Person appointed by the CQAF who is responsible for management and quality acceptance functions, as more particularly described in Section 2.3.5.12 of the Technical Provisions.

Construction Quality Management Plan (CQMP) means the Plan that establishes quality control and quality acceptance procedures for the Work, as more particularly described in Section 2.11.1 of the Technical Provisions.

Construction Safety Report has the meaning set forth in Section 2.7.10 of the Technical Provisions.

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.

Consumer Price Index (CPI) means the Consumer Price Index – South Census Region CPI-U ("All items in South urban, all Urban Consumers (not seasonally adjusted)"), or its successor, as published by the U.S. Department of Labor, Bureau of Labor Statistics, or its successor; provided, that if the CPI is changed so that the base year of the CPI changes, the CPI will be converted in accordance with the conversion factor published by the U.S. Department of Labor, Bureau of Labor Statistics, or its successor. If the CPI is discontinued or substantially altered, the applicable substitute index will be that chosen by the Secretary of the Treasury for the Department of Treasury's Inflation-Linked Treasuries as described at 62 Fed. Reg. 846-847 (Jan. 6, 1997), or if no such securities are outstanding, will be determined by the parties in accordance with general market practice at that time.

Contract Documents is defined in Section 3.02(a).

Corrective Action means a process that, reports, and resolves systemic deficiencies, including, but not limited, to (a) repetitive nonconformances that indicate inadequacies in either production processes or inspections; (b) issues of safety; (c) conditions likely to have a significant negative effect on the Project; or (d) quality procedures not being carried out in a responsive manner. Corrective Actions may include, but are not limited to, additional training or re-training of personnel and, in some cases, removal of personnel from the activity and/or the Project.

Covered Equipment and Services is defined in Section 24.09(b).

Credit and Cash Balances means all balances in accounts held by or on behalf of the Developer, including in Lender accounts, but excluding all balances in the Handback Account.

Critical Path means each critical path on the Project Schedule as applicable (i.e. the term shall apply only following consumption of all available Float in the schedule as applicable). The lower-case term "critical path" means the activities and durations associated with the longest chain(s) of logically connected activities through the Project Schedule with the least amount of positive slack or the greatest amount of negative slack.

Customer Groups means categories of Persons having a perceived stake or interest in the Project, including the media, elected officials, Governmental Authorities, members of the public residing, working, or traveling in the vicinity of the Project, owners of businesses and property in the vicinity of the Project, Utility Owners, Railroads, and local and community groups (i.e., neighborhood associations, business groups, chambers of commerce, or convention and visitors bureaus).

Customer Service Center (CSC) means the facility that houses the equipment and personnel required to establish, manage, and maintain User accounts; provide customer service;

process toll transactions and license plate images; prepare User notifications; process payments; and manage Transponder inventory and order fulfillment.

Customer Service Representative (CSR) means the personnel who interact with Users on behalf of the Developer.

Daily Safety Audit Checklist has the meaning set forth in Section 2.7.6 of the Technical Provisions.

Day or **day** means a calendar day.

Defect means a deterioration in the condition or performance of an Element, whether by design, construction or installation, affecting the use, functionality or operation of any Element, which fails to meet Good Industry Practice, appropriate industry standards, and codes of practice at the time of performance of the Work, and which causes or has the potential to cause one or more of the following:

(a) a hazard, nuisance or other risk to public or worker health or safety, including the health and safety of road users;

(b) structural deterioration of an Element;

(c) damage to property or equipment;

(d) damage to the environment; or

(e) failure of an Element to meet a Performance Requirement.

Definitive Design means the level of design described in Section 2.4.10 of the Technical Provisions.

Delay Event means (subject to any other limitations, requirements and other conditions set forth in the Agreement):

(a) with respect to any Work performed prior to Final Acceptance, the occurrence of one or more of the following events occurring prior to Final Acceptance:

(i) a Force Majeure Event;

(ii) an unreasonable and unjustifiable failure by a Governmental Authority to issue, or an unreasonable and unjustified delay by a Governmental Authority in issuing, any Governmental Approval or other authorization required for the Project or the Work;

(iii) the issuance by a court having jurisdiction over the Project of any injunction or other order enjoining or estopping the Developer or the LA DOTD

from the performance of its rights or obligations pursuant to the Contract Documents;

(iv) LA DOTD Change or LA DOTD Enhancement;

(v) LA DOTD-Caused Delay;

(vi) discovery of a Utility which could not have been reasonably discovered pursuant to, or the existence of which could not have been reasonably inferred from, the Developer's examinations, review, and other activities undertaken prior to the Setting Date or as reasonably inferred from information contained in the Reference Documents or Contract Documents;

(vii) the LA DOTD's lack of good and sufficient title or right to enter or occupy any parcel that the LA DOTD owns as of the Agreement Date;

(viii) discovery within the Project Right of Way of archaeological, paleontological or cultural resources (including historic properties), excluding any such resources known to Developer prior to the Setting Date or set forth in the Reference Documents or Contract Documents;

(ix) discovery within the Project Right of Way of any threatened or endangered species (regardless of whether the species is listed as threatened or endangered prior to the Setting Date), excluding any such presence of species known to the Developer prior to the Setting Date or set forth in the Reference Documents or Contract Documents;

(x) discovery of a Differing Site Condition;

(xi) any suspension of the Work by the LA DOTD or by any Governmental Authority having jurisdiction due to an EDC Event, but only if the Developer complied with (i) the parameters set forth in Sections 3.4.11 or 3.4.12 of the Technical Provisions pertaining to wells located within EDC Area 1 or EDC Area 2 and (ii) the parameters set forth in Section 13.3.1.21 of the Technical Provisions;

(xii) any Force Majeure Event that causes physical damage to the Existing Bridge;

(xiii) Discriminatory Change in Law;

(xiv) Utility Owner Delay;

(xv) Pipe Racks Delay;

(xvi) Third-Party Right-of-Way Delay;

(xvii) Railroad Delay;

(xviii) social distancing requirements, stay-at-home orders, travel restrictions, or other order, decree, directive, or requirement regarding public conduct related to the COVID-19 pandemic, but only to the extent of requirements imposed by Law that are materially different from those in effect on the Setting Date;

(xix) any meteorological event not included in the definition of Force Majeure Event, and agreed by the Developer and the LA DOTD, which by health and safety protocol dictated in the Occupational and Public Safety Plan or the O&M Safety Plan prevents the Developer from executing the works necessary to comply with the response times (Mitigation, Temporary Repair, Permanent Repair) indicated in the Performance Regime Tables;

(xx) failure by the LA DOTD to Approve a Design Deviation identified in Table 2-7 of the Technical Provisions, provided that the Developer has satisfied all requirements set forth in the Technical Provisions to request such Design Deviation;

(xxi) discovery of Unknown Pre-Existing Hazardous Materials;

(xxii) discovery of Third-Party Hazardous Materials; or

(xxiii) an unreasonable delay or failure by the LA DOTD in performing any of its material obligations pursuant to the Agreement, provided that such delay or failure has a direct, negative impact on the Permit;

(b) with respect to any Work performed after Final Acceptance, the occurrence of one or more of the following events occurring after Final Acceptance:

(i) a Force Majeure Event;

(ii) the issuance by a court having jurisdiction over the Project of any injunction or other order enjoining or estopping the Developer or the LA DOTD from the performance of its rights or obligations pursuant to the Contract Documents;

(iii) LA DOTD Change or LA DOTD Enhancement;

(iv) an LA DOTD-Caused Delay;

(v) Discriminatory Change in Law;

(vi) social distancing requirements, stay-at-home orders, travel restrictions, or other order, decree, directive, or requirement regarding public conduct related to the COVID-19 pandemic, but only to the extent of

requirements imposed by Law that are materially different from those in effect on the Setting Date;

(vii) any meteorological event not included in the definition of Force Majeure Event, and agreed by the Developer and the LA DOTD, which by health and safety protocol dictated in the Occupational and Public Safety Plan or the O&M Safety Plan prevents the Developer from executing the works necessary to comply with the response times (Mitigation, Temporary Repair, Permanent Repair) indicated in the Performance Regime Tables;

(viii) failure by the LA DOTD to Approve a Design Deviation identified in Table 2-7 of the Technical Provisions, provided that the Developer has satisfied all requirements set forth in the Technical Provisions to request such Design Deviation;

(ix) discovery of Unknown Pre-Existing Hazardous Materials;

(x) discovery of Third-Party Hazardous Materials;

(xi) an unreasonable delay or failure by the LA DOTD in performing any of its material obligations pursuant to the Agreement, provided that such delay or failure has a direct, negative impact on the Permit;

provided that, in either case under clause (a) or (b) above, the event: (1) results in a delay or interruption in the performance by the Developer of any obligation under the Contract Documents and (2) does not arise as a result of the breach of contract, negligence or other culpable act or omission of the Developer or any other Developer Party.

Delay Event Notice is defined in Section 12.01(a).

Demolition and Abandonment Plan (D&AP) means the Plan prepared by the Developer addressing Utilities and other Existing Facilities that will be demolished, decommissioned or otherwise rendered permanently non-operational during the Term, as more particularly described in Section 9.3.1 of the Technical Provisions.

Demolition Manager means the member of the Developer team responsible for managing all aspects of demolition Work required for the Project, as more particularly described in Section 2.3.5.25 of the Technical Provisions.

Demobilization Costs means the amount necessary to reimburse the reasonable out-of-pocket and documented costs and expenses incurred by the Developer to demobilize and terminate Subcontracts, excluding the Developer's non-contractual liabilities and indemnity liabilities (contractual or non-contractual).

Depositary means a savings bank, a savings and loan association or a commercial bank or trust company which would qualify as an Institutional Lender, designated by the Developer

and approved by the LA DOTD, to serve as Depositary pursuant to the Agreement; provided, that so long as Developer Debt is outstanding, the Depositary will be the Collateral Agent.

Deputy Project Manager means the member of the Developer team described in Section 2.3.5.3 of the Technical Provisions.

Design Acceptance means written confirmation by the LA DOTD after submittal and review of the As-Built Plans that the design conforms to the Contract Documents and reflects the as-built conditions. Design Acceptance is a condition of Final Acceptance.

Design-Build Contract means the Subcontract between the Developer and the Design-Build Contractor for the Design-Build Work.

Design-Build Contractor means the Subcontractor that has entered into a Design-Build Contract with the Developer.

Design-Build Contractor's Project Manager (DBCPM) means the member of Design-Build Contractor's organization that reports to the Developer's Project Manager, as more particularly described in Section 2.3.5.4 of the Technical Provisions.

Design-Build Limits or **DB Limits** means the physical boundaries, within the Project ROW, that are required to manage and execute the Design-Build Work as required by the Contract Documents, as described in Section 1.4 of the Technical Provisions and shown in the Reference Documents.

Design-Build Percentage or **DB Percentage** means the value of the DB Work completed at a given point in time, as measured by the cumulative payments made by the Developer to the DB Contractor, divided by the Design-Build Price.

Design-Build Period or **DB Period** means the period commencing on the date of issuance of the Notice to Proceed through the Final Acceptance Date.

Design-Build Period O&M Plan or **DB Period O&M Plan** has the meaning set forth in Section 22.5.1 of the Technical Provisions.

Design-Build Period O&M Work or **DB Period O&M Work** is defined in Section 9.02.

Design-Build Price means the contract price of the Design-Build Contract, as may be adjusted pursuant to the Design-Build Contract.

Design-Build Performance Security is defined in Section 16.07(a)(i).

Design-Build Work or **DB Work** means all Design Work and Construction Work required under the Contract Documents to achieve Final Acceptance.

Design Deviation means a departure from any design requirement established by the Contract Documents, including design exceptions and design waivers and those set forth in Section 2.4.15 and Table 2-7 of the Technical Provisions.

Design Documents means all documents necessary for, or related to, the design of the Project, including drawings, plans, profiles, cross-sections, notes, elevations, sections, details, diagrams, specifications, reports, studies, calculations, electronic files, records and submittals, in accordance with the Contract Documents, the Governmental Approvals and applicable Law.

Design Life means, for an Element, the period of time during which the Element is expected by its Designer to function within its specified design.

Design Management Plan means the management Plan for the Design Work, as more particularly described in Section 2.4.1 of the Technical Provisions.

Design Manager (DM) means the member of the Developer team responsible for ensuring the Design Work is completed and design criteria requirements are met, as more particularly described in Section 2.3.5.9 of the Technical Provisions. The Design Manager is the Engineer of Record for the Project.

Design Quality Management Plan (DQMP) means the Plan prepared by the Developer setting forth the internal quality control and quality assurance procedures to be followed during performance of Professional Services, as more particularly described in the Technical Provisions.

Design Quality Manager (DQM) means the member of the Developer team responsible for managing the quality functions of the Design Work, as more particularly described in Section 2.3.5.11 of the Technical Provisions.

Design Review means a review of the Design Documents, as more particularly described in Section 2.4.9 of the Technical Provisions.

Design Review Plan means the Submittal described in Section 2.4.7 of the Technical Provisions.

Design Unit means a portion of the Project design, as more particularly described in Section 2.4.4 of the Technical Provisions.

Design Work means all Work of design, engineering or architecture for the Project, Project ROW acquisition, or Utility Adjustments.

Design Workshop means the meeting described in Section 2.3.1.3 of the Technical Provisions.

Designer means the team assembled to perform the Design Work, led by the Lead Designer.

Developer means **[name of Developer to be inserted prior to execution]**.

Developer Damages means the amount calculated pursuant to Section 13.01(c).

Developer Debt means bona fide indebtedness (including subordinated indebtedness) for or in respect of funds borrowed (including bona fide indebtedness with respect to any financial insurance issued for funds borrowed) or for the value of goods or services rendered or received, the repayment of which has specified payment dates and is secured by one or more Financing Assignment including principal, capitalized interest, accrued interest, customary and reasonable lender, financial insurer, agent and trustee fees, costs, expenses and premiums with respect thereto, payment obligations under interest rate and inflation rate hedging agreements or other derivative facilities with respect thereto, reimbursement obligations with respect thereto, lease financing obligations, and Breakage Costs, but excluding:

(a) indebtedness of the Developer or any shareholder, member, partner or joint venture member of the Developer that is secured by anything less than the entire Developer's Interest, such as indebtedness secured only by an assignment of economic interest in the Developer or of rights to cash flow or dividends from the Developer;

(b) any increase in indebtedness to the extent resulting from an agreement or other arrangement that the Developer enters into or first becomes obligated to repay after it was aware (or should have been aware, using reasonable due diligence) of the occurrence or prospective occurrence of an event of termination, but excluding a rescue refinancing approved by the LA DOTD and the capitalization of interest of any existing indebtedness;

(c) any debt for which notice has not been given to the LA DOTD in accordance with the Agreement (together with the related Project Financing Agreements); and

(d) any default interest unless such default interest has accrued as a result of LA DOTD Default.

Developer Debt Termination Amount means the aggregate amount of Developer Debt (without double counting) under or pursuant to the Project Financing Agreements on the date of expiration or earlier termination of the Agreement, including any Breakage Costs.

Developer Default is defined in Section 18.01.

Developer Default Notice is defined in Section 18.02(a).

Developer Default Termination Amount means the least of the following:

(a) 80% of the Developer Debt Termination Amount minus all Credit and Cash Balances;

(b) If the Agreement is terminated for Developer Default prior to Partial Acceptance, (i) the Design-Build Price, minus (ii) the LA DOTD Cost to Complete, minus (iii) the amount of any Public Funds Amount paid to the Developer by the LA DOTD, minus (iv) the amount of any damages due to the LA DOTD resulting from the Developer Default (without

double counting amounts under (ii) above, where such damages have already been expressly included as part of the determination of the LA DOTD Cost to Complete); or

(c) If the Agreement is terminated for Developer Default after Partial Acceptance, (i) the Project Value, minus (ii) the amount of any damages due to the LA DOTD resulting from the Developer Default, which shall include all of the LA DOTD's reasonable projected internal and external costs to terminate and take over the Project, minus (iii) any reasonable projected additional costs for any O&M Work or Renewal Work required to bring the Project into compliance with the Contract Documents (without double counting amounts under (ii) and (iii) above, where such damages or costs have already been expressly included as part of the determination of Project Value).

Developer Marks means the Developer's name and/or other trademarks, service marks and trade names owned or licensed by the Developer.

Developer Noncompliance Notice is defined in Section 1.02(a) of Exhibit O.

Developer Party means: (a) the Developer, Affiliates of the Developer, and Developer Representatives, including agents, officers, directors, and employees thereof; (b) Subcontractors; and (c) any other Person for whom the Developer may be legally or contractually responsible.

Developer Railroad Agreements has the meaning set forth in Section 8.04(f)(ii).

Developer Representative means an individual designated in accordance with Section 25.04.

Developer's Interest means the interest of the Developer in the Project created by the Agreement and the rights and obligations of the Developer pursuant to the Agreement, including the Permit, which will constitute contract rights.

Developer's Project Manager means the member of the Developer team responsible for prosecution of the Work in compliance with the Contract Documents, as more particularly described in Section 2.3.5.2 of the Technical Provisions. The Developer's Project Manager serves as the Developer's single point of contact on all matters pertaining to the Project.

Differing Site Condition means (a) subsurface or latent physical conditions that are encountered at the site and differ materially from the conditions indicated in the Contract Documents, (b) unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the type of Work provided for in the Contract Documents; provided in all cases that the Developer had or should have no actual or constructive knowledge of such conditions as of the Setting Date, or (c) a Mislocated Utility. With respect to clauses (a) and (b), a Differing Site Condition would include occasions when the information indicated in the geotechnical borings and/or tests provided by the LA DOTD are inaccurate at the specific location(s) of those borings or tests, to the extent that correct information would have resulted in accurate assumptions. The LA DOTD warrants that the information represented by the borings and tests taken by the LA DOTD are accurate within 12

inches of the center of each of the borings or test locations. Any extrapolation of such information to other locations by the Developer is at the Developer's risk.

Direct Agreement means the agreement executed among the LA DOTD, the Developer and the Collateral Agent, in the form attached as Exhibit F.

Directive Letter means an order issued by the LA DOTD in accordance with Section 13.02(d) directing the Developer to perform Work.

Disadvantaged Business Enterprise Outreach and Participation Plan or **DBE Outreach and Participation Plan** means the plan that the Developer proposes to meet the DBE goals for the Project, as more particularly described in Section 2.12 of the Technical Provisions.

Discriminatory Change in Law means the adoption of any State Law or any change in any State Law or in the interpretation or application thereof during the Term that, except as otherwise provided within this definition:

(a) has the effect of discriminating solely against the Project, the Developer, operators of toll roads in the State, or projects delivered through public-private partnership or Persons delivering such projects;

(b) permits vehicles other than Permitted Vehicles to travel on the Project;

(c) increases the categories or classifications of Exempt Users;

(d) limits the Developer's right to impose, charge, collect and enforce tolls and Incidental Charges in accordance with Section 5.01; or

(e) imposes any State or local property tax or similar ad valorem tax or charge or recordation tax on a deed, release or other document recorded in connection with the Agreement, unless recorded by the Developer, but excluding (i) any taxes of general application on overall net income or (ii) any taxes levied, rated, charged, imposed or assessed in connection with any Transfer during the Term of all or any portion of the Developer's Interest or of any interest in the Developer;

None of the following will be a Discriminatory Change in Law:

(i) the development and operation of any existing or new mode of transportation (including a road, street, highway or mass transit facility) that results in the reduction of Toll Revenues or in the number of vehicles using the Project; or

(ii) the exercise by the State of its regulatory and police powers.

Dispute means any Claim, controversy, or disagreement between the Developer and the LA DOTD concerning their respective rights and obligations under the Contract Documents.

Distribution means:

(a) any distribution, dividend, repayment of Shareholder Loans or other payment, monetary or in-kind, made by the Developer to any Equity Members, including from the proceeds of any Refinancing, in each case, on account of an Equity investment in the Developer;

(b) any payment by the Developer to an Affiliate other than pursuant to an Affiliate Subcontract that the LA DOTD has Approved in accordance with Section 24.01(c) or which does not require the Approval of the LA DOTD in accordance with Section 24.01(c); or

(c) the early release of any contingent funding liabilities to any Equity Member prior to the Final Acceptance Date.

Document Control System has the meaning set forth in Section 2.3.3 of the Technical Provisions.

Draft Operations and Maintenance Report has the meaning set forth in Section 22.7.2 of the Technical Provisions.

Draft Renewal Work Plan has the meaning set forth in Section 22.12.2 of the Technical Provisions.

Draft Renewal Work Report has the meaning set forth in Section 22.12.3 of the Technical Provisions.

Dynamic Message Sign (DMS) means an electronic changeable-message sign used on roadways to give travelers information.

Early Handback Option is defined in Section 20.07(a).

East End Improvement means the work described in the NEPA Documents on I-10 between Ryan Street and the I-210 interchange to the east of the New Bridge.

East End Improvement Construction Lane Closure means at any time after the Partial Acceptance Date, the closure of any mainline traffic lane on I-10 to the east of the New Bridge between Ryan Street and longitude -93.175 (approximately the eastern limit of the striped gore of the US 171 interchange), which is directly caused by the performance of construction work by the LA DOTD or its separate contractors to deliver the East End Improvement.

EDC Area 1 means the area identified as "EDC Area 1" in in Section 13.3.1.21 of the Technical Provisions.

EDC Area 2 means the area identified as "EDC Area 2" in in Section 13.3.1.21 of the Technical Provisions.

EDC Event means, at any time throughout the Term, any subsurface release or migration of EDC caused by the Work in EDC Area 1 or EDC Area 2. For purposes of an EDC Event, a subsurface release or migration is any release or migration 10 feet below grade or lower.

Electronic Toll Collection (ETC) means a system of integrated devices and components that perform the automatic recording and reporting of vehicle transactions through electronic media, to collect tolls in a toll revenue collection system.

Element means any portion of the Work, including equipment, materials, products, operating systems, or related process tools.

Element Category shall mean any of the project element categories set forth in the Performance Requirements Tables.

Emergency means any unplanned event within the Project ROW that:

(a) presents an immediate or imminent threat to the long term integrity of any part of the infrastructure of the Project, to the environment, to property adjacent to the Project or to the safety of Users; or

(b) is a declared state of emergency pursuant to State or Federal Law.

Emergency Action Plan has the meaning set forth in Section 2.7.8 of the Technical Provisions

Emergency Services means law enforcement, ambulance service and other similar services from agencies with which the Developer establishes protocols for incident response, safety and security procedures, as set forth in the Operations and Maintenance Plan.

Engineer of Record means the Developer's Professional Engineer who will sign and seal title sheets of the RFC Documents. The Design Manager is the Engineer of Record for the Project.

Environmental Approvals means all Governmental Approvals arising from or required by any Environmental Law in connection with development of the Project, including New Environmental Approvals, approvals and permits required under NEPA and those approvals identified in the Technical Provisions.

Environmental Commitment means an environmental requirement that must be fulfilled before, during or after construction. Environmental Commitments include commitments to avoid impacts in specified areas, complete environmental investigations before construction impacts, or to perform specified actions after completion of construction.

Environmental Compliance and Mitigation Plan (ECMP) means the Plan for complying with all conditions and requirements of the Environmental Standards and Technical

Provisions for protection of the environment, as more particularly described in Section 2.10 of the Technical Provisions.

Environmental Compliance Inspectors (ECIs) means the Person(s) retained or employed by the Developer to provide on-site monitoring of the Project and the Work under direction of the Environmental Compliance Manager, as more particularly described in Section 3.3.6 of the Technical Provisions.

Environmental Compliance Manager (ECM) means the Person responsible for monitoring, documenting, reporting on and ensuring compliance of all on-site activities with the requirements of all permits and regulatory requirements, as more particularly described in Section 2.3.5.14 of the Technical Provisions.

Environmental Laws means any Laws applicable to the Project regulating or imposing liability or standards of conduct concerning or relating to the regulation, use or protection of human health, the environment or Hazardous Materials, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC Section 9601 *et seq.*, the Resource Conservation and Recovery Act, 42 USC Section 6901 *et seq.*, the Federal Clean Water Act, 33 USC Section 1251 *et seq.*, the Occupational Safety and Health Act, 29 USC Section 651 *et seq.*, as currently in force or as hereafter amended.

Environmental Management System (EMS) means the system and program the Environmental Compliance Manager supervises, which includes assembling the Environmental Team, developing and conducting the EPTP, monitoring by environmental inspectors, and the production of weekly reports, as more particularly described in Section 3.3.2 of the Technical Provisions.

Environmental Monitoring Report means the method by which the Developer documents compliance with the CEPP, as more particularly described in Section 3.3.2 of the Technical Provisions.

Environmental Protection Training Program (EPTP) means the program initiated by the Developer and overseen by the LA DOTD to ensure the Work is conducted in compliance with the Environmental Standards, as more particularly described in Section 3.3.4 of the Technical Provisions.

Environmental Standards means all Environmental Laws, Environmental Approvals, and Environmental Commitments applicable to the Project.

Environmental Team (ET) means the personnel team appointed by Developer, and led by the ECM, to ensure compliance with all Environmental Standards, as more particularly described in Section 3.3.6 of the Technical Provisions.

Environmental Training Staff means personnel appointed by the Developer to generate and implement an Environmental Protection Training Program as more particularly described in Section 3.3.4 of the Technical Provisions.

Equity means any capital stock, shares, partnership, membership, or limited liability company interests, or any other security or equity interests representing an ownership interest in any Person.

Equity Contribution Amount means one or more Equity Contributions in the aggregate amount shown, as of the date of this Agreement, in the Initial Base Case Financial Model and, as of the Financial Close Date, in the Base Case Financial Model.

Equity Contributions means (without duplication) cash, a letter of credit, and Equity Funding Agreements.

Equity Funding Agreements means the Equity funding agreements in existence on the Financial Close Date, by and among the Equity Members, the Developer and the Collateral Agent (if applicable), with respect to the Equity Contributions for the Project.

Equity IRR means the nominal post-tax Internal Rate of Return calculated on the Committed Investment on a cash on cash basis over the full Term projected in the Financial Model.

Equity Member means any Person with a direct Equity interest in (a) the Developer or (b) any Equity-Related Entity.

Equity-Related Entity means **[to be inserted prior to execution; to include all Project-specific holding companies of Equity Members, up to and including, but not above, the Equity Members identified in the Developer's statement of qualifications]**.

Equity Transfer means (a) any Transfer of any legal, beneficial, or equitable interest in any or all of the Equity in Developer, in an Equity Member or in an Equity-Related Entity (including the direct or indirect control over the exercise of voting rights conferred with respect to such Equity, direct or indirect control over the right to appoint or remove directors, or the rights to receive dividends or distributions); or (b) any other arrangements that have or may have or which result in the same effect as clause (a) of this definition; in each case, whether voluntary, involuntary or by operation of Law.

Erosion and Sediment Control Plan means a Plan identifying the devices and designs for structural controls of erosion and sediment during construction, as more particularly described in Section 3.5.1 of the Technical Provisions.

Escrow Agent means **[name of Escrow Agent to be inserted prior to execution]**, or such other entity serving as escrow agent pursuant to the Escrow Agreement.

Escrow Agreement means the escrow agreement among the Developer, the LA DOTD and the Escrow Agent which will be in substantially the form attached as Exhibit D, as it may be amended or supplemented from time to time in accordance with its terms.

Escrowed Proposal Documents means (a) the components of, and formulae for, the Initial Base Case Financial Model and the Base Case Financial Model, including, without limitation, forecast revenue and expected non-financial costs of the Project during the Term included in the Initial Base Case Financial Model and the Base Case Financial Model, (b) all cost estimates, man hour calculations, wage rate calculations, escalation forecasts, subcontract or equipment/material supply quotes, writings, working papers, charts, and all other data compilations which contain or reflect information, data, and calculations used by the Developer in preparation of its Design-Build Price for this Project, and (c) all cost estimates, writings, working papers, charts, and all other data compilations which contain or reflect information, data, and calculations used by the Developer in preparation of its assumptions related to the costs of Routine Maintenance and Renewal Work during the Operating Period. The term "Escrowed Proposal Documents" also includes any manuals that are standard to the industry used by the Developer in preparation of the foregoing.

Exempt Refinancing means a Refinancing where the Developer demonstrates to the LA DOTD either of the following:

(a) that:

(i) the proposed Refinancing refinances existing Developer Debt and does not increase the Developer Debt then outstanding other than by an amount equal to reasonable costs of closing the Refinancing, including lender fees, arranger fees and advisor fees, and the amount of any required reserves; and

(ii) the proposed Refinancing has been assigned a rating (which may include a non-public rating) by a Rating Agency (without regard to bond insurance, if any) which is no lower than BBB minus or Baa3 or equivalent rating; and

(iii) no portion of the proceeds of the Refinancing will be used to make Distributions or to pay non-capital costs and expenses (other than related costs of issuance and any required reserves); or

(b) that the proposed Refinancing is a Planned Refinancing that is on terms materially consistent with the terms contemplated in the Initial Base Case Financial Model, subject to the following:

(i) the proposed Refinancing terms will be considered "materially consistent" if, as a result of the proposed Refinancing, (A) the Developer will not achieve or be projected to achieve an Equity IRR greater than the Initial Equity IRR, and (B) the maximum principal amount of Developer Debt after such Refinancing is no greater than the maximum principal amount of Developer Debt assumed in respect of a Planned Refinancing included in the Initial Base Case Financial Model and described as such in the Financial Proposal; and

(ii) the Developer delivers to the LA DOTD a certificate of an Authorized Representative stating that none of the matters in clauses (i) through (iv) of Section 7.05(c) would exist or would be true as a result of the consummation of the proposed Refinancing, provided that with specific reference to Section 7.05(c)(ii), any certificate may acknowledge that the principal amount of Developer Debt would only increase in an amount no greater than the maximum principal amount assumed by the Developer in accordance with clause (b)(i)(B) of this definition;

provided that in no case shall a TIFIA Refinancing be considered an Exempt Refinancing.

Exempt Users means all Persons that are entitled to free and unhampered passage over toll bridges in the State pursuant to Law.

Existing Bridge means the I-10 Calcasieu River Bridge, including all associated features, from end of approach slab to end of approach slab, crossing the Calcasieu River and Lake Charles, in operation as of the Setting Date.

Existing Facilities means buildings, improvements, structures, Utilities, and other facilities or appurtenances of any type or nature located within the DB Limits as of the Setting Date.

Extended Force Majeure Termination Amount means (a) 100% of the Developer Debt Termination Amount; plus (b) all Demobilization Costs; plus (c) all amounts at par paid by the Equity Members in the form of Equity Contributions up to the Termination Date; less (d) all amounts received by the Equity Members from the Developer as Distributions up to the Termination Date; less (e) Credit and Cash Balances; less (f) proceeds of insurance required under Section 16.01 received by the Developer in respect of any event underlying a termination pursuant to Section 20.05.

Factory Acceptance Testing (FAT) means testing carried out at the Toll System Provider's factory site for a full system demonstration and complete system testing to show that all toll system functional and performance requirements can be met.

Federal means of or relating to the central government of the United States of America.

Federal Requirements means the provisions required to be part of federal-aid contracts relating to highway projects and applicable to the Project, including the provisions set forth in Exhibit K.

Field Investigation Work means all Work that takes place in the field to gather data, and/or undertake surveys, such as ascertaining ROW boundaries, conducting borings, performing Baseline Inspections, and exposing Utilities.

Field Office means the facility provided by the Developer to serve as an LA DOTD office for the Project, as more particularly described in Section 2.3.9 of the Technical Provisions.

Final Acceptance means the occurrence of all the events and satisfaction of all the conditions set forth in Section 8.11(b), or waiver thereof by the LA DOTD in accordance with Section 8.11(b).

Final Acceptance Certificate means the certificate issued by the LA DOTD indicating that the Developer has achieved Final Acceptance pursuant to Section 8.11(c).

Final Acceptance Date means the date on which Final Acceptance is achieved, as indicated in the Final Acceptance Certificate.

Final Acceptance Deadline means **[to be inserted from Proposal prior to execution]** days after the Partial Acceptance Deadline, as may be adjusted pursuant to the Agreement.

Final Design means the level of design described in Section 2.4.12 of the Technical Provisions.

Final Design Documents means the complete final construction drawings (including plans, profiles, cross-sections, notes, elevations, sections, details and diagrams), specifications, reports, studies, calculations, electronic files, records, and submittals necessary or related to the construction of the Project and any Utility Adjustments, and satisfying the requirements presented in the Technical Provisions.

Final Operations and Maintenance Report has the meaning set forth in Section 22.7.2 of the Technical Provisions.

Final Project Handback Condition Report is defined in Section 19.05(a).

Final Renewal Work Plan has the meaning set forth in Section 22.12.2 of the Technical Provisions.

Final Renewal Work Report has the meaning set forth in Section 22.12.3 of the Technical Provisions.

Final ROW Map has the meaning set forth in Section 4.4.4.2 of the Technical Provisions.

Financial Close means satisfaction of all of the conditions set forth in Section 7.03.

Financial Close Date means the date on which Financial Close occurs.

Financial Close Deadline means the date by which Financial Close must occur, which is 61 days after the Agreement Date, or such other date mutually agreed by the parties in accordance with Section 20.02(c).

Financial Close Model Audit Report means an audit report and an opinion of the Financial Model Auditor addressed to the LA DOTD, stating that the Base Case Financial Model to be utilized at Financial Close (including any revised value for the Public Funds Amount

established pursuant to Section 1.04 of Exhibit P) is (a) free of mechanical errors, (b) suitable for use in connection with the Financial Model Update procedures, including the procedures for changes to the Financial Model Formulas, set out in this Agreement, and (c) consistent with the requirements of this Agreement. The Financial Close Model Audit Report may be the same one required by Lenders as a condition precedent to Financial Close, and it may take the form of a supplement or update to the "Model Audit Report" provided to the LA DOTD within the Financial Proposal.

Financial Close Security means the bond(s) or letter(s) of credit in the aggregate amount of $20,000,000 provided by Developer to the LA DOTD as a condition precedent of execution and delivery of this Agreement in accordance with Section 5.13.2(I) of the ITP.

Financial Model means the Base Case Financial Model, as updated from time to time in accordance with this Agreement.

Financial Model Auditor means any independent, nationally recognized model audit firm engaged by the Developer (and in respect of the Financial Model to be delivered as of the Closing Date, reasonably acceptable to the LA DOTD), who will audit the Financial Model and any changes to the Financial Model Formulas, and perform such other model audit services as are required in accordance with this Agreement.

Financial Model Formulas means the financial formulas that the Developer and the LA DOTD have agreed upon as of the Agreement Date as a basis for the Financial Model and any updates pursuant to the Agreement but without the data and the information used by or incorporated in such updates.

Financial Model Update means any update to the Financial Model that has been reviewed, commented on and approved by the LA DOTD pursuant to Section 6.02(c).

Financial Proposal means the financial proposal submitted by the Developer pursuant to the ITP and included as part of the Proposal in Exhibit S.

Financing Assignment is defined in Section 7.04(a).

Float means the amount of time that any given activity or logically connected sequence of activities shown on the Project Schedule may be delayed before it will affect the Partial Acceptance Deadline or Final Acceptance Deadline, as applicable. Float is generally identified as the difference between the early completion date and late completion date for activities as shown on the Project Schedule.

For Information (whether or not capitalized) means the Developer has provided a Submittal to the LA DOTD for information purposes only, as more particularly described in Section 10.05(e).

Force Majeure Event means the occurrence of any of the following events:

(a) war (including civil war and revolution), invasion, armed conflict, violent act of foreign enemy, military or armed blockade, or military or armed takeover of the Project, in each case occurring within the State;

(b) any act of terrorism or sabotage that causes direct physical damage to or otherwise directly causes interruption to construction or direct losses during operation of the Project;

(c) nuclear explosion or contamination, in each case causing direct physical damage to the Project or radioactive contamination of the Project;

(d) riot and civil commotion on or in the immediate vicinity of the Project;

(e) flood, earthquake, hurricane, tornado and other significant storm or weather occurrence, in each case that causes direct physical damage to the Project;

(f) fire or explosion not attributable to the Developer or any Developer Party that directly impacts an element of the physical improvements to the Project or that impacts performance of the Work;

(g) national, State, or local strikes not specific to the Developer or the Project which, in any case, cannot be resolved by the Developer; and

(h) any embargo beginning after the Setting Date that has a direct, negative impact on materials, supplies, or technology needed for the Construction Work.

General Inspection(s) means an inspection of one or more Elements of the Project to identify Defects and assess asset condition, as more particularly described in Section 22.13.1 of the Technical Provisions.

Generally Accepted Accounting Principles (GAAP) means such accepted accounting practice as conforms at the time to generally accepted accounting principles in the United States of America, consistently applied.

Geotechnical Instrumentation and Monitoring Plan means the Plan for vibrations and other movements during Construction Work, as more particularly described in Section 7.9.3 of the Technical Provisions.

Geotechnical Planning Report means the report documenting the general philosophy and methods of design and construction and the rationale for selection of the proposed construction methods and engineering properties for all geotechnical and foundation Elements of the Project, as more particularly described in Section 7.9.1 of the Technical Provisions.

Good Industry Practice means the industry practices and standards that would be exercised by a prudent and experienced developer, designer, engineer, contractor, operator or

maintenance provider engaged in the same kinds of undertakings and under similar circumstances as those applying to the Work.

Governmental Approvals means all local, regional, state and Federal agreements, studies, findings, permits, approvals, authorizations, certifications, consents, decisions, exemptions, filings, leases, licenses, registrations, rulings and other governmental authorizations, including any amendments or revisions thereto, required to be obtained or completed under Law prior to undertaking any particular activity contemplated by the Contract Documents.

Governmental Authority or **Governmental Entity** means any court or any federal, state, or local government, department, commission, board, bureau, agency, or other regulatory or governmental authority, but not including the LA DOTD.

Gross Revenues means the amount calculated as follows:

(a) Toll Revenues; plus

(b) all other amounts derived from or in respect of the operation of the Project which constitute revenues of the Developer in accordance with GAAP, including any interest income the Developer earns on any funds on deposit in any bank account or securities account; plus

(c) the amounts paid or to be paid by the LA DOTD to the Developer as a result of a Compensation Event within the current calendar year that compensates for Net Cost Impact pursuant to the Agreement; minus

(d) total credits and refunds of Toll Revenues made by the Developer to Users on account of Toll Revenue previously collected.

Handback means the stage when the Developer has done everything the Agreement requires to enable the Developer to meet the Handback Requirements at the end of the Operating Period.

Handback Account means the account held in escrow by the Escrow Agent for the purpose of making payment to the Developer for Handback Work Costs and for other purposes consistent with ARTICLE 19.

Handback Condition Inspection has the meaning set forth in Section 23.3 of the Technical Provisions.

Handback Condition Report has the meaning set forth in Section 23.3 of the Technical Provisions.

Handback Requirements is defined in Section 19.01.

Handback Warranty is defined in Section 8.13(a)(iii).

Handback Work is defined in Section 19.02(a)(iii).

Handback Work Costs is defined in Section 19.02(a)(iv).

Handback Work Plan means the Plan containing the methodologies and activities that will be undertaken to ensure the Handback Requirements are achieved at the end of the Term, as more particularly described in Section 23.2 of the Technical Provisions.

Handover means the process of turning over the Non-Maintained work to LA DOTD at Partial Acceptance.

Hardscape Enhancement Plan means the Plan containing guidelines and requirements for the hardscape design of the Project, as more particularly described in Section 14.2.3 of the Technical Provisions.

Hazardous and Non-Hazardous Materials and Wastes Manager means the Person retained or employed by the Developer to characterize and manage hazardous and non-hazardous waste generated or encountered during construction, as more particularly described in Section 3.3.6 of the Technical Provisions.

Hazardous Material Manager (HMM) means the member of the Developer's team responsible for managing the safe handling of Hazardous Materials, as more particularly described in Section 2.3.5.15 of the Technical Provisions.

Hazardous Materials means, any solid, liquid, gaseous, or other substance which is classified as hazardous or toxic, or as a contaminant or pollutant, under applicable Law.

Hazardous Materials Management means procedures, practices and activities to address and comply with Environmental Standards when Hazardous Materials are encountered or impacted in connection with the Work, including the investigation and remediation of such Hazardous Materials. Hazardous Materials Management may include sampling, stock-piling, storage, backfilling in place, asphalt batching, recycling, treatment, clean-up, remediation, transportation and/or off-site disposal of Hazardous Materials.

Hazardous Materials and Wastes Management Plan (HM/WMP) means the Plan for the safe handling, storage, treatment, and disposal of Hazardous Materials, as more particularly described in Section 2.7.7 of the Technical Provisions.

Hazardous Waste means a waste that is (a) listed as a hazardous waste in 40 CFR Section 261.31 to 261.33, and (b) exhibits one of the following characteristics: ignitability, corrosivity, reactivity or toxicity, or is otherwise defined as a hazardous waste by Law.

High Occupancy Vehicle (HOV) means an Auto with three or more live human occupants.

Historian means a Person retained or employed by the Developer to assess historical structures potentially impacted by the Work, as more particularly described in Section 3.3.6 of the Technical Provisions.

HOV Discount means a 50% discount to the peak period Auto toll rate for Users of High Occupancy Vehicles.

Hub Governing Documents means the Agreement Regarding Interoperability of Toll Systems and Transponders, effective as of March 7, 2017 (and as amended, supplemented, replaced, or otherwise modified from time to time), among the North Texas Tollway Authority, the Texas Department of Transportation, the Central Texas Regional Mobility Authority, the Fort Bend Grand Parkway Toll Road Authority, Harris County, the Kansas Turnpike Authority, and the Oklahoma Turnpike Authority.

Hurricane/Severe Weather Response Plan means the Plan included in the Maintenance Management Plan, as more particularly described in Section 22.5.3 of the Technical Provisions.

Idle Costs mean those costs described in Section 2.5 of Exhibit G.

Incident means a localized disruption to the free flow of traffic on or safety of users of the Project that is beyond the control of the Developer and does not result from actions or omissions of the Developer.

Incidental Charges means those incidental charges listed in Section 5.01(c).

Independent Checks means reviews, comments, and other evaluations performed by a Person retained or employed by the Developer not otherwise involved in the design of the Project.

Indemnifying Party has the meaning for such term set forth in Section 14.03(a).

Indemnitee has the meaning for such term set forth in Section 14.03(a).

Indexation means, with respect to any amount which is subject to Indexation under this Agreement, that the amount is multiplied by the indexation ratio on January 1st each year until the expiration or earlier termination of this Agreement, in accordance with the formula set out below:

$$\textit{indexation ratio} = CPI_{UPDATED} / CPI_{PDD}$$

Where:

$CPI_{UPDATED}$ = the most recently updated value of CPI as of September 1st each year; and

CPI_{PDD} = the value of CPI as of the Proposal Due Date.

Indicator Pile means a test pile driven in advance of permanent piles monitored using dynamic monitoring, as defined in the LA DOTD Standard Specifications.

Initial Base Case Financial Model means the financial model included in the Financial Proposal, consistent with the terms of the ITP and containing financial formulas, assumptions, and other information, including projections and calculations with respect to revenues, expenses, and the repayment of Developer Debt.

Initial Equity IRR means the nominal post-tax Internal Rate of Return on Committed Investment on a cash on cash basis over the full Term as defined in the Initial Base Case Financial Model.

Initial Project Financing Agreements means the project financing agreements identified in Exhibit E.

Inspection and Testing Schedule has the meaning set forth in Section 23.2.1 of the Technical Provisions.

Institutional Lender means:

(a) the United States of America, any state thereof or any agency or instrumentality of either of them, any municipal agency, public benefit corporation or public authority, advancing or insuring mortgage loans or making payments which, in any manner, assist in the financing, development, operation and maintenance of projects;

(b) any (i) savings bank, commercial bank, investment bank, trust company (whether acting individually or in a fiduciary capacity) or insurance company organized and existing under the laws of the United States of America or any state thereof, (ii) foreign insurance company or commercial bank qualified to do business as an insurer or commercial bank as applicable under the laws of the United States of America or any state thereof, (iii) pension fund, hedge fund, foundation or university or college endowment fund, (iv) entity which is formed for the purpose of securitizing mortgages, whose securities are sold by public offering or to qualified investors under the U.S. Securities Act of 1933, as amended, or (v) Person engaged in making loans in connection with the securitization of mortgages, to the extent that the mortgage to be made is to be so securitized in a public offering or offering to qualified investors under the U.S. Securities Act of 1933, as amended, within one year of its making (provided, that an entity described in this clause (b) only qualifies as an Institutional Lender if it is subject to the jurisdiction of state and Federal courts in the State in any actions);

(c) any "qualified institutional buyer" under Rule 144(a) of the Securities Act of 1933 or any other similar Law hereinafter enacted that defines a similar category of investors by substantially similar terms; or

(d) any other financial institution or entity designated by the Developer and approved by the LA DOTD (provided, that such institution or entity, in its activity under the Agreement, is acceptable under then current guidelines and practices of the State);

provided that each such entity (other than entities described in clause (b)(iv) and clause (c) of this definition) or combination of such entities if the Institutional Lender is a combination of such entities will have individual or combined assets, as the case may be, of not less than $1 billion (subject to Indexation); and provided further, that an entity described in clause (b)(iv) of this definition must have assets of not less than $100 million (subject to Indexation).

Intellectual Property means the ETCS books and records, copyrights, trademarks, trade dress, trade secrets, patents, Source Code and Source Code Documentation, customer and supplier lists, and other results of intellectual activity, including licenses granting rights with respect to the foregoing, in each case relating to the Project.

Intelligent Transportation System (ITS) means devices, software, and systems integrated into vehicles and on roadway infrastructure for the purpose of improving transportation safety and mobility.

Interest Rate Protection Start Date means May 16, 2023.

Interface Control Document (ICD) means the document(s) defining the file data, file formats, and related business rules for data files exchanged between two systems.

Interim Design means the level of design described in Section 2.4.11 of the Technical Provisions.

Internal Rate of Return or **IRR** means the discount rate that makes the net present value of all cash flows from an investment equal to zero.

Investigative Work Plan (IWP) means the Plan addressing the methods, techniques, and analytical testing requirements to adequately characterize the extent of impacts by Hazardous Materials to an area of concern, as more particularly described in Section 3.3.2 of the Technical Provisions.

ITP means the documents titled Instructions to Proposers with respect to the Project issued by the LA DOTD on March 14, 2023 as amended, revised, supplemented or otherwise modified from time to time.

ITS Architecture means the conceptual design that defines the structure and/or behavior of an integrated Intelligent Transport System.

ITS Inventory means the compilation of information identifying existing and proposed ITS devices, including geospatial reference points and the methods by which the ITS devices communicate with each other and/or to a central command site.

ITS Master Plan means the Plan identifying existing and proposed ITS devices, including communications media, comprising the ITS system for the Project that will be utilized in traffic monitoring and information dissemination to Users.

ITS Test Result Package means a combination of all recorded ITS Test Results obtained in conducting individual component tests.

ITS Test Results means the documented outcomes of the necessary tests to be conducted on any ITS device to determine an acceptable results-orientated outcome for the device, including factory tests, field tests, sub-system tests and system wide tests.

ITS Testing Plan means the Plan that identifies acceptable test requirements and anticipated ITS Test Results for a specific ITS device to ensure the device functions according to its intended purpose.

Key Member means (a) the Developer with respect to the Design-Build Work or O&M Work; (b) the Design-Build Contractor; (c) the O&M Contractor; or (d) the Tolling Operator.

Key Performance Indicator (KPI) means the measurable values that demonstrate how effectively an operation is achieving performance goals.

Key Personnel means the individuals designated by the Developer in its Proposal meeting the requirements set forth in the Technical Provisions.

Key Ratios means ratios contained in the Project Financing Agreements that have financial covenants attached to them or ratios that are conditions precedent to Financial Close.

Known Pre-Existing Hazardous Materials means **Hazardous Materials**:

(a) identified in the reports and assessments related to Hazardous Materials provided in the Reference Documents, including the Phase I environmental site assessment, or as otherwise identified in the Contract Documents;

(b) that the Developer should have known were present within the Project ROW as of the Setting Date as reasonably inferred from information contained in the Reference Documents, including the Phase I environmental site assessment, the Calcasieu - Existing Structures Coating Test Results document, the title research reports, the Railroad maps, and the Railroad deeds, or Contract Documents; or

(c) that were actually known by the Developer to be present within the Project ROW as of the Setting Date.

LA DOTD means the Louisiana Department of Transportation and Development, an agency of the State, and any other State agency duly succeeding to the powers, authorities and responsibilities of the LA DOTD invoked by or pursuant to the Agreement.

LA DOTD-Caused Delay means any of the following events:

(a) failure of the LA DOTD to issue the Notice to Proceed in accordance with the Agreement after the Developer has fulfilled the conditions set forth in Section 8.02(b);

(b) failure of the LA DOTD to provide responses to proposed schedules, plans, Design Documents, condemnation and acquisition packages, and other Submittals and matters submitted to the LA DOTD for which a response by the LA DOTD is an express prerequisite to the Developer's right to proceed or act, within the time periods (if any) indicated in the Contract Documents, or if no time period is indicated, within a reasonable time, taking into consideration the nature, importance and complexity of the Submittal or matter, following delivery of notice from the Developer requesting such action in accordance with the terms and requirements of the Contract Documents;

(c) failure of the LA DOTD to perform an action required by the LA DOTD under the Contract Documents for which an action by the LA DOTD is an express prerequisite to the Developer's right to proceed or act, within the time periods (if any) indicated in the Contract Documents, or if no time period is indicated, within a reasonable time, taking into consideration the nature, importance and complexity of the action or matter, following delivery of notice from the Developer requesting such action in accordance with the terms and requirements of the Contract Documents;

(d) failure of the LA DOTD to obtain the LA DOTD-Provided Approvals by the Financial Close Deadline;

(e) failure of the LA DOTD to complete the Archaeology Mitigation within 850 days after issuance of the Notice to Proceed;

(f) failure of the LA DOTD to join the Central US Interoperability Hub no later than six months prior to the Partial Acceptance Deadline;

(g) failure of the LA DOTD, after joining the Central US Interoperability Hub, to maintain its status as a participating agency in the Central US Interoperability Hub (or successor agency) during the Term;

(h) the performance of work by the LA DOTD or its separate contractors within the Project Right of Way, including work related to a LA DOTD Enhancement; or

(i) failure of the LA DOTD to provide access to the Developer to a parcel identified for acquisition by the LA DOTD in Section 4.5.4 of the Technical Provisions within 900 days of delivery of the Final ROW Map pursuant to Section 4.4.4.2 of the Technical Provisions.

LA DOTD Change means (a) a change to the Work pursuant to a Change Order or a Directive Letter issued pursuant to Section 13.02(d)(i), and (b) any other event that the Agreement expressly states will be treated as a LA DOTD Change.

LA DOTD Cost to Complete means (without double-counting):

(a) those costs (internal and external) that the LA DOTD reasonably projects that it will incur related to any tendering or procurement process(es) conducted by the LA DOTD

seeking proposals from replacement design and construction contractor(s) for the purpose of achieving Final Acceptance, plus

(b) the costs that the LA DOTD reasonably projects that it will incur for the purpose of achieving Final Acceptance, including payments due and payable from the LA DOTD to the selected replacement design and construction contractor(s) under one or more contracts awarded by the LA DOTD for such purpose, plus

(c) any other costs that the LA DOTD reasonably projects that it will incur for the purpose of achieving Final Acceptance, minus

(d) any amounts actually recovered by the LA DOTD under the Design-Build Performance Security.

LA DOTD Default is defined in Section 18.04.

LA DOTD Noncompliance Notice is defined in Section 1.03(a) of Exhibit O.

LA DOTD Enhancements means any work within the Project ROW undertaken by the LA DOTD, or by the Developer at the authorization and direction of the LA DOTD, pursuant to Section 11.01.

LA DOTD-Provided Approvals means the NEPA Documents.

LA DOTD Railroad Agreements has the meaning set forth in Section 8.04(f)(i).

LA DOTD Representative means the individual designated in accordance with Section 25.04.

LA DOTD Right-of-Way Contract Services–Minimum Requirements means the document with this title available at http://www.dotd.la.gov/Inside_LaDOTD/Divisions/Engineering/Real_Estate/Pages/Manuals.aspx.

LA DOTD ROW Supervisor means the LA DOTD representative responsible for the management of matters pertaining to real estate for the Project.

LA DOTD Standard Specifications means the Louisiana Standard Specifications for Roads and Bridges.

LA DOTD Termination Amount means the greater of (a) 100% of the Developer Debt Termination Amount, plus Demobilization Costs, less any Credit and Cash Balances, and (b) the Project Value, plus Demobilization Costs, less any Credit and Cash Balances; provided, however, that Credit and Cash Balances will not be deducted from the Project Value unless the Project Value is increased on account of such Credit and Cash Balances.

LA DOTD's Project Manager means the individual designated by the LA DOTD to manage the Project.

Landscape Enhancement Plan means the Plan for landscaping within the Project ROW, as more particularly described in Section 14.2.3 of the Technical Provisions.

Lane Closure means the blocking or restriction upon use, for any duration, of a traffic lane, ramp, cross road, shoulder, or sidewalk by the Developer or any Developer Party.

Lane Closure Increased Monitoring Trigger means an accumulation of Non-Permitted Closures where:

(a) the Non-Permitted Closure equals or exceeds 200 minutes in any month;

(b) during any rolling six-month period there are three months (consecutive or non-consecutive) where the Non-Permitted Closure in each of those months equals or exceeds 180 minutes; or

(c) during any rolling 12-month period there are four months (consecutive or non-consecutive) where the Non-Permitted Closure in each of those months equals or exceeds 180 minutes.

Lane Closure Liquidated Damages is defined in Section 1.01(d) of Exhibit N.

Lane Closure Remedial Plan is defined in Section 1.03(a)(ii) of Exhibit N.

Lane Closure Warning means the notice provided by the LA DOTD to the Developer in accordance with Section 1.02 of Exhibit N.

Lane Closure Warning Trigger means an accumulation of Non-Permitted Closures where:

(a) during any rolling six-month period there are three months (consecutive or non-consecutive) where the Non-Permitted Closure in each of those months equals or exceeds 120 minutes;

(b) during any rolling 12-month period there are four months (consecutive or non-consecutive) where the Non-Permitted Closure in each of those months equals or exceeds 120 minutes.

Large Truck/Trailer means motor vehicles that are greater than 35 feet in length, greater than 8.5 feet in width, or greater than 13 feet in height.

Law means all laws, treaties, ordinances, judgments, Federal Requirements, decrees, injunctions, writs and orders of any Governmental Authority, and all rules, regulations, orders, formal interpretations and permits of any Governmental Authority having jurisdiction over construction of the Project or the Project Right of Way, performance of the Work, or operation of

the Project, or the health, safety or environmental condition of the Project or the Project Right of Way, in each case as may be amended, revised, supplemented, or otherwise modified from time to time, which is applicable to or has an impact on the Project or the Developer.

Lead Bridge Design Engineer means the member of the Developer team described in Section 2.3.5.18 of the Technical Provisions.

Lead Designer means the Subcontractor, whether a single entity or joint venture, primarily responsible for the Design Work for the Project.

Lead Geotechnical Engineer means the member of the Developer team described in Section 2.3.5.22 of the Technical Provisions.

Lead Project Scheduler means the member of the Developer team described in Section 2.3.5.19 of the Technical Provisions.

Lead Roadway Engineer means the member of the Developer team described in Section 2.3.5.20 of the Technical Provisions.

Lead Traffic Engineer means the member of the Developer team described in Section 2.3.5.21 of the Technical Provisions.

Lenders means each of the Institutional Lenders or other Persons permitted under Section 7.04 that are parties to the Project Financing Agreements, including the Collateral Agent.

Lien means any pledge, lien, security interest, mortgage, deed of trust or other charge or encumbrance of any kind, or any other type of preferential arrangement.

Limited Notice to Proceed means the written authorization by the LA DOTD to commence performance of the LNTP Work issued pursuant to Section 8.02(a).

Limited Notice to Proceed Work or **LNTP Work** means the activities described in Section 1.4.1 of the Technical Provisions.

Lock-up Period means the period commencing on the Agreement Date and ending on the second anniversary of the Final Acceptance Date.

Long Stop Date means the date that is 365 days after the Partial Acceptance Deadline.

Losses means, with respect to any Person, any losses, liabilities, judgments, damages, fees (including legal fees), penalties, fines, sanctions, charges or out-of-pocket and documented costs or expenses actually suffered or incurred by such Person, including as a result of any injury to or death of persons or damage to or loss of property.

Maintenance Failure (MF) means a deterioration in the condition or performance of an Element, regardless of cause, affecting the use, functionality or operation of any Element, and which causes or has the potential to cause one or more of the following:

(a) a hazard, nuisance or other risk to public or worker health or safety, including the health and safety of road users;

(b) damage or deterioration of an Element;

(c) damage to property or equipment;

(d) damage to the environment; or

(e) failure of an Element to meet a Performance Requirement.

Maintenance Failure Schedule has the meaning set forth in Section 22.10 of the Technical Provisions.

Maintenance Management Plan (MMP) means the Plan that identifies the methods, systems and procedures for performing the O&M Work, as described more particularly in Section 22.5 of the Technical Provisions.

Maintenance Management System means the system implemented by the Developer to record the O&M Work, as described in more detail in Section 22.8 of the Technical Provisions.

Maintenance On-Line Management System (MOMS) means the automated, fully integrated system that monitors the status of operational equipment in real time, records equipment and process failures, notifies maintenance personnel, generates and tracks work orders, maintains preventative maintenance schedules, generates repair history, and maintains parts inventory and asset management.

Maintenance Quality Manager (MQM) means the Person responsible for managing quality functions during the Operating Period, as more particularly described in Section 2.3.5.13 of the Technical Provisions.

Maintenance Record has the meaning set forth in Section 22.13.5 of the Technical Provisions.

Management Plans means all of the Plans listed in Article 2 of the Technical Provisions.

Major Temporary Component means an infrastructure Element required for construction of the Project that will be removed prior to Final Acceptance, as set forth in Section 2.4.13.4 of the Technical Provisions.

Market Interest Rate Adjustment Period means the period starting on 10:00 a.m. central time on the Proposal Due Date and ending on 10:00 am central time on the Financial Close Date; provided that the period will end no later than 10:00 am central time on the Financial Close Deadline.

Materials Management Plan means the Plan describing the methods for characterizing and managing Hazardous Waste and non-hazardous waste generated during demolition and construction.

Medium Truck/Trailer means motor vehicles that do not meet the definition of Auto, Auto - Local, or Large Truck/Trailer.

Milestone Payment means a payment associated with achieving 25% completion of the Design-Build Work, 50% completion of the Design-Build Work, 75% completion of the Design-Build Work, Partial Acceptance, and Final Acceptance.

Mislocated Utility means a Utility within the DB Limits that (a) is identified in the Reference Documents listed in Section 6 of Exhibit Q, and (b) exceeds the following maximum tolerance from center:

Utility Depth of Cover	Maximum Tolerance From Center
0’ – 10’	5’
10’ – 20’	(Utility depth of cover) divided by 2
Greater than 20’	10’

Mitigation means, following the occurrence of a Noncompliance Event:

(a) restoring the surrounding area specifically to reduce imminent safety hazards caused by Defects within the Elements to a state or condition that in LA DOTD's reasonable opinion:

(i) mitigates the Noncompliance Event through protective devices, maintenance of traffic, or partial repairs in accordance with applicable LA DOTD procedures; and

(ii) removes all safety hazards to Users; and

(b) sufficiently reduces the risk during the remainder of the Permanent Repair Period that further damage, nonperformance, immediate or imminent safety hazards, or other adverse consequences might occur, including:

(i) structural failure or deterioration;

(ii) damage to third party’s property; or

(iii) damage to the environment.

Mitigation Period means, for each Noncompliance Event, the period of days specified as the "Mitigation Period" for that Noncompliance Event in the Performance Requirements Tables.

Monitor Pile means a permanent foundation pile monitored using dynamic monitoring, as defined in the LA DOTD Standard Specifications.

Monthly Operations and Maintenance Report has the meaning set forth in Section 22.8 of the Technical Provisions.

Monthly Renewal Work Schedule has the meaning set forth in Section 22.12.2.2 of the Technical Provisions.

Monthly Progress Report has the meaning set forth in Section 2.3.4 of the Technical Provisions.

Natural Resource Biologist means a Person retained or employed by the Developer to provide expertise on monitoring impacts on wildlife and the natural environment due to construction activities related to the Work, as more particularly described in Section 3.3.6 of the Technical Provisions.

NBIS Inspection means the required structure inspection as per the LA DOTD Bridge Inspection Manual.

NEPA Documents means the Final Environmental Impact Statement and the Record of Decision for the Project, and any appendices or attachments thereto.

NEPA Specialist means a Person retained or employed by the Developer to be responsible for interpreting the contents of the NEPA Documents, as described in Section 3.3.6 of the Technical Provisions.

Net Cost Impact has the meaning set forth in Section 2.1(i)(b) of Exhibit G.

Net Cost Saving has the meaning set forth in Section 2.1(i)(c) of Exhibit G.

Net Revenue Impact means:

(a) any net increase or decrease in Gross Revenues directly attributable to a Compensation Event;

(b) in the case of a net decrease in Gross Revenues, less any savings in Project operating and maintenance costs resulting from the Compensation Event (excluding any savings in costs subtracted from Net Cost Impact for the same Compensation Event) as compared with what the Gross Revenues would have been absent occurrence of the Compensation Event;

(c) in the case of a net increase in Gross Revenues, less any incremental increase in Project operating and maintenance costs resulting from the Compensation Event (excluding any increase in costs included in Net Cost Impact for the same Compensation Event); less

(d) any lost Gross Revenues that can reasonably be mitigated by the Developer (excluding any mitigation of costs subtracted from Net Cost Impact for the same Compensation Event).

New Bridge means the replacement I-10 Calcasieu River Bridge, including all associated features, from end of approach slab to end of approach slab, crossing the Calcasieu River and Lake Charles, to be constructed by the Developer.

New Environmental Approval means: (a) any Environmental Approval required for the Project, other than LA DOTD-Provided Approvals, and (b) any revision, modification, or amendment to any LA DOTD-Provided Approval.

Noise and Vibration Specialist means a Person retained or employed by the Developer to be responsible for assessing noise and vibration impacts of the Work, as more particularly described in Section 3.3.6 of the Technical Provisions.

Noise Study Report means the report documenting the assumptions, conditions, and results of noise study and analysis, as more particularly described in the Technical Provisions.

Non-Maintained Work means Elements that are constructed by the Developer during the DB Period but that are not operated or maintained during the Operating Period as set forth in Article 1 of the Technical Provisions.

Non-Maintained Work Warranty is defined in Section 8.13(a)(i).

Non-Permitted Closure is defined in Section 1.01(a) of Exhibit N.

Non-Priority Bridge means an historic bridge that is not an ideal candidate for long-term use and is eligible for replacement when needed, in accordance with the programmatic agreement among FHWA, the LA DOTD, The Advisory Council on Historic Preservation, and the Louisiana State Historic Preservation Officer regarding the management of historic bridges in Louisiana.

Non-Sufficient Funds (NSF) shall mean a User's check cannot be honored by the bank because the User's associated account does not have enough funds.

Noncompliance Developer Default Trigger means an accumulation of assessed Noncompliance Points where:

(a) the cumulative number of Noncompliance Points assessed under Exhibit 22-1 of the Technical Provisions during any rolling three-month period equals or exceeds 90;

(b) the cumulative number of Noncompliance Points assessed under Exhibit 22-1 of the Technical Provisions during any rolling 12-month period equals or exceeds 270;

(c) the cumulative number of Noncompliance Points assessed under Exhibit 22-2 of the Technical Provisions during any rolling three-month period equals or exceeds 120; or

(d) the cumulative number of Noncompliance Points assessed under Exhibit 22-2 of the Technical Provisions during any rolling 12-month period equals or exceeds 450.

Noncompliance Event means any Developer failure to comply with the obligations of this Agreement that is identified as a Noncompliance Event in Exhibit 22-1 (for the DB Period) or Exhibit 22-2 (for the Operating Period) of the Technical Provisions.

Noncompliance Event Start Date means the earlier of the date the Developer:

(a) first obtains knowledge of a Noncompliance Event; or

(b) should have reasonably known of the occurrence of a Noncompliance Event.

Noncompliance Increased Monitoring Trigger means an accumulation of assessed Noncompliance Points where:

(a) the cumulative number of Noncompliance Points assessed under Exhibit 22-1 of the Technical Provisions during any rolling three-month period equals or exceeds 40;

(b) the cumulative number of Noncompliance Points assessed under Exhibit 22-1 of the Technical Provisions during any rolling 12-month period equals or exceeds 120;

(c) the cumulative number of Noncompliance Points assessed under Exhibit 22-2 of the Technical Provisions during any rolling three-month period equals or exceeds 75; or

(d) the cumulative number of Noncompliance Points assessed under Exhibit 22-2 of the Technical Provisions during any rolling 12-month period equals or exceeds 250.

Noncompliance Points means the method of assessing liquidated damages for the Developer's failure to meet a Performance Requirement as described in Section 1.08 of Exhibit O, Exhibit 22-1 of the Technical Provisions, and Exhibit 22-2 of the Technical Provisions.

Noncompliance Points Liquidated Damages means liquidated damages calculated in accordance with Section 1.08 of Exhibit O.

Noncompliance Remedial Plan is defined in Section 1.10(a)(iii) of Exhibit O.

Noncompliance Warning means a warning by LA DOTD in respect of a Noncompliance Warning Trigger under Section 1.09 of Exhibit O.

Noncompliance Warning Trigger means an accumulation of assessed Noncompliance Points where:

(a) the cumulative number of Noncompliance Points assessed under Exhibit 22-1 in the Technical Provisions during any rolling three-month period equals or exceeds 25;

(b) the cumulative number of Noncompliance Points assessed under Exhibit 22-1 in the Technical Provisions during any rolling 12-month period equals or exceeds 80;

(c) the cumulative number of Noncompliance Points assessed under Exhibit 22-2 of the Technical Provisions during any rolling three-month period equals or exceeds 50; or

(d) the cumulative number of Noncompliance Points assessed under Exhibit 22-2 of the Technical Provisions during any rolling 12-month period equals or exceeds 175.

Nonconforming Work means Work that does not conform to the requirements of the Contract Documents.

Notice to Proceed means the written authorization by the LA DOTD to commence performance of the Work issued pursuant to Section 8.02(b).

Observation Period means the period of time commencing after all field work and component and system tests have been completed, during which all ITS components, sub-systems and systems are required to operate satisfactorily without failure or issue.

Occupational and Public Safety Plan (Safety Plan) means the Plan to ensure Project safety throughout the Term, as more particularly described in Section 2.7 of the Technical Provisions.

ONVIF Profile S (Open Network Video Interface Forum) means an ONVIF device that sends video data over an IP network to a client, including support for PTZ, audio and metadata streaming, and relay outputs, if those features are present on the device.

Open Book Basis means allowing the LA DOTD to review all underlying assumptions and data associated with each Financial Model and Financial Model Update, and any estimate, calculation or determination of any Allocable Costs, Net Cost Impact, Net Revenue Impact, Net Cost Saving, or other pricing or compensation or adjustments thereto, including assumptions as to costs of the Work, schedule and delay impacts, composition of equipment spreads, equipment rates, labor rates, productivity, estimating factors, design and productivity allowance, contingency and indirect costs, mark-ups and profit margins, risk pricing, discount rates, interest rates, inflation and deflation rates, traffic volumes and related data including vehicle categories, Gross Revenues, changes in toll rates, and all other items reasonably required by the LA DOTD to satisfy itself as to the reasonableness and accuracy of the amount.

Operating Costs means all reasonable and prudently incurred costs incurred and paid for by the Developer in connection with the performance of the Work during the Operating Period, as set forth below:

(a) Operating Costs shall include: (i) costs for operation and maintenance and consumables, (ii) payments under any lease (other than a financing lease constituting Developer Debt), (iii) payments pursuant to the agreements for the management, operation and maintenance of the Project, (iv) Taxes, (v) insurance, (vi) payments for Oversight Services, (vii) police services and costs for any security, (viii) payment of the LA DOTD's share of Net Cost Saving, (ix) the Developer's reasonable Allocable Costs, (xi) capital expenditures including the cost of implementing any change (as and to the extent set forth in the related Change Order or Directive

Letter) or Safety Compliance Order, (xi) liquidated damages payable hereunder, and (xii) any other reasonable expense paid for the enhancement, expansion, major maintenance, repair, reconstruction, rehabilitation, renewal and replacement of the Project.

(b) Operating Costs shall not include: (i) debt service payments or financing costs or fees, (ii) any Distributions, (iii) entertainment costs, lobbying and political activity costs not related to the business and operations of the Developer, (iv) costs of alcoholic beverages, costs for first class travel in excess of prevailing economy travel costs, and costs of club memberships, in each case, to the extent that such costs would not be reimbursed to an employee of the LA DOTD in the regular course of business, or (v) non-cash charges, such as depreciation, amortization or other bookkeeping entries of a similar nature.

Operating Period means the period commencing on the Partial Acceptance Date and extending through the end of the Term.

Operating Period O&M Work means the O&M Work performed by the Developer during the Operating Period, as more particularly described in Section 22.1.3 of the Technical Provisions.

Operations and Maintenance Agreement or **O&M Agreement** means the Subcontract between the Developer and the O&M Contractor for the O&M Work.

Operations and Maintenance Contractor or **O&M Contractor** means the Subcontractor, whether a single entity or joint venture, primarily responsible for the operations and maintenance of the Project (except for toll operations if toll operations are to be provided by a separate Tolling Operator), unless the O&M Work is to be provided by the Developer.

Operations and Maintenance Limits or **O&M Limits** means the physical boundaries, that are required to manage and execute the O&M Work as required by the Contract Documents, as described in Section 22.4 of the Technical Provisions and shown in the Reference Documents.

Operations and Maintenance Manager (OMM) means the member of the Developer team described in Section 2.3.5.6 of the Technical Provisions.

Operations and Maintenance Security or **O&M Performance Security** is defined in Section 16.07(b).

Operations and Maintenance Quality Plan or **O&M Quality Plan** means the Plan addressing DB Period and Operating Period O&M responsibilities, as more particularly described in Section 22.7 of the Technical Provisions.

Operations and Maintenance Safety Plan or **O&M Safety Plan** means the Plan addressing the Developer's approach to meeting all safety requirements as set forth in the Contract Documents, as more particularly described in Section 22.6 of the Technical Provisions.

Operations and Maintenance Records or **O&M Records** means all data generated in connection with the O&M Work, including (a) all inspection and inventory records, whether generated by Developer or a third party, (b) all communications to or from the LA DOTD or a third party, and (c) all information contained within any data management system utilized in connection with the O&M Work.

Operations and Maintenance Work or **O&M Work** means all operation, management, administration, maintenance, repair, preservation, modification, reconstruction, rehabilitation, restoration, renewal and replacement Work for the Project, regardless of whether such Work is performed during the Design-Build Period or the Operating Period.

Operations and Maintenance Document Management Plan has the meaning set forth in Section 22.5.3 of the Technical Provisions.

Operations and Maintenance Plan means the plan developed by the Developer that identifies the methods, systems and procedures for performing the O&M Work, as described in more detail in the Technical Provisions.

Operations and Maintenance Report means the reports described in Section 22.7.2 of the Technical Provisions.

Optical Character Recognition (OCR) means technology that allows for converting alphanumeric information captured in an image to text.

Oversight Services means those services and functions the LA DOTD has the right or obligation to perform or to cause to be performed under the Contract Documents in order to monitor, review, approve, administer, or audit the Work.

PABs Event means, if the Financial Proposal includes PABs:

(a) the refusal or unreasonable delay of the Conduit Issuer to issue PABs in the amount that the Developer's underwriters are prepared to underwrite, including as a result of any failure of the State Bond Commission to issue any required approval, provided that (i) such refusal or delay is not due to any fault or less than diligent efforts of the Developer, and (ii) the Developer provides the Conduit Issuer with reasonable and customary time periods for carrying out the ordinary and necessary functions of a conduit issuer of tax-exempt bonds;

(b) the refusal or unreasonable delay of the Conduit Issuer's counsel to allow closing of the PABs, provided that (i) bond counsel is ready to give an unqualified opinion regarding the validity of the issuance of the PABs and the tax exempt status of interest paid on the PABs, (ii) the basis for such refusal is not that it would be unreasonable for bond counsel to deliver the opinion, and (iii) the Developer provides the Conduit Issuer's counsel with reasonable and customary time periods for carrying out the ordinary and necessary functions of counsel to a conduit issuer of tax-exempt bonds;

(c) the LA DOTD fails to comply with the terms of any agreement in connection with the issuance of the PABs;

(d) the expiration of the USDOT-approved PABs allocation for the Project despite the Developer's commercially reasonable efforts to obtain an extension of the PABs allocation, or the withdrawal, rescission or revocation of the USDOT-approved PABs allocation, or the reduction of such allocation by USDOT to an amount less than the amount of PABs included in the Financial Proposal; or

(e) any change in Law that does not allow for the issuance of tax-exempt bonds,

provided that, in all such cases, the failure to achieve Financial Close is directly caused by such occurrence, and such occurrence is not due to any fault of the Developer (including the Developer's failure to satisfy any conditions precedent to the use of the PABs allocation that are expressly identified as Developer responsibilities under Section 7.03(c)).

Partial Acceptance means the occurrence of all the events and satisfaction of all the conditions set forth in Section 8.09(c), or waiver thereof by the LA DOTD in accordance with Section 8.09(c).

Partial Acceptance Certificate means the certificate issued by the LA DOTD indicating that the Developer has achieved Partial Acceptance pursuant to Section 8.09.

Partial Acceptance Date means the date on which Partial Acceptance is achieved, as indicated in the Partial Acceptance Certificate.

Partial Acceptance Deadline means **[to be inserted from Proposal prior to execution]** days after Notice to Proceed, as may be adjusted pursuant to the Agreement.

Pavement Design Report means the report documenting all components of the Project's pavement design, as more particularly described in Section 11.5.1 of the Technical Provisions.

Performance Inspection means a detailed inspection in collaboration with the LA DOTD of the Performance Sections undertaken by the Developer during the Operating Period in accordance with the Technical Provisions to verify compliance with the Performance Requirements and the other requirements of the Contract Documents.

Performance Requirement means the requirements set forth in the Performance Requirements Tables for the Elements of the Work.

Performance Requirements Tables means the tables setting forth Performance Requirements, time periods for response to Defects, inspection and measurement methods, measurement records and Noncompliance Points, appearing as Exhibit 22-1 and Exhibit 22-2 of the Technical Provisions.

Performance Section means a defined section of the Project for the purpose of audit, inspection and measurement. A Performance Section includes all travel lanes including mainline lanes, shoulders, ramps and frontage roads operating in one direction over a length of approximately 0.1 mile, together with all Elements of the Project within the O&M Limits associated with the relevant approximately 0.1 mile-length of roadway.

Performance Security means (a) the Design-Build Performance Security; (b) the O&M Performance Security; or (c) any other surety bond, letter of credit, guaranty or similar instrument acceptable to the LA DOTD and procured in accordance with the terms of the Contract Documents.

Permanent Repair means, following the occurrence of a Noncompliance Event, the resolution and cure of the Noncompliance Event in a way that complies with the Contract Documents.

Permanent Repair Period means, for a Noncompliance Event, the amount of time appearing in the "Permanent Repair" column for such Noncompliance Event in the Performance Requirements Tables.

Permit is defined in Section 4.01(a).

Permitted Encumbrance means, with respect to the Project:

(a) the rights and interests of the Developer under the Agreement;

(b) inchoate materialmen's, mechanics', workmen's, repairmen's, employees', carriers', warehousemen's or other similar Liens arising in the ordinary course of business of the Project or the LA DOTD's performance of its obligations hereunder, and either (A) not delinquent or (B) which are being contested by the LA DOTD (but only for so long as such contestation effectively postpones enforcement of any such Lien);

(c) any recorded or unrecorded servitude, right, claim, license, privilege, covenant, condition, right-of-way, or other similar reservation, right, limitation or restriction, relating to, affecting or encumbering the Project or the development, use or operation of the Project (including servitudes and rights-of-way for utilities and utility facilities), or any defect or irregularity in the title to the Project, including those discoverable by a physical inspection or survey of the Project, that does not materially interfere with the operations of the Projects or the right and benefits of the Developer and the LA DOTD under the Agreement;

(d) any zoning, building, environmental, health or safety Law now or hereafter in effect relating to, affecting or governing the Project or the development, use or operation of the Project, together with all amendments, modifications, supplements or substitutions thereto or therefore; and

(e) any right reserved to or vested in any Governmental Authority by any statutory provision.

Permitted Vehicles means vehicles permitted to travel on the New Bridge subject to and in accordance with Law.

Persistent Closure means an accumulation of Non-Permitted Closures where:

(a) during any rolling six-month period there are three months (consecutive or non-consecutive) where the Non-Permitted Closure in each of those months equals or exceeds 240 minutes; or

(b) during any rolling 12-month period there are four months (consecutive or non-consecutive) where the Non-Permitted Closure in each of those months equals or exceeds 240 minutes.

Person means any individual (including, the heirs, beneficiaries, executors, legal representatives, or administrators thereof), corporation, partnership, joint venture, trust, limited liability company, limited partnership, joint stock company, unincorporated association or other entity, or a Governmental Authority.

Pipe Racks means the pipelines and pipe racks adjacent to Sampson Street as described in Section 5.5 of the Technical Provisions.

Pipe Racks Delay means a failure of a Utility to complete the Pipe Racks Relocation within 1,050 days after issuance of the Notice to Proceed.

Pipe Racks Relocation means the relocations of the Pipe Racks necessary for construction of the New Bridge.

Pipe Racks Relocation Work means any and all work performed by the LA DOTD, its contractors, or any third party to accomplish the Pipe Racks Relocations.

Plan or **plan** means (A) any of the named written procedures identified in the Contract Documents detailing how the Work will be executed; (B) any procedure required for the Work where detail of the process, procedures, or steps are needed for the proper execution of the Work; (C) drawings or graphical depictions of an Element or Elements used for the Work; or (D) any combination of the foregoing, as the context requires.

Planned Maintenance means O&M Work that has been properly scheduled and executed in accordance with the Technical Provisions and subject to the following restrictions:

(a) Planned Maintenance shall not be permitted on a Holiday;

(b) Planned Maintenance after Final Acceptance will take place on no more than 90 days per year;

(c) Within any work zone for the bridge and roadway section, Planned Maintenance will be restricted to one travel lane; and

(d) At least two travel lanes will remain open in the direction of travel affected by Planned Maintenance.

Planned Refinancing means a Refinancing that is explicitly described in the Financial Proposal and included in the Initial Base Case Financial Model, provided that in no case shall a TIFIA Refinancing be considered a Planned Refinancing. **[specific details/reference to Planned Refinancing assumptions (if any) to be inserted from Financial Proposal prior to execution]**

Planned Renewal Work Schedule has the meaning set forth in Section 22.12.2.2 of the Technical Provisions.

Pre-Construction Inspection Report means the Plan that documents the pre-construction conditions of existing facilities, structures, and environmentally sensitive areas identified in the NEPA Documents that may be affected by the Project.

Pre-Existing Hazardous Materials means Known Pre-Existing Hazardous Materials and Unknown Pre-Existing Hazardous Materials.

Prefinal Project Handback Condition Report is defined in Section 19.02(b).

Preliminary Project Baseline Schedule means the original Project Schedule submitted with the Proposal.

Preliminary Project Handback Condition Report is defined in Section 19.02(a).

Preservation Candidate means an historic bridge designated for preventative maintenance, preservation, and rehabilitation, when prudent and feasible, in accordance with the programmatic agreement among FHWA, the LA DOTD, The Advisory Council on Historic Preservation, and the Louisiana State Historic Preservation Officer regarding the management of historic bridges in Louisiana.

Pricing Date means (a) for Bonds, the pricing date of the Bonds, or (b) for bank debt or Private Placement, the earlier of the Financial Close Date or the date on which the debt is fully hedged by the Developer.

Principal-in-Charge has the meaning set forth in Section 2.3.5.1 of the Technical Provisions.

Private Activity Bonds or PABs means bonds, notes or other evidence of indebtedness issued by the Conduit Issuer pursuant to the provisions of the Internal Revenue Code Sections 142(a)(15) and (m).

Private Placement means Developer Debt incurred by a sale of debt securities by the Developer pursuant to an exemption under Section 4(a)(2) of the Securities Act of 1933, as amended.

Proceeds Escrow Account is defined in Section 7.02(b).

Professional Engineer means a Person who is duly licensed and registered by the Louisiana Professional Engineering and Land Surveying Board to engage in the practice of engineering in the State.

Professional Services means all Work performed under the Contract Documents, other than Construction Work, including the following services and Work: (a) design and engineering; (b) right of way acquisition services; (c) surveying; (d) Utility Adjustment design; and (e) environmental permitting and compliance services.

Professional Traffic Operations Engineer means a Professional Engineer certified as a Professional Traffic Operations Engineer (PTOE) by the Transportation Professional Certification Board, Inc.

Prohibited Person means any Person who is:

(a) debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Governmental Authority;

(b) acting as a principal in one or more public transactions (federal, state, or local) terminated for cause or default in the last three years;

(c) convicted of or had a civil or administrative judgment rendered against them, in the last three years, for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(d) indicted for or otherwise criminally or civilly charged by a Government Entity with commission of any of the offenses listed in clauses (a) through (c), above; or

(e) who would otherwise cause the Developer to be in violation of any certification, covenant, required qualification, agreement, or any other provision of the Contract Documents.

Project means the development, design, financing, construction, operation, maintenance and tolling of the I-10 Calcasieu River Bridge Public-Private Partnership Project, all as more particularly described in Article 1 of the Technical Provisions.

Project Administration Plan has the meaning set forth in Section 2.3 of the Technical Provisions.

Project Baseline Schedule (PBS) means the schedule submitted by the Developer, setting forth the schedule of Work against which any subsequent schedule updates are tracked, as more particularly described in Section 2.3 of the Technical Provisions.

Project Financing Agreements means the Financing Assignments and any other documents evidencing Developer Debt (including Refinancings) obtained in compliance with the terms of the Agreement, together with any and all amendments and supplements thereto.

Project Handback Conditions Report means any of the reports described in Section 23.3 of the Technical Provisions.

Project Management Plan (PMP) means the document complying with ISO, as appropriate, and approved by LA DOTD, describing quality assurance and quality control activities necessary to manage the development, design, construction, operation and maintenance of the Project, containing the Approved component parts, plans and documentation described in Section 2.2 of the Technical Provisions.

Project Office means any facility/location at which the Developer has an office for the Term, meeting the requirements set forth in Section 2.3.8 of the Technical Provisions.

Project Purposes means the development, permitting, design, financing, acquisition, construction, installation, equipping, management, operation, maintenance, tolling and administration of the Project, in each case in accordance with the Contract Documents.

Project Recovery Schedule means the schedule required to be prepared by the Developer under Section 2.3.2.8 of the Technical Provisions.

Project Right of Way or **Right of Way (ROW)** means any real property identified in the NEPA Documents (which term is inclusive of all estates and interests in real property, including servitudes), which is the more inclusive of the following:

(a) necessary for performance of the Work, including temporary and permanent servitudes, and ownership and operation of the Project; or

(b) shown on the approved ROW Acquisition Services Plan.

Project ROW Acquisition Work means the Work associated with acquisition of the Project Right of Way, other than that Project Right of Way owned by the LA DOTD as of the Agreement Date, as set forth in the ROW Acquisition Services Plan.

Project Schedule means one or more, as applicable, of the logic-based critical path schedules for all Design-Build Work leading up to and including Final Acceptance, and for tracking the performance of such Design-Build Work, as the same may be revised and updated from time to time in accordance with Section 2.3 of the Technical Provisions.

Project Schedule Update means the update of the Project Baseline Schedule to reflect the current status of the Project, as more particularly described in Section 2.3 of the Technical Provisions.

Project Specifications means the specifications developed by the Developer, as more particularly described in Section 2.4.22.4 of the Technical Provisions.

Project Value means the sum of (a) fair market value of the projected Distributions for the remainder of the Term without taking into consideration any terminations pursuant to ARTICLE 20 and (b) the fair market value of Developer Debt outstanding as of the date of the calculation; determined according to the appraisal procedures set forth in Section 20.13. Such sum will include any Developer Damages determined pursuant to Section 13.01(c) for adverse Net Cost Impacts and Net Revenue Impacts accruing after the effective date of termination from Compensation Events occurring prior to termination.

Project Vicinity means the area within which the Project Office and Field Office will be located, as approved by the LA DOTD, which area shall be located:

(a) prior to Commencement of Construction, in the Baton Rouge, Lafayette, or Lake Charles metropolitan areas; and

(b) after Commencement of Construction, the area in reasonable proximity to the Construction Work.

Property Survey has the meaning set forth in Section 4.4.2 of the Technical Provisions.

Proposal means the proposal submitted by the Developer pursuant to the ITP and included in Exhibit S.

Proposal Due Date means June 6, 2023, which is the date by which Proposals were due pursuant to the ITP.

Proprietary Intellectual Property means any Intellectual Property that is patented or copyrighted by the Developer, the LA DOTD, or any other Person, as applicable, or any of their respective contractors or Subcontractors, or, if not patented or copyrighted, is created, held and managed as a trade secret or confidential proprietary information, excluding any item of Intellectual Property that is produced for multiple purposes and is not unique to the technology that is being applied to or for the Project.

Proprietary Work Product means any Work Product created, held or managed by the Developer or any of its Subcontractors that qualifies as a trade secret or confidential proprietary information under Law.

Public Funds Amount means $800,000,000. The Public Funds Amount does not include the Active Transportation Allowance.

Public Information and Communications Plan (PICP) means the plan setting forth procedures by which the Developer works with the LA DOTD to inform, coordinate with, educate, or engage Customer Groups, as more particularly described in Section 2.9 of the Technical Provisions.

Public Information Manager (PIM) means the member of the Developer team with responsibility for managing the Developer's public involvement activities on a day-to-day basis throughout the Term, as more particularly described in Section 2.3.5.17 of the Technical Provisions.

Punch List means an itemized list of the Design-Build Work which remains to be completed after Partial Acceptance and before Final Acceptance, the existence, correction and completion of which will have no material or adverse effect on the normal and safe use and operation of the Project.

Quality Assurance means all planned and systematic activities implemented to provide confidence that the Work complies with the requirements of the Contract Documents.

Quality Management Plan (QMP) means the Plan that defines the quality management systems during the design, construction and operations and maintenance phases of the Project, as described in more detail in Section 2.11 of the Technical Provisions.

Quality Manager (QM) means the member of the Developer team described in Section 2.3.5.10 of the Technical Provisions.

Railroad means a public, private, cooperative, municipal and/or government railroad line, facility or system.

Railroad Agreement means approvals, permits and agreements required for Railroad related Work, as more particularly described in Article 6 of the Technical Provisions.

Railroad Delay means failure of a Railroad to complete the Railroad Relocations within 1,300 days after issuance of the Notice to Proceed.

Railroad Relocation Work means any and all work performed by the LA DOTD, its contractors, or any third party to accomplish the Railroad Relocations.

Railroad Relocations means the required relocations of Railroad tracks between Sampson Street and the Calcasieu River necessary for construction of the New Bridge.

Rating Agency means any nationally recognized statistical rating organization, such as Moody's, DBRS, Fitch Ratings, S&P, or any similar entity, or any of their successors.

Recurrence Interval means, for each Noncompliance Event, the amount of time appearing in the "Recurrence Interval" column for that Noncompliance Event in the Performance Requirements Tables.

Reference Documents means the collection of information, data, documents and other materials that the LA DOTD has provided to the Developer in connection with the Project prior to the Proposal Due Date for general or reference information only.

Refinancing means, at any time after the Financial Close Date:

(a) any amendment, variation, novation or supplement of any Developer Debt, Project Financing Agreement or Financing Assignment that results in a change in the amount owed for Developer Debt;

(b) the issuance by the Developer of any Developer Debt other than the Developer Debt incurred pursuant to the Project Financing Agreements, secured or unsecured, including issuance of any reimbursement agreement respecting a letter of credit;

(c) the disposition of any rights or interests in, or the creation of any rights of participation in respect of, any Developer Debt, Project Financing Agreement or Financing Assignment or the creation or granting of any other form of benefit or interest in any Developer Debt, Project Financing Agreement or Financing Assignment, or the revenues, assets or other contracts of the Developer whether by way of security or otherwise; or

(d) any other arrangement put in place by the Developer or another person which has an effect similar to clause (a), (b) or (c) of this definition;

excluding, however, any capitalization of interest or accretion of principal or other committed increases on any Developer Debt incurred or committed on or prior to the Agreement Date.

Refinancing Gain means, for any Refinancing, other than an Exempt Refinancing, an amount equal to the greater of zero and the amount equal to (A – B) – C, where:

A = the net present value of the Distributions to be made over the remaining Term following the Refinancing, as projected immediately prior to the Refinancing, taking into account the effect of the Refinancing, and using the relevant Financial Model as updated (including as to the performance of the Project) so as to be current immediately prior to the Refinancing;

B = the net present value of the Distributions to be made over the remaining Term following the Refinancing, as projected immediately prior to the Refinancing, but without taking into account the effect of the Refinancing, and using the relevant Financial Model as updated (including as to the performance of the Project) so as to be current immediately prior to the Refinancing;

C = any adjustment equal to the aggregate Distributions that would be required to increase the pre-Refinancing Equity IRR, calculated immediately prior to (and without giving effect to) the Refinancing, to the Base Case Equity IRR. The intention is that any such adjustment would be calculated to maximize the amount of any Refinancing Gain; and

net present value, in the context of a Refinancing Gain = the present value of the relevant projected Distributions to be made over the remaining Term, as at the closing date of the Refinancing, discounted using the appropriate risk adjusted discount rate(s) agreed by the parties.

Registered Professional Land Surveyor (RPLS) means a Person holding a valid, current license issued by the Louisiana Professional Engineering and Land Surveying Board to engage in the practice of land surveying.

Regulated Substances Maintenance Plan means the component of the Maintenance Management Plan described in Section 22.5.3 of the Technical Provisions.

Released for Construction Documents or **RFC Documents** means Developer's Design Documents issued for construction that have been subject to Review and Comment by LA DOTD, as more particularly described in Section 2.4.13 of the Technical Provisions.

Relevant Infrastructure means,

(a) During the DB Period, the DB Limits, the DB Work and the DB Period O&M Work;

(b) During the Operating Period, the O&M Limits, I-10 and the New Bridge, and the Operating Period O&M Work, but excluding Non-Maintained Work.

Relocation Assistance Agent means an individual that has the qualifications stated in the LA DOTD Right-of-Way Contract Services–Minimum Requirements document and responsibilities stated in Section 4.7.11 of the Technical Provisions

Relocation Plan means a documented relocation plan for owner-occupants or tenants that fulfills the requirements set forth in the LA DOTD Right of Way Manual.

Remedial Actions is defined in Section 15.01(b).

Renewal Work means maintenance, repair, reconstruction, rehabilitation, restoration, renewal or replacement of any Element of the Project that is not normally included in an annually recurring cost in the maintenance and repair budgets for transportation facilities of similar natures and in similar environments as the Project.

Renewal Work Plan and Schedule has the meaning set forth in Section 22.12.2 of the Technical Provisions.

Renewal Work Report has the meaning set forth in Section 22.12.3 of the Technical Provisions.

Reporting Period means each calendar month from issuance of the NTP to the end of the Term.

Representative means, with respect to any Person, any director, officer, employee, official, lender (or any agent or trustee acting on its behalf), partner, member, owner, agent, lawyer, accountant, auditor, professional advisor, consultant, engineer, contractor, other Person for whom such Person is responsible under Law, or any professional advisor, consultant or engineer designated by such Person as its "Representative."

Request for Change Proposal means a written notice issued by the LA DOTD to the Developer pursuant to Section 13.02(b)(i).

Reserved Rights means the LA DOTD's right and opportunity to develop and pursue, anywhere in the world, entrepreneurial, commercial and business activities that are ancillary or collateral to the use, enjoyment and operation of the Project and Project Right of Way as provided in the Agreement and the collection, use and enjoyment of Toll Revenues as provided in the Agreement. The Reserved Rights reserved to the LA DOTD include but are not limited to all the following:

(a) all rights to finance, design, construct, use, possess, operate and maintain any passenger or freight rail facility, roads and highways (state and local) or other mode of transportation in the Airspace, including tunnels, flyovers, frontage roads, crossings, interchanges and fixed guide-ways, and to grant to others such rights;

(b) all rights to install, use, lease, grant indefeasible rights of use, sell and derive revenues from electrical and fiber optic conduit, cable, capacity, towers, antennas and associated equipment or other telecommunications equipment, hardware and capacity, existing over, on, under or adjacent to any portion of the Project Right of Way installed by anyone, whether before or after the Agreement Date, and all software which executes such equipment and hardware and related documentation, except for the capacity of any such improvement installed by the Developer that is necessary for and devoted exclusively to the operation of the Project;

(c) all ownership, possession and control of, and all rights to develop, use, operate, lease, sell and derive revenues from, the Airspace, including development and operation of service areas, rest areas and any other office, retail, commercial, industrial, residential, retail or mixed use real estate project within the Airspace;

(d) all rights to install, use and derive information, services, capabilities and revenues from ITS, except installation and use of any such systems and applications by the Developer as required solely for operation of the Project. For avoidance of doubt, if the Developer installs any such systems or applications, all use and capacity thereof not necessary for operation of the Project is reserved to, and will be the sole property of, the LA DOTD;

(e) all rights to use, install, maintain, repair, or authorize the use, installation, maintenance or repair, of Utilities;

(f) all rights to market, distribute, sell and derive revenues from any goods, products or merchandise depicting, utilizing or exploiting any name, image, logo, caricature or

other representation, in any form or medium, of the LA DOTD or the Project, or that may be confused with those of the LA DOTD or the Project;

(g) all rights and opportunities to grant to others sponsorship and advertising rights with respect to the Project or any portion thereof, except for a non-exclusive license for the Developer to use the name in connection with Project operations;

(h) all rights to revenues and profits derived from the right or ability of electronic toll account Users to use their accounts or Transponders to purchase services or goods other than payment of tolls;

(i) any other commercial or noncommercial development or use of the Airspace or electronic toll collection technology for other than operation of the Project; and

(j) all ownership, possession and control of, and all rights to develop, use, lease, sell and derive revenues from, carbon credits or other environmental benefits generated by or resulting from the development, use, operation or maintenance of the Project.

Residual Life means, for an Element, the period of time remaining until the Element will next require Renewal Work. The Residual Life of an Element is equal to its originally calculated Useful Life less its Age if it is maintained in service as intended.

Residual Life at Handback means the calculated duration that any Element of the Project, subject to Routine Maintenance, will continue to comply with any applicable Performance Requirement or standard after expiration of the Agreement, before Renewal Work is required, determined through the application of the Residual Life Methodology.

Residual Life Methodology (RLM) is the evaluation and calculation methodology by which the Residual Life of any Element of the Project will be calculated at expiration or earlier termination of the Agreement 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 Section 23.4 of the Technical Provisions meets such requirement.

Responsible Engineer means a Professional Engineer who signs and seals assigned plans within an applicable Design Unit or Units, as more particularly described in Section 2.4.3.4 of the Technical Provisions.

Restricted Equity Transfer means:

(a) at any time, any Equity Transfer to a Prohibited Person or which is prohibited by Law or would result in violation of Law;

(b) during the Lock-Up Period, any Equity Transfer;

(c) following the Lock-Up Period, any Equity Transfer which would have a material adverse effect on the Developer's ability to perform its obligations under this

Agreement, as determined by the LA DOTD, taking into account the information reviewed by the LA DOTD under Section 25.01(e),

provided, in the case of each of clauses (b) and (c) above, that the following shall not constitute a Restricted Equity Transfer:

(i) an Equity Transfer resulting from any form of direct investment, including the purchase of newly issued Equity in and/or the provision of Subordinate Debt to the Developer, made solely by an Equity-Related Entity through the Equity Member(s) after Financial Close, that is not a Committed Investment as of Financial Close;

(ii) a change in legal or beneficial ownership of any shares that are listed on a recognized stock exchange, or that are issued pursuant to an employee or management incentive plan;

(iii) a transfer of interests between managed funds that are under common ownership or control or between the general partner, manager or the parent company of such general partner or manager and any managed funds under common ownership or control with such general partner or manager (or parent company of such general partner or manager), if the relevant funds and the general partner or manager of such funds (or the parent company of such general partner or manager) have been approved by the LA DOTD in writing prior to the date of this Agreement; or

(iv) a reorganization or transfer of interest within a group of Persons under common ownership or control of direct or indirect ownership interests in any Person, or of any intermediate entity in the chain of ownership of such Person, so long as there is no substantive change in the entity or group of entities that ultimately have (individually or collectively) ownership or control of such Person.

Review and Comment (whether or not capitalized) means LA DOTD's examination of a Submittal with the possibility of providing comments thereon, as more particularly described in Section 10.05(d).

Review Appraiser means an Appraiser who is responsible for reviewing and approving the appraisal work of real estate appraisers and other valuation specialists.

Revised Project Schedule has the meaning set forth in Section 2.3.2.5 of the Technical Provisions.

Right of Entry Agreement means an agreement with a Railroad allowing access onto the Railroad right-of-way.

Roadside Toll Collection System (RTCS) means the hardware and software provided to detect, classify and identify every vehicle passing through the Toll Zone. This system interfaces with the BOS.

Routine Maintenance means maintenance activities that are scheduled in advance and occur on a regular basis, such as weekly, monthly, quarterly, semi-annually or annually, and which are normally included as an annually recurring cost in highway (and associated equipment) maintenance and repair budgets.

ROW Acquisition Services Plan means the Plan defining the Developer's approach to performing the Project ROW Acquisition Work, as described in more detail in Section 4.7 of the Technical Provisions.

ROW Acquisition Manager means the member of the Developer team who oversees and manages all activities associated with the need for land acquisitions including appraisals, appraisal reviews, specialty valuation services, negotiations, agreements, relocation and advisory services, and recordations, as more particularly described in Section 2.3.5.26 of the Technical Provisions.

ROW Monument Map means a graphic illustration showing location of ROW markers.

Safety Compliance Order means any written order or directive of the LA DOTD that directs the Developer to undertake improvements to the Project (a) to correct a safety condition affecting the Project, or (b) to conform to changes in safety standards or methodologies agreed to or adopted by the LA DOTD for similar portions of comparable State Highways.

Safety Manager (SM) means the means the member of the Developer team responsible for safety management and meeting the requirements set forth in Section 2.7.3 of the Technical Provisions, as more particularly described in Section 2.3.5.16 of the Technical Provisions.

Safety Orientation Program has the meaning set forth in Section 2.7.4 of the Technical Provisions.

Setting Date means April 25, 2023.

Settlement Monitoring Plan has the meaning set forth in Section 2.5.7 of the Technical Provisions and Article 7 of the Technical Provisions.

Shareholder Loan means any Subordinated Debt made by any Equity Members to the Developer.

Site Investigative Report (SIR) means the report summarizing the Developer's Hazardous Materials investigative work as required by Section 3.3.2 of the Technical Provisions.

Software means (a) computer instructions, including programs, routines and databases and applications supplied, procured or developed by the Developer or the LA DOTD in connection with the operation of the Project or in connection with Reserved Rights, including that which monitors, controls or executes on ETCS or ITS equipment or hardware, and (b) all modifications, updates and revisions made to the matter described in clause (a) above, including

those made to correct errors or to support new models of computer equipment and/or new releases of operating systems.

Source Code and Source Code Documentation mean Software written in programming languages, such as C and Fortran, including all comments and procedural code, such as job control language statements, in a form intelligible to trained programmers and capable of being translated into object or machine readable code for operation on computer equipment through assembly or compiling, and accompanied by documentation, including flow charts, schematics, statements of principles of operations, architectural standards, and commentary, explanations and instructions for compiling, describing the data flows, data structures, and control logic of the software in sufficient detail to enable a trained programmer through study of such documentation to maintain and/or modify the Software without undue experimentation. Source Code and Source Code Documentation also include all modifications, additions, substitutions, updates, upgrades and corrections made to the foregoing items.

Source Code Escrows is defined in Section 17.05(b).

Special Bridge Inspections has the meaning set forth in Section 22.13.4 of the Technical Provisions.

Special Details means standard drawings produced by the LA DOTD.

Special Provisions means requirements adopted by the LA DOTD for the Project that amend the Standard Specification or any adopted Supplemental Specifications.

Specialty Valuation Consultant means an individual that has the qualifications stated in the LA DOTD Right-of-Way Contract Services–Minimum Requirements document and responsibilities stated in Section 4.7.8 of the Technical Provisions.

Stakeholder means any of the following entities, either individually or collectively:

(a) Adjacent land owners;

(b) Affected businesses;

(c) Federal governmental entities, including the following:

(i) Federal Highway Administration;

(ii) Occupational Safety and Health Administration;

(iii) United States Army Corps of Engineers; and

(iv) United States Coast Guard;

(d) Local governmental entities, including the following:

(i) Calcasieu Parish;

(ii) City of Lake Charles;

(iii) City of Sulphur;

(iv) City of Westlake;

(v) Imperial Calcasieu Regional Planning and Development Commission; and

(vi) Lake Charles Harbor and Terminal District;

(e) Railroads, including the following:

(i) Kansas City Southern Railroad; and

(ii) Union Pacific Railroad;

(f) State governmental entities, including the following:

(i) Department of Environmental Quality; and

(ii) State Historic Preservation Office; and

(g) Utilities.

Standard means each required authority specified throughout the Technical Provisions and applicable to the Work, as more particularly described in Section 1.2.2 of the Technical Provisions.

State means the State of Louisiana.

State Highway means any highway owned or operated by the State.

State Law means any Law or any change in any Law by any State Party.

State of Good Repair means a condition sufficient for the Element to operate to a level of performance achieving the Performance Requirements set forth in Exhibit 22-1 of the Technical Provisions.

State Party means the State, the LA DOTD or any other agency, instrumentality or political subdivision of the State.

State Projects is defined in Section 11.03(a).

Storm Water Pollution Prevention Plan means the Plan submitted prior to Commencement of Construction that addresses the requirements outlined in the LPDES permit.

Sub-Plan means the chapters of the PMP listed in Table 2-1 of Article 2 of the Technical Provisions.

Subcontract means any contract, subcontract, or other form of agreement to perform any part of the Work or provide any materials, equipment or supplies for the Project and/or the Utility Relocations included in the Work, on behalf of the Developer or any other Person with whom any Subcontractor has further subcontracted any part of the Work, at all tiers.

Subcontractor means any Person with whom the Developer has entered into any Subcontract to perform any part of the Work or provide any materials, equipment or supplies for the Project and/or the Utility Relocations included in the Work, on behalf of the Developer, and any other Person with whom any Subcontractor has further subcontracted any part of the Work, at all tiers.

Submittal means any document, work product or other written or electronic end product or item pertaining to the Work and required under the Contract Documents to be delivered or submitted to the LA DOTD.

Subordinate Debt means (a) Affiliate Debt or Shareholder Loans or (b) any other Developer Debt that would be paid at the same level of priority as the payment of any Distributions or that would be payable at a level of priority after all payments other than Distributions are made.

Supplemental Specification means specifications provided by LA DOTD that supplement the LSSRB.

Supplier means any Person not performing work at or on the site which supplies machinery, equipment, materials, hardware, software, systems or any other appurtenance to the Project to the Developer or to any Subcontractor in connection with the performance of the Work. Persons who merely transport, pick up, deliver or carry materials, personnel, parts or equipment or any other items or persons to or from the site shall not be deemed to be performing Work at the site.

Tax means any Federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Section 59A of the Internal Revenue Code of 1986, as amended), customs duties, permit fees, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated or other tax, levy, impost, stamp tax, duty, fee, withholding or similar imposition of any kind whatsoever payable, levied, collected, withheld or assessed at any time, including any interest, penalty or addition thereto, whether disputed or not including in each case utility rates or rents.

Technical Provisions means the Project-specific technical provisions for State Project Number H.003931 and designated as “Volume 2” of the Contract Documents.

Temporary Repair means, following the occurrence of a Noncompliance Event, Work of a temporary nature that does not constitute Permanent Repair but:

(a) leaves the relevant Element in a state or condition that allows that Element to be used for the purpose designated under this Agreement in compliance with Law and Good Industry Practice;

(b) allows all Users who are entitled to enter, leave, occupy, or use the site to do so safely and conveniently using normal access routes; and

(c) substantially resolves the relevant Noncompliance Event until a Permanent Repair can be undertaken.

Temporary Repair Period means, for each Noncompliance Event, the amount of time appearing in the "Temporary Repair" column for that Noncompliance Event in the Performance Requirements Tables.

Term is defined in Section 3.05.

Termination Date means the date on which the Agreement expires or is earlier terminated in accordance with the Agreement.

Third-Party Claim means any and all claims, disputes, disagreements, causes of action, demands, suits, actions, investigations or administrative proceedings brought by a Person that is not the LA DOTD or the Developer with respect to damages, injuries, liabilities, obligations, losses, costs, penalties, fines or expenses (including attorneys' fees and expenses) sustained or incurred by such Person.

Third-Party Hazardous Materials means any Hazardous Materials introduced or brought onto the Project Right of Way after the Setting Date, by a Person other than a Developer Party (including, without limitation, the LA DOTD).

Third-Party Right-of-Way Delay means failure of a third party to perform a specified right-of-way activity within the specified number of days for such activity set forth in Table 4-2 of the Technical Provisions.

TIFIA Refinancing means a Refinancing through which the Developer replaces or supplements any Developer Debt with TIFIA credit assistance.

Toll Collection System Manager means the member of the Developer team described in Section 2.3.5.7 of the Technical Provisions.

Toll Enforcement Rules means toll enforcement rules for the New Bridge that are developed and updated by the Developer, subject to Approval by the LA DOTD pursuant to Section 5.01(f) of the Agreement.

Toll Rate Dynamic Message Sign (TRDMS) means an electronic changeable-message sign used to give travelers toll rate information.

Toll Rate Schedule means the toll rate schedule attached as Exhibit B.

Toll Rate Sign means a dynamic or static sign used to display toll rate information.

Toll Revenues means:

(a) all amounts received by or on behalf of the Developer from Users of the New Bridge imposed pursuant to the Agreement and from any other permitted use or operation of the New Bridge, including tolls and Incidental Charges;

(b) amounts received by or on behalf of the Developer pursuant to any collection or enforcement action, judgment or settlement with respect to any of the foregoing revenues;

(c) proceeds of business interruption or similar insurance against loss of revenues from operation of the Project;

(d) (i) the amounts paid or to be paid by the LA DOTD to the Developer as a result of a Compensation Event within the current calendar year that compensates the Developer for any adverse Net Revenue Impact pursuant to the Agreement, minus (ii) the amounts paid or to be paid by the Developer to the LA DOTD as result of any LA DOTD Change within the current calendar year that compensates the LA DOTD for any positive Net Revenue Impact pursuant to the Agreement; and

(e) amounts the Developer receives as contractual liquidated or other contract damages with respect to any of the foregoing revenues.

Toll System Provider means the Subcontractor responsible for the design and integration of toll systems.

Toll Zone means the area on the roadway under the toll gantry(ies) where the RTCS performs in-lane tolling functions such a vehicle detection, vehicle classification, Transponder reading, and image capture.

Tolling Operations Manager means the member of the Developer team described in Section 2.3.5.8 of the Technical Provisions.

Tolling Operator means the Subcontractor, whether a single entity or joint venture, primarily responsible for toll operations, unless toll operations are provided by the O&M Contractor or the Developer.

Traffic and Revenue Study means any study of the projected traffic and Toll Revenue for the Project prepared by or on behalf of the Developer, as well as all data, charts, tables,

analyses and other documentation assembled or prepared in connection therewith and all existing and future updates, reissuances, supplements or amendments thereto.

Traffic Control Devices are all signs, traffic signals, pavement markings and other devices used to regulate, warn, or guide traffic, placed on, over or adjacent to a roadway, pedestrian facility, or bikeways open to public travel.

Traffic Control Plans means detailed plans for all construction stages and phases which may involve shoulder or lane closures, lane shifts or detours.

Transfer means to sell, convey, assign, sublease, mortgage, encumber, transfer, or otherwise dispose of.

Transition Plan is defined in Section 20.01.

Transponder means an electronic onboard unit, equipment or technology affixed to a vehicle that provides a means for electronic detection and identification of a vehicle in accordance with the requirements of the Contract Documents.

Uniform Act is defined in Section 8.04(a)(i).

Unknown Pre-Existing Hazardous Materials means any Hazardous Materials present on the Project Right of Way or portion thereof which are not Known Pre-Existing Hazardous Materials.

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 need reconstruction, rehabilitation, restoration, renewal or replacement.

User(s) means the traveling public and any others who use the Project.

UST Certified Worker means a Person holding the appropriate State certification, if any, retained or employed by the Developer to characterize and manage any underground storage tanks, and associated contaminated soil or water, encountered during construction.

Utility means a public, private, cooperative, municipal and/or government line, facility or system used for the carriage, transmission and/or distribution of cable television, electric power, telephone, data or other telecommunications, telegraph, water, gas, oil, petroleum products, steam, chemicals, sewage, storm water not connected with the highway drainage and similar systems that directly or indirectly serve the public. The term "Utility" specifically excludes (a) storm water lines connected with the highway drainage, and (b) traffic signals, street lights, and electrical systems within the Project Right of Way.

Utility Adjustment or **Utility Relocation** means the removal, relocation and/or protection in place (including provision of temporary services as necessary) of any Utility facilities that must be removed, relocated and/or protected in place to accommodate the Project.

Utility Coordinator means the member of the Developer team described in Section 2.3.5.23 of the Technical Provisions.

Utility Owner means the owner or franchisee of any Utility, including privately held and publicly held entities, cooperative utilities, municipalities, and other Governmental Authorities.

Utility Owner Delay means the occurrence of an unreasonable and unjustified delay by a Utility Owner with whom the Developer (a) has been unable to enter into an agreement for a Utility Adjustment or (b) has entered into an agreement for a Utility Adjustment in carrying out an agreed-upon Utility Adjustment.

Utility Relocation Agreement means a contract with a Utility Owner to provide compensation for costs associated with a Utility Adjustment, as more particularly described in Section 5.3.1.6 of the Technical Provisions.

Utility Tracking Report has the meaning set forth in Section 2.5.6 of the Technical Provisions.

Vegetation Maintenance Plan has the meaning set forth in Section 22.5.1.3 of the Technical Provisions.

Video Management System means, at a minimum, a software component used to view and control CCTV cameras through a network, which may have several features such as video viewing, video control (PTZ), audio, alarm monitoring, or recording.

Water Quality Specialist means a Person retained or employed by the Developer to provide expertise in water quality, as described in Section 3.3.6 of the Technical Provisions.

Wildlife Specialist means a Person retained of employed by the Developer to provide expertise on monitoring impacts to wildlife and the natural environment due to Construction Work, as described in Section 3.3.6 of the Technical Provisions.

Windfall Proceeds Payments means those payments required to be paid into the Proceeds Escrow Account by the Developer to the LA DOTD pursuant to Section 7.02 of the Agreement.

Windfall Proceeds Payment Amount is defined in Section 2.1 of Exhibit C.

Windfall Proceeds Tier means, as the context may require, any of Windfall Proceeds Tier 1, Windfall Proceeds Tier 2, Windfall Proceeds Tier 3, or Windfall Proceeds Tier 4.

Windfall Proceeds Tier 1 means, in any Agreement Year, the Windfall Proceeds Tier 1 Ceiling minus the Windfall Proceeds Tier 1 Floor, for such Agreement Year.

Windfall Proceeds Tier 2 means, in any Agreement Year, the Windfall Proceeds Tier 2 Ceiling minus the Windfall Proceeds Tier 2 Floor, for such Agreement Year.

Windfall Proceeds Tier 3 means, in any Agreement Year, the Windfall Proceeds Tier 3 Ceiling minus the Windfall Proceeds Tier 3 Floor, for such Agreement Year.

Windfall Proceeds Tier 4 means, in any Agreement Year, the amount of aggregate Toll Revenues during the Term to date (on a cumulative basis) above the Windfall Proceeds Tier 4 Floor, for such Agreement Year.

Windfall Proceeds Tier 1 Ceiling means, in any Agreement Year, the amount included in the "Tier 1 Ceiling" column of Attachment 1 to Exhibit C for such Agreement Year.

Windfall Proceeds Tier 2 Ceiling means, in any Agreement Year, the amount included in the "Tier 2 Ceiling" column of Attachment 1 to Exhibit C for such Agreement Year.

Windfall Proceeds Tier 3 Ceiling means, in any Agreement Year, the amount included in the "Tier 3 Ceiling" column of Attachment 1 to Exhibit C for such Agreement Year.

Windfall Proceeds Tier 1 Floor means $0.

Windfall Proceeds Tier 2 Floor means, in any Agreement Year, the Windfall Proceeds Tier 1 Ceiling for such Agreement Year plus $0.01.

Windfall Proceeds Tier 3 Floor means, in any Agreement Year, the Windfall Proceeds Tier 2 Ceiling for such Agreement Year plus $0.01.

Windfall Proceeds Tier 4 Floor means, in any Agreement Year, the Windfall Proceeds Tier 3 Ceiling for such Agreement Year plus $0.01.

Winter Maintenance means the LA DOTD's activities related to snow and ice management.

Work means, collectively, the finance, development, planning, design, acquisition, installation, construction, completion, management, equipment, operation, repair and maintenance of the Project and any other services identified in the Contract Documents to be performed by the Developer.

Work Breakdown Structure (WBS) means a deliverable-oriented hierarchical structure that breaks the Work into elements that have distinct identification and that contain specific scope characteristics. Each descending WBS level represents an increasingly detailed delineation of elements of the total Project scope. The WBS will contain elements of Design Work and Construction Work. There shall be clearly identifiable linkage between the WBS and Schedule Activities. The WBS numbering convention will be compatible with Project Schedule coding and may be compatible with document control coding.

Work Product means all the data, information, documentation and other work product produced, prepared, obtained or deliverable by or on behalf of the Developer or the LA DOTD, as applicable, for the Project or the Project Right of Way.

Working Drawings means drawings that describe the Developer's Work, means, and/or methods of construction, including, for example, supplemental design sheets, shop drawings, bending diagrams, cut sheets, and construction joint locations.

Worksite Erosion Control Supervisor means a Person retained or employed by the Developer to provide on-site monitoring of erosion control and sediment elements during construction, as described in Section 3.3.6 of the Technical Provisions.

EXHIBIT B

TOLL RATE SCHEDULE

[FORM FP-3 (TOLL RATE SCHEDULE) TO BE INSERTED FROM PROPOSAL]

EXHIBIT C

WINDFALL PROCEEDS PAYMENTS

1. Developer Responsibilities and LA DOTD Rights

1.1 Within 180 days following the end of each Agreement Year, and within 180 days following the earlier of the end of the Term and the termination of the Agreement, the Developer will provide to the LA DOTD:

(a) a calculation of the aggregate Toll Revenues during the Term to date (on a cumulative basis) as at (i) the end of such Agreement Year, or (ii) the end of the Term or (iii) the date of termination of the Agreement, as the case may be; and

(b) the Developer's calculation of the Windfall Proceeds Payment Amount for such Agreement Year in accordance with Section 2 below, based on (and reconciled with) the Developer's most recent audited financial statements, together with all other supporting data and analysis relevant to the calculation.

1.2 In any Agreement Year where no Windfall Proceeds Payments are payable, based on (and reconciled with) the Developer's most recent audited financial statements, the Developer will explicitly certify this in writing to the LA DOTD.

1.3 The LA DOTD will have the right to dispute the Developer's calculation of the Windfall Proceeds Payments or to request additional information, clarification or amendment of such calculation, at any time for a period of one year following the later of the LA DOTD's receipt of (a) the Developer's calculation and other data provided in accordance with Section 1.1 above, and (b) the Developer's audited financial statements provided in accordance with Section 17.07 of the Agreement. The Developer will deliver to the LA DOTD such information, clarification or amendment within 30 days following the delivery of the LA DOTD's request. If the LA DOTD does not agree with the calculation of the Windfall Proceeds Payments, the dispute shall be resolved according to Article 21 of the Agreement.

2. Calculation of Windfall Proceeds Payment

2.1 For each Agreement Year, the amount of the Windfall Proceeds Payment (the "Windfall Proceeds Payment Amount") shall equal:

(a) the portion of the aggregate Toll Revenues during the Term to date (on a cumulative basis) within Windfall Proceeds Tier 1, multiplied by 0%; plus

(b) the portion of the aggregate Toll Revenues during the Term to date (on a cumulative basis) within Windfall Proceeds Tier 2, multiplied by 12.5%; plus

(c) the portion of the aggregate Toll Revenues during the Term to date (on a cumulative basis) within Windfall Proceeds Tier 3, multiplied by 25%; plus

(d) the portion of the aggregate Toll Revenues during the Term to date (on a cumulative basis) within Windfall Proceeds Tier 4, multiplied by 50%; minus

(e) the sum of all Windfall Proceeds Payment Amounts, if any, paid in previous Agreement Years.

2.2 For each Agreement Year, each Windfall Proceeds Tier and its applicable Windfall Proceeds Payment percentage are shown in Attachment 1 of this Exhibit C.

2.3 The Windfall Proceeds Tier values are stated on a calendar year basis, starting with the calendar year in which the Partial Acceptance Date occurs. In the calculation of Windfall Proceeds Payments, if the Agreement Year in the first or last calendar year is less than a full calendar year, the applicable amounts of the Windfall Proceeds Tier floors and ceilings will be adjusted *pro rata* based on the number of days during the applicable Agreement Year. For the last calendar year of the Term, the aggregate Toll Revenues shall include only those Toll Revenues that are received by the Developer within 60 days following the end of the Term.

3. Payment of Windfall Proceeds Payments

3.1 In each Agreement Year in which the Windfall Proceeds Payment Amount is a positive number, the Developer will deposit such Windfall Proceeds Payment Amount into the Proceeds Escrow Account within 210 days following the end of such Agreement Year, together with interest on such amount from the end of such Agreement Year to the date of deposit of such Windfall Proceeds Payment Amount into the Proceeds Escrow Account. Interest will be calculated and payable on such amount as specified in Section 25.11 of the Agreement.

3.2 The Developer's payment obligations under this Exhibit C shall survive expiration or any earlier termination of the Term.

ATTACHMENT 1

WINDFALL PROCEEDS TIERS

[FORM FP-4A TO BE INSERTED FROM FINANCIAL PROPOSAL]

EXHIBIT D

FORM OF ESCROW AGREEMENT

This **ESCROW AGREEMENT** ("Escrow Agreement") is made and entered into as of **[●]** by and among the Louisiana Department of Transportation and Development ("LA DOTD"), an agency of the State of Louisiana ("State"), the address of which is 1201 Capitol Access Road, Baton Rouge LA 70804; **[●]**, a **[●]** organized under the laws of the State of **[●]** ("Developer") whose address is **[●]**; and **[●]** (the "Escrow Agent"), whose address is **[●]** (the LA DOTD, the Developer and the Escrow Agent are herein referred to collectively as the "Parties").

RECITALS

WHEREAS, the LA DOTD and the Developer have entered into a Comprehensive Agreement Relating to the I-10 Calcasieu River Bridge Replacement Public-Private Partnership ("Project"), dated as of **[●]** ("Comprehensive Agreement"), pursuant to which the LA DOTD has granted a permit to the Developer, which includes (a) the right and obligation to develop, design, finance, construct, operate and maintain the Project and (b) the right to establish, impose, charge, collect, use and enforce payment of tolls and related charges;

WHEREAS, pursuant to Section 7.02, Section 7.05(d), Section 8.12(g), and Section 19.03(a) of the Comprehensive Agreement, the Developer is required to deposit certain payments into accounts established under this Escrow Agreement;

WHEREAS, pursuant to Section 17.05 of the Comprehensive Agreement, the Developer is required to submit to the LA DOTD the Source Code and Source Code Documentation;

WHEREAS, the Developer and the LA DOTD desire to appoint the Escrow Agent to act as escrow agent hereunder in the manner hereinafter set forth, and the Escrow Agent is willing to act in such capacity; and

WHEREAS, it is a condition to the execution and delivery by the LA DOTD of the Comprehensive Agreement that this Escrow Agreement be entered into among the Parties.

AGREEMENT

NOW, THEREFORE, in consideration of these premises and in consideration of the mutual covenants herein contained, and for such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties hereto, the Parties, intending to be legally bound, do hereby agree as follows.

ARTICLE 1.

DEFINITIONS AND ORDER OF PRECEDENCE

Section 1.01 Definitions

Capitalized terms used but not otherwise defined in this Escrow Agreement have the respective meanings set forth in Exhibit A to the Comprehensive Agreement.

Section 1.02 Order of Precedence

In the event of any conflict, ambiguity or inconsistency between the provisions of the Comprehensive Agreement and the provisions of this Escrow Agreement, the provisions of this Escrow Agreement shall prevail.

Section 1.03 No Effect on Comprehensive Agreement

Nothing in this Escrow Agreement amends or modifies any of the Developer's or the LA DOTD's obligations and rights under the Comprehensive Agreement.

ARTICLE 2.

ESCROW ARRANGEMENTS

Section 2.01 Appointment of Escrow Agent

The Developer and the LA DOTD hereby appoint the Escrow Agent to serve as escrow agent hereunder, and the Escrow Agent hereby accepts such appointment, subject to the terms and conditions set forth in this Escrow Agreement.

Section 2.02 Deposit of Source Code and Source Code Documentation

In accordance with Section 17.05 of the Comprehensive Agreement, the Developer will deliver and deposit with the Escrow Agent the Source Code and Source Code Documentation. The Escrow Agent will provide to each Party written acknowledgment of the receipt of the Source Code and Source Code Documentation, and any subsequent additions or modifications to the Source Code and Source Code Documentation, promptly upon receipt thereof. The Escrow Agent is not required to take notice of the Source Code and Source Code Documentation or the contents thereof, which the Escrow Agent shall hold only for custodial purposes.

Section 2.03 Ownership; Use and Review of Source Code and Source Code Documentation

The Parties hereby acknowledge and agree that the Source Code and Source Code Documentation are, and shall always be, the property of the Developer. The Escrow Agent will provide prompt access to the Source Code and Source Code Documentation for review upon receipt by it of a written notice requesting such access signed by the LA DOTD or the Developer;

provided that the LA DOTD, prior to making such request, has given a minimum of 24 hours written notice to the Developer, and the Developer, prior to making such request, has given a minimum of 24 hours written notice to the LA DOTD. The Escrow Agent will not permit access to the Source Code and Source Code Documentation to any person other than the Developer, authorized representatives of the Developer, the LA DOTD, members of the LA DOTD's staff pursuant to Section 17.05 of the Comprehensive Agreement and to the LA DOTD's consultants. Such authorized representatives of the Developer and the LA DOTD staff and consultants will be entitled to conduct examinations and reviews of the Source Code and Source Code Documentation at any time deemed necessary and for any reason.

Section 2.04 Release and Return of Source Code and Source Code Documentation

The Escrow Agent will hold the Source Code and Source Code Documentation in its possession at its offices in Baton Rouge, Louisiana until directed to deliver such Source Code and Source Code Documentation upon receipt of a written certification by both parties to release such documentation or a final adjudication, as applicable, whereupon the Escrow Agent will deliver the appropriate Source Code and Source Code Documentation to the Developer.

Section 2.05 Proceeds Escrow Account

(a) The Escrow Agent will establish the Proceeds Escrow Account and agrees to deposit all moneys received by the Developer pursuant to Section 7.02 and Section 7.05(d) of the Comprehensive Agreement into the Proceeds Escrow Account to be held in escrow and disbursed to the LA DOTD in accordance with this Section 2.05. The Escrow Agent and the Developer acknowledge and agree that: (i) neither the Escrow Agent nor the Developer has any interest in the Proceeds Escrow Account and (ii) the Proceeds Escrow Account is for the sole benefit and use of the LA DOTD.

(b) The Escrow Agent will keep records of all transactions made by the Escrow Agent relating to the receipt, deposit and disbursement of funds into and from the Proceeds Escrow Account, and such records will be available for inspection by the LA DOTD.

(c) Upon written request from the LA DOTD, the Escrow Agent will disburse, as applicable, amounts from the Proceeds Escrow Account as may be directed by the LA DOTD no later than 30 Days from receipt of such request.

Section 2.06 Handback Account

(a) The Escrow Agent will establish the Handback Account and agrees to deposit all moneys received by the Developer pursuant to Section 19.03(a) of the Comprehensive Agreement into the Handback Account to be held in escrow and, except as otherwise instructed by LA DOTD in accordance with Sections 19.03(b), 19.03(d), and 19.05(b) of the Comprehensive Agreement, disbursed to the LA DOTD in accordance with this Section 2.06. The Escrow Agent and the Developer acknowledge and agree that: (i) neither the Escrow Agent nor the Developer has any interest in the Handback Account and (ii) the Handback Account is for the sole benefit and use of the LA DOTD, including as the LA DOTD may instruct in accordance with Sections 19.03(b), 19.03(d), and 19.05(b) of the Comprehensive Agreement.

(b) The Escrow Agent will keep records of all transactions made by the Escrow Agent relating to the receipt, deposit and disbursement of funds into and from the Handback Account, and such records will be available for inspection by the LA DOTD and the Developer.

(c) Upon written request from the LA DOTD, the Escrow Agent will disburse, as applicable, amounts from the Handback Account as may be directed by the LA DOTD no later than 30 Days from receipt of such request.

(d) The LA DOTD agrees to direct the Escrow Agent to disburse amounts from the Handback Account only in accordance with permitted uses under ARTICLE 19 of the Comprehensive Agreement.

Section 2.07 Termination

This Escrow Agreement shall continue in effect and shall automatically terminate at such time as all Source Code and Source Code Documentation are released to the Developer, all moneys held in the Proceeds Escrow Account are disbursed to the LA DOTD and all monies held in the Handback Account are disbursed as directed by the LA DOTD. With respect to the Source Code and Source Code Documentation, it is agreed and understood that in the event of disagreement between the Parties hereto, the Escrow Agent will, and does, reserve the right to hold the Source Code and Source Code Documentation in its possession, and all papers in connection with or concerning this escrow, until mutual agreement has been reached between the Parties or until delivery thereof is ordered pursuant to a final disposition reached pursuant to the dispute resolution provisions of Article 20 of the Comprehensive Agreement.

ARTICLE 3.

ESCROW AGENT

Section 3.01 Liability of Escrow Agent

(a) The Escrow Agent will have no responsibility to any person in connection with this Escrow Agreement, except as specifically provided, and will not be responsible for anything done or omitted to be done by it, except for its breach of its obligations under this Escrow Agreement, its negligence or willful misconduct.

(b) Unless specifically provided herein, the Escrow Agent has no duty to determine or inquire into the happening or occurrence of any event or contingency or the performance or failure of performance of the other Parties with respect to arrangements or contracts with others. If the Escrow Agent is called upon by the terms of this Escrow Agreement to determine the occurrence of any event or contingency, the Escrow Agent may request from the other Parties or any other person such reasonable additional evidence as the Escrow Agent in its discretion may deem necessary to determine any fact relating to the occurrence of such event or contingency, and in this connection may inquire and consult with the other Parties, among others, at any time. The Escrow Agent may request an opinion of counsel for a determination of any legal issue which might arise in the performance of its duties hereunder and such opinion of counsel shall be full and complete authorization for any action taken, suffered or omitted by the Escrow Agent in reliance thereon.

(c) This Escrow Agreement sets forth exclusively the duties of the Escrow Agent with respect to any and all matters pertinent hereto and no implied duties or obligations shall be read into this Escrow Agreement against the Escrow Agent.

Section 3.02 Payment of Escrow Agent

(a) The Escrow Agent acknowledges receipt of good and valuable consideration for the services rendered or to be rendered by it pursuant to this Escrow Agreement.

(b) The Developer will pay the Escrow Agent's reasonable fees and expenses in connection with the performance of its duties under this Escrow Agreement. The Escrow Agent and the Developer acknowledge and agree that the LA DOTD will have no liability in respect of any fees or expenses of the Escrow Agent.

Section 3.03 Resignation and Replacement of Escrow Agent

(a) The Escrow Agent may resign, and thereby become discharged from the trusts, duties and obligations hereby created, by written notice given to the LA DOTD and the Developer, not less than 90 days before such resignation shall take effect. Such resignation will take effect immediately; however, upon the earlier appointment of a new escrow agent hereunder and acceptance of the obligations hereby created.

(b) The Escrow Agent will continue to serve as Escrow Agent until a successor is appointed and the Source Code and Source Code Documentation and funds in the Proceeds Escrow Account and the Handback Account have been properly transferred to the successor Escrow Agent. In the event of the resignation of the Escrow Agent prior to the expiration of this Escrow Agreement, the Escrow Agent will rebate to the Developer a ratable portion of any prepaid fee theretofore paid by the Developer to the Escrow Agent for its services hereunder. After any notice of resignation of the Escrow Agent, the Developer will undertake to appoint a replacement escrow agent on terms reasonably acceptable to the Developer and the LA DOTD.

ARTICLE 4.

GENERAL PROVISIONS

Section 4.01 Address for Notices

(a) Whenever under the provisions of this Escrow Agreement it will be necessary or desirable for one Party to serve any approval, notice, request, demand, report or other communication on another Party, the same will be in writing and will not be effective for any purpose unless and until actually received by the addressee or unless served (i) personally, (ii) by independent, reputable, overnight commercial courier, (iii) by facsimile or email transmission, where the facsimile or email transmission immediately is followed by service of the original of the subject item in another manner permitted herein or (iv) by deposit in the United States mail, postage and fees fully prepaid, registered or certified mail, with return receipt requested, addressed as follows:

If to the LA DOTD:

Louisiana Department of Transportation and Development
1201 Capitol Access Road
P.O. Box 94245
Baton Rouge, LA 70804-9245
Attention: **[●]**

With copies to:

Deidre Deculus Robert, Esq.
Executive Counsel
Office of the Secretary
Louisiana Department of Transportation and Development
1201 Capitol Access Road
Baton Rouge, LA 70802
Deidre.Robert@LA.GOV

If to the Developer:

[●]

With copies to:

[●]

If to the Escrow Agent:

[●]

(b) Any Party may, from time to time, by notice in writing served upon the other Parties, designate an additional and/or a different mailing address or an additional and/or a different person to whom all such notices, requests, demands, reports and communications are thereafter to be addressed. Any notice, request, demand, report or other communication served personally will be deemed delivered upon receipt, if served by mail or independent courier will be deemed delivered on the date of receipt as shown by the addressee's registry or certification receipt or on the date receipt at the appropriate address is refused, as shown on the records or manifest of the United States Postal Service or independent courier, and if served by facsimile transmission will be deemed delivered on the date of receipt as shown on the received facsimile (provided, that the original is thereafter delivered as aforesaid).

Section 4.02 Successors and Assigns

This Escrow Agreement will be binding upon, inure to the benefit of and be enforceable by the Parties hereto and their respective successors and assigns. The LA DOTD and the Escrow Agent hereby consent to the collateral assignment (the "Assignment") of this Escrow Agreement in whole by the Developer to the Collateral Agent as security for the performance of the

Developer's obligations under the Project Financing Agreements. Pursuant to the Assignment, the Collateral Agent and its designee or assignee will have the right to assume the benefits and obligations of the Developer under this Escrow Agreement. In the event that the Collateral Agent or such designee or assignee exercise such right by notice to the Escrow Agent, as of the date of such assumption of benefits and obligations of the Developer hereunder, the Collateral Agent may, in connection with any default under any Project Financing Agreement, assign any rights assigned to it hereunder to any other entity. However, the Escrow Agent shall have no obligation in performing this Escrow Agreement to recognize any successor or assign of the Developer unless the Escrow Agent receives clear, authoritative and conclusive written evidence of the change of Party.

Section 4.03 Counterparts

This Escrow Agreement may be executed in several counterparts each of which shall be an original and all of which together shall constitute one and the same instrument.

Section 4.04 Waiver

Any term of this Escrow Agreement may be waived by the Party entitled to the benefits thereof, provided that any such waiver must be in writing and signed by the Party against whom the enforcement of the waiver is sought. No waiver of any condition, or breach of any provision of this Escrow Agreement, in any one or more instances, shall be deemed to be a further or continuing waiver of such condition or breach. Delay or failure to exercise any right or remedy shall not be deemed the waiver of that right or remedy.

Section 4.05 Benefit of Agreement; Amendments

(a) This Escrow Agreement is made for the benefit of the Developer and the LA DOTD, except as otherwise expressly provided herein.

(b) This Escrow Agreement will not be amended without the prior written consent of the Developer, the LA DOTD and the Escrow Agent.

Section 4.06 Severability

In the event any one or more of the provisions contained in this Escrow Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Escrow Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Section 4.07 Prior Contracts Superseded

This Escrow Agreement constitutes the sole agreement of the Parties hereto with respect to the subject matter set forth herein and supersedes any prior understandings or written or oral contracts between the Parties respecting such subject matter.

Section 4.08 Effect of Breach

Without prejudice to any rights a Party otherwise may have, a breach of this Escrow Agreement will not of itself give rise to a right to terminate the Comprehensive Agreement.

Section 4.09 No Third-Party Beneficiaries

Nothing contained in this Escrow Agreement is intended or will be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligations of the Parties hereto toward, any person or entity that is not a Party.

Section 4.10 No Partnership

Nothing contained in this Escrow Agreement shall be deemed to constitute a partnership between the Parties hereto. None of the Parties will hold itself out contrary to the terms of this Section 4.10.

Section 4.11 Governing Law

This Escrow Agreement shall be governed by and construed in accordance with the laws of the State of Louisiana applicable to contracts executed and to be performed within the State.

[The remainder of this page intentionally left blank; signature pages immediately follow.]

IN WITNESS WHEREOF, the parties, intending to be legally bound, have executed this Agreement as of the date first written above.

Louisiana Department of Transportation and Development,
an Agency of the State of Louisiana

By: _____
Name: Eric Kalivoda
Title: Secretary of the Louisiana Department of Transportation and Development

Witnessed By: _____

Name: _____

Witnessed By: _____

Name: _____

[●],
as Developer

By: _____
Name: **[●]**
Title: **[●]**

Witnessed By: _____

Name: _____

Witnessed By: _____

Name: _____

[●],
as Escrow Agent

By: _____
Name: **[●]**
Title: **[●]**

Witnessed By: _____

Name: _____

Witnessed By: _____

Name: _____

EXHIBIT E

LIST OF INITIAL PROJECT FINANCING AGREEMENTS

[TO BE COMPLETED PRIOR TO FINANCIAL CLOSE]

EXHIBIT F

DIRECT AGREEMENT

This **AGREEMENT RELATING TO THE I-10 CALCASIEU RIVER BRIDGE PUBLIC-PRIVATE PARTNERSHIP PROJECT** (this "Agreement") is made and entered into as of **[●]** by and among the Louisiana Department of Transportation and Development ("LA DOTD"), an agency of the State of Louisiana ("State"), the address of which is 1201 Capitol Access Road, Baton Rouge LA 70804; **[●]**, a **[●]** organized under the laws of the State of **[●]** ("Developer") whose address is **[●]**; and **[●]**, as agent for the Lenders in accordance with the terms of the Initial Project Financing Agreements (the "Collateral Agent"), whose address is **[●]**.

RECITALS

WHEREAS, the LA DOTD and the Developer have entered into a Comprehensive Agreement Relating to the I-10 Calcasieu River Bridge Public-Private Partnership ("Project"), dated as of **[●]** ("Comprehensive Agreement"), pursuant to which the LA DOTD has granted a permit to the Developer, which includes (a) the right and obligation to develop, design, finance, construct, operate and maintain the Project and (b) the right to establish, impose, charge, collect, use and enforce payment of tolls and related charges; and

WHEREAS, the provision of Developer Debt to the Developer is conditioned upon the LA DOTD providing the Lenders with certain assurances (as more particularly set forth in this Agreement) regarding the Lenders' rights in the event of a Developer Default under the Comprehensive Agreement or the Project Financing Agreements;

AGREEMENT

NOW, THEREFORE, in consideration of the covenants contained herein and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1.

DEFINITIONS, CONTRACT DOCUMENTS AND ORDER OF PRECEDENCE

Section 1.01 Definitions

Capitalized terms used but not otherwise defined in this Agreement have the respective meanings set forth in Exhibit A to the Comprehensive Agreement. In addition, the following terms have the meanings specified below:

Bankruptcy Related Default means a Developer Default that arises pursuant to Section 18.01(p) or (q) of the Comprehensive Agreement.

Collateral Agent Notice has the meaning given to it in Section 2.02(e)(i).

Cure Period means the period commencing on the date that the Collateral Agent receives a LA DOTD Notice pursuant to Section 2.02(a) and ending on the earliest of:

(a) the relevant Cure Period Completion Date;

(b) any Step-out Date or Substitution Effective Date; or

(c) the last day of the Term.

Cure Period Completion Date means, subject to Section 8.02:

(a) with respect to any Bankruptcy Related Default, the date falling 90 Days after the date that the Collateral Agent receives the relevant LA DOTD Notice; and

(b) with respect to any Developer Default that is not a Bankruptcy Related Default, the date falling 90 Days after the date that the Collateral Agent receives the relevant LA DOTD Notice; provided, however, that such period will, at the request of the Collateral Agent, be extended up to a maximum of 60 additional Days, but only to the extent that:

(i) within the 90-Day period, the Collateral Agent and the LA DOTD agree to a plan specifying the remedial action to be taken in respect of the relevant Developer Default; and

(ii) the extension requested by the Collateral Agent represents a reasonable period of time to remedy the relevant Developer Default.

Discharge Date means the date on which all of the obligations of the Developer under the Initial Project Financing Agreements have been irrevocably discharged in full to the satisfaction of the Collateral Agent.

Event of Default has the meaning given to such term in the Initial Project Financing Agreements.

Funding Account means Account No. **[●]** at **[●]**.

Initial Equity Members means the Equity Members as of the date of this Agreement.

Initial Period means the period commencing on the date that the Collateral Agent receives the relevant LA DOTD Notice and ending 90 days after such date, as may be extended pursuant to Section 8.02.

LA DOTD Notice has the meaning given to it in Section 2.02(a).

Proceeds Account means Account No. **[●]** at **[●]**.

Property means any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible.

Qualified Substitute Developer means a Person who:

(a) has the legal capacity, power and authority to become a party to, and perform the obligations of the Developer under, the Comprehensive Agreement;

(b) has the resources available to it (including committed financial resources) to perform the obligations of the Developer under the Comprehensive Agreement;

(c) employs or subcontracts with Persons having the appropriate qualifications, experience and technical competence available to it that are sufficient to enable it to perform the obligations of the Developer under the Comprehensive Agreement; and

(d) has not been:

(i) debarred or prohibited from participating in state or federally-funded projects;

(ii) indicted, convicted, pled guilty or *nolo contendere* to a violation of law involving fraud, conspiracy, collusion, bribery, perjury, material misrepresentation, or any other violation that show a similar lack of moral or ethical integrity; or

(iii) barred or prohibited from owning or operating the Project under law, including the Foreign Investment and National Security Act of 2007, 50 USC App. 2170 (HR 556).

Step-in Date has the meaning given to it in Section 4.01(c).

Step-in Entity has the meaning given to it in Section 4.01(b).

Step-in Entity Accession Agreement means the agreement to be entered into by a Step-in Entity pursuant to Section 4.01(c).

Step-in Notice has the meaning given to it in Section 4.01(a).

Step-in Period in relation to a Step-in Entity means the period from and including the Step-in Date until the earliest of:

(a) the last day of the Cure Period;

(b) the Substitution Effective Date;

(c) the Step-out Date;

(d) the date of termination of the Comprehensive Agreement by the LA DOTD in accordance with this Agreement and the Comprehensive Agreement; or

(e) the last day of the Term.

Step-out Date in relation to a Step-in Entity means the date upon which any Step-out Notice is served by such Step-in Entity pursuant to Section 4.03.

Step-out Notice has the meaning given to it in Section 4.03(a).

Substitute has the meaning given to it in Section 5.01.

Substitute Accession Agreement means the agreement to be entered into by a Substitute pursuant to Section 6.01.

Substitution Effective Date has the meaning given to it in Section 6.01.

Substitution Notice has the meaning given to it in Section 5.01.

Section 1.02 Order of Precedence

In the event of any conflict, ambiguity or inconsistency between the provisions of the Comprehensive Agreement and the provisions of this Agreement, the provisions of this Agreement will prevail.

Section 1.03 No Effect on Comprehensive Agreement

Nothing in this Agreement amends or modifies any of the Developer's obligations to the LA DOTD under the Comprehensive Agreement.

ARTICLE 2.

CONSENT TO SECURITY AND NOTICES

Section 2.01 Consent to Security

Notwithstanding anything to the contrary in the Comprehensive Agreement:

(a) the LA DOTD acknowledges notice and receipt of and consents to:

(i) the assignment by the Developer to the Collateral Agent of all of the Developer's Interest pursuant to the Initial Project Financing Agreements;

(ii) the grant by each of the initial Equity Members to the Collateral Agent of a security interest in their respective equity interests in the Developer, in each case pursuant to the Initial Project Financing Agreements; and

(iii) the grant by the Developer to the Collateral Agent of the security interests in all of the property and assets of the Developer pursuant to the Initial Project Financing Agreements;

(b) none of the security interests referred to in Section 2.01(a):

(i) constitute (or with the giving of notice or lapse of time, or both, could constitute) either a breach by the Developer of its obligations under the Comprehensive Agreement or a Developer Default; or

(ii) require any consent of the LA DOTD that is either additional or supplemental to those granted pursuant to this Section 2.01;

(c) without prejudice to the rights granted to the Collateral Agent pursuant to this Agreement, the Collateral Agent will not, by virtue of the security interests referred to in Section 2.01(a), acquire any greater rights to the Developer's Interest than the Developer itself has at any particular time pursuant to the Comprehensive Agreement; and

(d) for so long as any amount under the Initial Project Financing Agreements is outstanding, the LA DOTD will not, without the prior written consent of the Collateral Agent, consent to any assignment, transfer, pledge or hypothecation by the Developer of the Comprehensive Agreement or any interest therein by the Developer, other than as specified in this Agreement.

Section 2.02 Notice Requirements

(a) The LA DOTD will give the Collateral Agent written notice ("LA DOTD Notice") promptly, upon giving notice to the Developer under the Comprehensive Agreement, of:

(i) any Developer Default;

(ii) the LA DOTD's exercise of its right to suspend the Work under Section 10.07 of the Comprehensive Agreement; or

(iii) the LA DOTD's election to terminate the Comprehensive Agreement under Article 20 of the Comprehensive Agreement.

(b) The LA DOTD will specify in the LA DOTD Notice, as applicable:

(i) the unperformed obligations of the Developer under the Comprehensive Agreement of which the LA DOTD is aware (having made reasonable inquiry) in sufficient detail to enable the Collateral Agent to assess the scope and amount of any liability of the Developer resulting therefrom;

(ii) the grounds for Developer Default, for suspension of the Work or for termination of the Comprehensive Agreement in sufficient detail to enable the Collateral Agent to assess the scope and amount of any liability of the Developer resulting therefrom;

(iii) all amounts due and payable by the Developer to the LA DOTD under the Comprehensive Agreement, if identified as of the date of the LA DOTD Notice and which remain unpaid at such date and, by cross-reference to the

applicable provision(s) of the Comprehensive Agreement, the nature of the Developer's obligation to pay such amounts; and

(iv) the amount of any payments that the LA DOTD reasonably foresees will become due from the Developer during the applicable Cure Period.

(c) The LA DOTD will update any LA DOTD Notice issued pursuant to Section 2.01(a) as and when it becomes aware of any unperformed obligations of the Developer (including non-payment of amounts that have become due) under the Comprehensive Agreement that were not specified in the relevant LA DOTD Notice.

(d) For the avoidance of doubt, nothing in this Agreement will prevent multiple LA DOTD Notices running concurrently.

(e) The Collateral Agent will:

(i) give written notice to the LA DOTD of any Event of Default (whether or not a LA DOTD Notice has been served in connection with the same event) promptly upon providing written notice of the same to the Developer ("Collateral Agent Notice");

(ii) specify in any Collateral Agent Notice the circumstances and nature of the Event of Default to which the Collateral Agent Notice relates; and

(iii) notify the LA DOTD of any decision to accelerate amounts outstanding under the Initial Project Financing Agreements or to exercise any enforcement remedies under the Initial Project Financing Agreements.

Section 2.03 LA DOTD Payments under the Comprehensive Agreement

(a) At any time prior to receipt of a Collateral Agent Notice, the LA DOTD will deposit all amounts payable by it under the Comprehensive Agreement into the Proceeds Account, except the Public Funds Amount, which shall be deposited to the Funding Account.

(b) Following receipt of a Collateral Agent Notice, the LA DOTD will, if directed by the Collateral Agent, deposit all amounts payable by it under the Comprehensive Agreement into the Proceeds Account and the Collateral Agent and Developer agree that any payment made in accordance with this Section 2.03 will constitute a complete discharge of the LA DOTD's relevant payment obligations under the Comprehensive Agreement. Notwithstanding the foregoing, the LA DOTD's obligations under this Section 2.03 will be subject to any surety's rights under Law.

(c) The Collateral Agent acknowledges and agrees that all of the LA DOTD's payment obligations to the Developer pursuant to the Comprehensive Agreement will be due and payable in accordance with, and subject to any limitations and requirements set forth in, the Comprehensive Agreement.

Section 2.04 Design-Build Performance Security and O&M Performance Security

The parties hereto acknowledge the terms of Section 16.07 of the Comprehensive Agreement and LA DOTD agrees that it shall forbear from exercising remedies under any Design-Build Performance Security or O&M Performance Security in accordance with the terms thereof.

ARTICLE 3.

RIGHTS AND OBLIGATIONS DURING THE CURE PERIOD

Section 3.01 No Termination during the Cure Period

At any time during a Cure Period, the LA DOTD will not, subject to the terms of this Agreement:

(a) terminate or give notice terminating the Comprehensive Agreement for Developer Default or exercise any rights under Section 18.03 of the Comprehensive Agreement;

(b) suspend its performance (including in connection with any insolvency or bankruptcy proceeding in relation to the Developer) under the Comprehensive Agreement; or

(c) take, join in or support, whether directly or indirectly, any action for the liquidation, bankruptcy, administration, receivership, reorganization, dissolution or winding up of the Developer or for the composition or readjustment of the Developer's debts, or any similar insolvency procedure in relation to the Developer, or for the appointment of a receiver, trustee, custodian, sequestrator, conservator, liquidator, administrator or similar official for the Developer or for any part of the Developer's Property.

Section 3.02 Collateral Agent Rights

(a) At any time during an Event of Default (but, in the case of a Developer Default, only for so long as the Initial Period has not expired), without giving a Step-in Notice, the Collateral Agent may (but shall have no obligation), at its sole option and discretion, perform or arrange for the performance of any act, duty, or obligation required of the Developer under the Comprehensive Agreement, or remedy any breach of the Developer thereunder at any time, which performance or remedy by or on behalf of the Collateral Agent will be accepted by the LA DOTD in lieu of performance by the Developer and in satisfaction of the Developer's obligations under the Comprehensive Agreement. To the extent that any breach of the Developer under the Comprehensive Agreement is remedied and/or any payment liabilities or obligations of the Developer are performed by the Collateral Agent under this Section 3.02(a), such action will discharge the relevant liabilities or obligations of the Developer to the LA DOTD. No such performance by or on behalf of the Collateral Agent under this Section 3.02(a) will be construed as an assumption by the Collateral Agent, or any person acting on the Collateral Agent's behalf, of any of the covenants, agreements or other obligations of the Developer under the Comprehensive Agreement.

(b) At any time during a Cure Period or an Event of Default, the Collateral Agent may:

(i) issue a Step-in Notice in accordance with the requirements of Section 4.01; or

(ii) issue a Substitution Notice in accordance with the requirements of Section 5.01.

ARTICLE 4.

STEP-IN ARRANGEMENTS

Section 4.01 Step-in Notice

(a) Provided that all unperformed payment obligations of the Developer identified in a LA DOTD Notice will have been remedied in full or waived by the LA DOTD on or before the Step-in Date, the Collateral Agent may provide the LA DOTD with a written notice ("Step-in Notice") under this Section 4.01 at any time during any Cure Period or Event of Default.

(b) The Collateral Agent will nominate, in any Step-in Notice, any one of:

(i) the Collateral Agent, a Lender or any of their respective Affiliates (any such respective Affiliate subject to LA DOTD approval unless such respective Affiliate is wholly-owned by the Lender to which it is affiliated); or

(ii) any Person approved by the LA DOTD in its discretion, such approval not to be unreasonably withheld, conditioned or delayed, if such Person meets all the criteria to be a Qualified Substitute Developer and the LA DOTD has been provided with the relevant information required under Section 5.03 with respect to such Person (each a "Step-in Entity"), stating that the Step-in Entity is to become a joint and several obligor with the Developer under the Comprehensive Agreement and this Agreement in accordance with the terms hereof.

(c) The Step-in Entity named in the Step-in Notice will be deemed to become a party to the Comprehensive Agreement and this Agreement on and from the date it executes a duly completed Step-in Entity Accession Agreement, substantially in the form attached hereto as Annex 1 to this Agreement, and submits it to the LA DOTD ("Step-in Date").

Section 4.02 Rights and Obligations on Step-in

(a) On and from the Step-in Date and during the Step-in Period, the Step-in Entity will be:

(i) jointly and severally entitled to exercise and enjoy the rights and powers expressed to be assumed by or granted to the Developer under the Comprehensive Agreement and this Agreement;

(ii) entitled to exercise and enjoy the rights and powers expressed to be assumed by or granted to a Step-in Entity under this Agreement; and

(iii) jointly and severally liable with the Developer for the payment of all sums due from the Developer under or arising out of the Comprehensive Agreement at the Step-in Date and for the performance of all of the Developer's obligations under or arising out of the Comprehensive Agreement on or after the Step-in Date.

(b) Without prejudice to ARTICLE 7, during the Step-in Period:

(i) the LA DOTD agrees:

(A) not to terminate or give notice terminating the Comprehensive Agreement for Developer Default or exercise any of its rights under Section 18.03 of the Comprehensive Agreement (except to the extent the exercise of such rights is necessary to protect the public health, safety or welfare), unless the grounds for termination or giving notice of termination or exercise of any of its rights under Section 18.03 of the Comprehensive Agreement arose during the Step-in Period;

(B) not to take, join in or support, whether directly or indirectly, any action for the liquidation, bankruptcy, administration, receivership, reorganization, dissolution or winding up of the Developer or for the composition or readjustment of the Developer's debts, or any similar insolvency procedure in relation to the Developer, or for the appointment of a receiver, trustee, custodian, sequestrator, conservator, liquidator, administrator or similar official for the Developer or for any part of the Developer's Property;

(C) not to suspend its performance (including in connection with any insolvency or bankruptcy proceeding in relation to Developer) under the Comprehensive Agreement, unless the grounds for suspension of performance arose during the Step-in Period and the Step-in Entity is not using commercially reasonable efforts (including, without limitation, implementation of any remedial program) to remedy such grounds for suspension (or such suspension is stayed or is otherwise addressed in connection with any such insolvency or bankruptcy proceeding in relation to Developer); and

(D) subject to any surety's subrogation rights under Law, to continue to make payments required to be made to Developer under the Comprehensive Agreement to the Proceeds Account, unless otherwise directed by the Collateral Agent pursuant to Section 4.02(b)(ii)(B).

(ii) the LA DOTD will owe its obligations under the Comprehensive Agreement and this Agreement to the Developer and such Step-in Entity jointly; provided, however, that:

(A) subject to Section 4.02(b)(ii)(B), the performance of such obligations by the LA DOTD in favor of either such Step-in Entity or the Developer will be a good and effective discharge of such obligations under this Agreement and the Comprehensive Agreement; and

(B) the Collateral Agent will be entitled at any time by notice in writing to the LA DOTD to direct (such direction being binding on the Collateral Agent, the LA DOTD and the Developer) that, at all times thereafter while such Step-in Entity is deemed to be a party to the Comprehensive Agreement and this Agreement and subject to any further notice from the Collateral Agent, such Step-in Entity will be solely entitled to make any decisions, to give any directions, approvals or consents, to receive any payments or otherwise to deal with the LA DOTD under the Comprehensive Agreement and this Agreement.

(c) The Developer will not be relieved from any of its obligations under the Comprehensive Agreement, whether arising before or after the Step-in Date, by reason of the Step-in Entity becoming a party to the Comprehensive Agreement pursuant to a Step-in Entity Accession Agreement, except to the extent provided in Section 3.02.

Section 4.03 Step-Out

(a) A Step-in Entity may, at any time, by giving not less than 30 Days' prior written notice ("Step-out Notice") to the LA DOTD, terminate its obligations to the LA DOTD under the Comprehensive Agreement and this Agreement, whereupon the Step-in Entity will, upon the expiration of such notice, no longer be deemed to be a party to the Comprehensive Agreement and this Agreement and, except as provided in Section 4.03(b), will be released from all obligations under the Comprehensive Agreement and this Agreement. The obligations of the LA DOTD to the Step-in Entity in such capacity under the Comprehensive Agreement and this Agreement will also terminate upon the expiration of such notice.

(b) Nothing in this Section 4.03 will have the effect of releasing the Step-in Entity from any liability that relates to the performance or non-performance of the Comprehensive Agreement or this Agreement by the Developer or the Step-in Entity during the Step-in Period.

ARTICLE 5.

SUBSTITUTION PROPOSALS

Section 5.01 Notice of Proposed Substitute

To the extent that the Collateral Agent or the Lenders at any time propose to require the Developer to assign its rights and obligations under the Comprehensive Agreement and/or this

Agreement to a Person ("Substitute") designated by the Collateral Agent or the Lenders acting in accordance with the Initial Project Financing Agreements (whether by mutual agreement or enforcement of rights under the Initial Project Financing Agreements), the effectiveness of such assignment will be conditional upon:

(a) the Collateral Agent issuing a notice ("Substitution Notice") to the LA DOTD requesting the LA DOTD's prior approval of the proposed Substitute;

(b) the LA DOTD approving the identity of the proposed Substitute pursuant to Section 5.02; and

(c) the proposed Substitute executing a Substitute Accession Agreement in accordance with Section 6.01.

Section 5.02 Grounds for Refusing Approval

The LA DOTD will only be entitled to withhold its approval to any proposed Substitute that is the subject of a Substitution Notice if:

(a) in the LA DOTD's reasonable opinion, the proposed Substitute is not a Qualified Substitute Developer; or

(b) subject to Section 6.04, there are outstanding breaches of the Comprehensive Agreement that: (i) have been previously notified by the LA DOTD to the Collateral Agent and (ii) have not, to the reasonable satisfaction of the LA DOTD, been remedied or waived prior to the date of the Substitution Notice, unless the LA DOTD has approved (such approval not to be unreasonably withheld, conditioned or delayed) a plan specifying (A) the remedial action that the Substitute will be required to take after the Substitution Effective Date in order to remedy each such breach and (B) with respect to any such breaches that by their nature are incapable of being cured, the action that the Substitute will be required to take after the Substitution Effective Date in order to prevent such breach from occurring in the future.

Section 5.03 Provision of Information

The Collateral Agent will, as soon as practicable, provide to the LA DOTD such information in relation to the proposed Substitute and any Person who, it is proposed, will enter into a material subcontract with the proposed Substitute in relation to the Project, as the LA DOTD will reasonably require to enable it to reasonably determine whether the proposed Substitute is a Qualified Substitute Developer, including:

(a) the name and address of the proposed Substitute;

(b) unless such proposed Substitute is a publicly-traded entity, the names of the proposed Substitute's shareholders or members and the share capital or partnership or membership interests, as the case may be, held by each of them;

(c) the manner in which it is proposed to finance the proposed Substitute and the extent to which such financing is committed (to the extent relevant);

(d) copies of the proposed Substitute's most recent financial statements (and if available, such financial statements will be for the last three financial years and audited), or in the case of a special purpose company, its opening balance sheet;

(e) a copy of the proposed Substitute's organizational documents;

(f) details of the resources available to the proposed Substitute and the proposed Substitute's appropriate qualifications, experience and technical competence available to the proposed Substitute to enable it to perform the obligations of the Developer under the Comprehensive Agreement;

(g) the names of the proposed Substitute's directors and any key personnel who will have responsibility for the day-to-day management of its participation in the Project;

(h) such other information, evidence and supporting documentation concerning the identity, financial resources, pre-qualifications, experience, and potential conflicts of interest of the proposed Substitute and its contractors as the LA DOTD may reasonably request; and

(i) such evidence of organization, authority, incumbency certificates, certificates regarding debarment or suspension, and any other certificates, representations and warranties as the LA DOTD may reasonably request.

ARTICLE 6.

SUBSTITUTION

Section 6.01 Substitution Effective Date

If the LA DOTD approves the identity of a proposed Substitute pursuant to ARTICLE 5, the Substitute will execute a duly completed Substitute Accession Agreement, substantially in the form set out in Annex 2 to this Agreement, and submits it to the LA DOTD (with a copy of it to the other parties to this Agreement). Such assignment will become effective on and from the date on which the LA DOTD countersigns the Substitute Accession Agreement (the "Substitution Effective Date").

Section 6.02 Effectiveness of Substitution

On and from the Substitution Effective Date:

(a) such Substitute will become a party to the Comprehensive Agreement and this Agreement in place of the Developer who will be immediately released from its obligations arising under, and cease to be a party to, the Comprehensive Agreement and this Agreement from that Substitution Effective Date, except as provided in Section 6.04;

(b) such Substitute will exercise and enjoy the rights and perform the obligations of the Developer under the Comprehensive Agreement and this Agreement, and

(c) the LA DOTD will owe its obligations (including, without limitation, any undischarged liability in respect of any loss or damage suffered or incurred by the Developer prior to the Substitution Effective Date) under the Comprehensive Agreement and this Agreement to such Substitute in place of the Developer and any Step-in Entity.

Section 6.03 Facilitation of Transfer

The LA DOTD will use its reasonable efforts to facilitate the transfer to the Substitute of the Developer's obligations under the Comprehensive Agreement and this Agreement.

Section 6.04 Settlement of Outstanding Financial Liabilities

(a) The Substitute will pay to the LA DOTD within 30 Days after the Substitution Effective Date any amount due from the Developer to the LA DOTD under the Comprehensive Agreement and this Agreement as of the Substitution Effective Date (as notified by the LA DOTD to the Substitute reasonably in advance of such Substitution Effective Date).

(b) If the Substitute fails to satisfy its obligations pursuant to Section 6.04(a), the LA DOTD will be entitled to exercise its rights under the Comprehensive Agreement in respect of the amount so due and unpaid, and the Developer and Substitute will be jointly and severally liable to the LA DOTD for such unsatisfied obligations.

Section 6.05 Consequences of Substitution

On and from the Substitution Effective Date:

(a) subject to Section 6.04, any right of termination or any other right suspended by virtue of Section 3.01 will be of no further effect and the LA DOTD will not be entitled to terminate the Comprehensive Agreement and this Agreement by virtue of any act, omission or circumstance that occurred prior to such Substitution Effective Date;

(b) if any Step-in Entity is a party to or has any obligations under the Comprehensive Agreement and this Agreement on the Substitution Effective Date, such Step-in Entity will cease to be a party thereto and hereto and will be discharged from all obligations thereunder and hereunder; and

(c) the LA DOTD will enter into an equivalent direct agreement on substantially the same terms as this Agreement, save that the Developer will be replaced as a party by the Substitute.

ARTICLE 7.

REINSTATEMENT OF REMEDIES

If a LA DOTD Notice has been given, the grounds for that notice are continuing and have not been remedied or waived by the LA DOTD and:

(a) no Step-in Entity or Substitute becomes a party to the Comprehensive Agreement and this Agreement before the Cure Period Completion Date relating thereto; or

(b) a Step-in Entity becomes a party to the Comprehensive Agreement and this Agreement, but the Step-in Period relating to such Step-in Entity ends without a Substitute becoming a party thereto and hereto,

then, on and from the Cure Period Completion Date or the date such Step-in Period expires, the LA DOTD will be entitled to:

(i) act upon any and all grounds for termination available to it in relation to the Comprehensive Agreement in respect of Developer Defaults under the Comprehensive Agreement that have not been remedied or waived by the LA DOTD;

(ii) pursue any and all claims and exercise any and all remedies against the Developer; and

(iii) if and to the extent that it is then entitled to do so under the Comprehensive Agreement, take or support any action of the type referred to in Section 3.01(b).

ARTICLE 8.

IMPACT OF BANKRUPTCY OR INSOLVENCY PROCEEDINGS

Section 8.01 Rejection of the Comprehensive Agreement

(a) If the Comprehensive Agreement is rejected by a trustee or debtor-in-possession in, or terminated as a result of, any bankruptcy or insolvency proceeding involving the Developer and, within 150 days after such rejection or termination, the Collateral Agent requests and certifies in writing to the LA DOTD that the Collateral Agent or the Collateral Agent's permitted designee or assignee, including a Qualified Substitute Developer, intends to perform the obligations of the Developer as and to the extent required under the Comprehensive Agreement, then the LA DOTD will execute and deliver to the Collateral Agent (or any Substitute satisfying the requirements of this Agreement if directed to do so by the Collateral Agent) a new comprehensive agreement. The new comprehensive agreement will contain conditions, agreements, terms, provisions and limitations which are the same as those of the Comprehensive Agreement, except for any obligations that have been fulfilled by the Developer, and any party acting on behalf of or stepping-in for the Developer or the Collateral Agent prior to such rejection or termination. References in this Agreement to the "Comprehensive Agreement" will be deemed also to refer to any such new comprehensive agreement.

(b) The effectiveness of any new comprehensive agreement referred to in Section 8.01(a) will be conditional upon the Collateral Agent first reimbursing the LA DOTD in respect of its Allocable Costs incurred in connection with the execution and delivery of such new comprehensive agreement.

Section 8.02 Extension of Cure Period Completion Date and Initial Period

If the Collateral Agent is:

(a) prohibited by any court order, bankruptcy or insolvency proceedings from (i) remedying the Developer Default that is the subject of a LA DOTD Notice; (ii) appointing a Substitute (or such Substitute is prevented from performing any of the Developer's rights or obligations under the Contract Documents or under any Project Financing Agreement); or (iii) from commencing or prosecuting foreclosure proceedings; or

(b) pursues with good faith, diligence and continuity lawful processes and steps to obtain the appointment of a court receiver for the Project and possession, custody and control of the Project, but despite such efforts the Collateral Agent is unable to obtain such possession, custody and control of the Project;

then each of the relevant Cure Period Completion Date and Initial Period will be extended by a period of time equal to: (i) the shorter of the period of such prohibition or (ii) 180 Days.

ARTICLE 9.

TERMINATION OF THIS AGREEMENT

This Agreement will remain in effect until the earliest to occur of:

(a) the Discharge Date;

(b) the time at which all of the parties' respective obligations and liabilities under the Comprehensive Agreement and this Agreement have expired (and have not been reinstated to the extent provided in Section 8.01 of this Agreement) or have been satisfied in accordance with the terms of the Comprehensive Agreement and this Agreement; or

(c) any assignment to a Substitute has occurred under ARTICLE 6 and the LA DOTD has entered into an equivalent direct agreement on substantially the same terms as this Agreement, save that the Developer has been replaced as a party by the Substitute.

ARTICLE 10.

GENERAL PROVISIONS

Section 10.01 Representations and Warranties

(a) The undersigned signatory for the Collateral Agent hereby represents and warrants that he or she is an officer of the Collateral Agent and that he or she has full and complete authority to enter into this Agreement on behalf of the Collateral Agent.

(b) The Collateral Agent hereby represents and warrants that the Collateral Agent has full power, right and authority to execute and perform each and all of its obligations under this

Agreement. These representations and warranties are made for the purpose of inducing the LA DOTD and the Developer to enter into this Agreement.

(c) The Collateral Agent represents and warrants that this Agreement has been duly authorized, executed and delivered by the Collateral Agent and constitutes a valid and legally binding obligation of the Collateral Agent, enforceable against it in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

(d) The undersigned signatory for the Developer hereby represents and warrants that he or she has full and complete authority to enter into this Agreement on behalf of the Developer.

(e) The Developer hereby represents and warrants that the Developer has full power, right and authority to execute and perform each and all of its obligations under this Agreement and the Comprehensive Agreement. These representations and warranties are made for the purpose of inducing the LA DOTD and the Collateral Agent to enter into this Agreement.

(f) The Developer represents and warrants that each of this Agreement and the Comprehensive Agreement has been duly authorized, executed and delivered by the Developer and constitutes a valid and legally binding obligation of the Developer, enforceable against it in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

(g) The Developer represents and warrants that there is no Developer Default, there exists no event or condition that would, with the giving of notice or passage of time or both, constitute such a Developer Default, and no such Developer Default has occurred prior to the date hereof.

(h) The undersigned signatory for the LA DOTD hereby represents and warrants that he or she is an authorized official of the LA DOTD and has full and complete authority to enter into this Agreement on behalf of the LA DOTD.

(i) The LA DOTD has full power, right and authority to execute and perform each and all of its obligations under this Agreement and the Comprehensive Agreement. These representations and warranties are made for the purpose of inducing the Collateral Agent to enter into this Agreement.

(j) The LA DOTD represents and warrants that each of this Agreement and the Comprehensive Agreement has been duly authorized, executed and delivered by the LA DOTD and constitutes a valid and legally binding obligation of the LA DOTD, enforceable against the LA DOTD in accordance with the terms hereof and thereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

(k) The LA DOTD represents and warrants that there is no LA DOTD Default, there exists no event or condition that would, with the giving of notice or passage of time or both,

constitute such a LA DOTD Default, and no such LA DOTD Default has occurred prior to the date hereof.

Section 10.02 Public Information and Confidentiality

The LA DOTD and the Collateral Agent will, for each other's benefit, comply with the requirements of Section 17.02 of the Comprehensive Agreement as if any reference to the Developer therein was a reference to the Collateral Agent.

Section 10.03 Amendments and Waivers

(a) No amendment of this Agreement, and no waiver of any term, covenant or condition of this Agreement, will be effective unless in writing and signed by the parties to this Agreement.

(b) The exercise by a party of any right or remedy provided under this Agreement or law will not waive or preclude any other or further exercise thereof or the exercise of any other right or remedy. The remedies provided herein are cumulative and not exclusive of any remedies provided by law and may be exercised by the Collateral Agent or the Lenders and any permitted designee, transferee or assignee thereof from time to time. No waiver by any party of any right or remedy under this Agreement or law will be deemed to be a waiver of any other or subsequent right or remedy under this Agreement or law. The consent by one party to any act by the other party requiring such consent will not be deemed to render unnecessary the obtaining of consent to any subsequent act for which consent is required, regardless of whether similar to the act for which consent is given.

Section 10.04 Non-collusion

(a) The Collateral Agent warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Collateral Agent, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from making of this Agreement.

(b) For breach or violation of this warranty, the LA DOTD will have the right to terminate this Agreement without liability.

Section 10.05 Disputes

(a) In the event of any dispute between the LA DOTD and the Collateral Agent under this Agreement, the parties will resolve the dispute according to the dispute resolution procedures set forth in the Comprehensive Agreement, with the Collateral Agent having the same rights and obligations of the Developer under the disputes resolution procedures set forth in Article 21 of the Comprehensive Agreement.

(b) Nothing in Section 10.05(a) affects the Collateral Agent's rights and remedies against the Developer and the Developer's Interest under the Initial Project Financing

Agreements and Financing Assignments or the procedures available to the Collateral Agent under law to exercise its security interests thereunder.

Section 10.06 Successors and Assigns

(a) No party to this Agreement may assign or transfer any part of its rights or obligations hereunder without the prior written consent of the other parties; provided, however, that the Collateral Agent may assign or transfer its rights and obligations hereunder to a successor Collateral Agent in accordance with the Initial Project Financing Agreements and the LA DOTD may transfer its rights or obligations hereunder in accordance with and subject to the terms and conditions set forth in Section 25.02 of the Comprehensive Agreement. In connection with any such assignment or transfer, the LA DOTD agrees to enter into a new direct agreement with the successor Collateral Agent on terms that are substantially the same as those of this Agreement.

(b) This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

Section 10.07 Severability

In the event any one or more of the provisions contained in this Agreement will, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision thereof and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Section 10.08 Prior Contracts Superseded

This Agreement constitutes the sole agreement of the parties hereto with respect to the subject matter set forth herein and supersedes any prior understandings or written or oral contracts between the parties respecting such subject matter.

Section 10.09 Notices and Communications

(a) Whenever under the provisions of this Agreement it will be necessary or desirable for one party to serve any approval, notice, request, demand, report or other communication on another party, the same will be in writing and will not be effective for any purpose unless and until actually received by the addressee or unless served (i) personally, (ii) by independent, reputable, overnight commercial courier, (iii) by facsimile transmission or email communication immediately followed by service of the original of the subject item in another manner permitted herein or (iv) by deposit in the United States mail, postage and fees fully prepaid, registered or certified mail, with return receipt requested, addressed as follows:

If to the LA DOTD:

Louisiana Department of Transportation and Development
1201 Capitol Access Road
P.O. Box 94245

Baton Rouge, LA 70804-9245
Attention: **[●]**

With copies to:

Deidre Deculus Robert, Esq.
Executive Counsel
Office of the Secretary
Louisiana Department of Transportation and Development
1201 Capitol Access Road
Baton Rouge, LA 70802
Deidre.Robert@LA.GOV

If to the Developer:

[●]

With copies to:

[●]

If to the Collateral Agent:

[●]

(b) Any party may, from time to time, by notice in writing served upon the other parties as aforesaid, designate an additional and/or a different mailing address or an additional and/or a different person to whom all such notices, requests, demands, reports and communications are thereafter to be addressed. Any notice, request, demand, report or other communication served personally will be deemed delivered upon receipt, if served by mail or independent courier will be deemed delivered on the date of receipt as shown by the addressee's registry or certification receipt or on the date receipt at the appropriate address is refused, as shown on the records or manifest of the United States Postal Service or independent courier, and if served by facsimile or email transmission will be deemed delivered on the date of receipt as shown on the received facsimile or email (provided that the original is thereafter delivered as aforesaid).

Section 10.10 Effect of Breach

Without prejudice to any rights a party may otherwise have, a breach of this Agreement will not of itself give rise to a right to terminate the Comprehensive Agreement.

Section 10.11 Counterparts

This instrument may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

Section 10.12 No Third-Party Beneficiaries

Nothing contained in this Agreement is intended or will be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligations of the parties hereto toward, any person or entity not a party to this Agreement.

Section 10.13 No Partnership

Nothing contained in this Agreement will be deemed to constitute a partnership between the parties hereto. None of the parties will hold itself out contrary to the terms of this Section 10.13.

Section 10.14 No Interference

The Developer joins in this Agreement to acknowledge and consent to the arrangements set out and agrees not to knowingly do or omit to do anything that may prevent any party from enforcing its rights under this Agreement.

Section 10.15 Collateral Agent

(a) Notwithstanding anything to the contrary in this Agreement, but subject to ARTICLE 4 (solely to the extent the Collateral Agent or any of its Affiliates is the Step-in Entity) and Section 10.01, neither the Collateral Agent nor any Lender will have any liability to the LA DOTD under this Agreement, unless the Collateral Agent or such Lender expressly assumes such liability in writing.

(b) The LA DOTD acknowledges and agrees that the Collateral Agent will not be obligated or required to perform any of Developer's obligations under the Comprehensive Agreement, except during any Step-in Period (solely to the extent the Collateral Agent or any of its Affiliates is the Step-in Entity).

(c) The LA DOTD acknowledges and agrees that no Lender shall be obligated or required to perform any of Developer's obligations under the Comprehensive Agreement, except during any Step-in Period (solely to the extent the relevant Lender or any of its Affiliates is the Step-in Entity).

Section 10.16 Governing Law

This Agreement will be governed by and construed in accordance with the laws of the State of Louisiana applicable to contracts executed and to be performed within the State.

Section 10.17 Capacity of the Collateral Agent

Notwithstanding anything to the contrary contained herein, the Collateral Agent is acting hereunder, not in its individual capacity but solely as collateral agent, on behalf of the Lenders. The Collateral Agent shall not be required to take any action whatsoever hereunder unless and until it is specifically directed to do so in writing as specified in the Initial Project Financing

Agreements. The Collateral Agent shall not be liable for acting in accordance with such directions or for failing to act if it does receive any such written directions. Under no circumstances (other than if the Collateral Agent is the Step-In Entity as provided in Article 4 or in respect of gross negligence or willful misconduct of the Collateral Agent) shall the Collateral Agent be liable for any and all claims, liabilities, obligations, losses, damages, penalties, costs, and expenses that may be imposed on, incurred by, or asserted against the Collateral Agent at any time or in any way relating to or arising out of the execution, delivery and performance of this Direct Agreement by the Collateral Agent. Under no circumstances shall the Collateral Agent be liable for any indirect, special, consequential or punitive damages arising out of the execution, delivery or performance of this Direct Agreement or for any action it takes pursuant to the authority or directions given under the Initial Project Financing Agreements. For the avoidance of doubt, under no circumstances shall the Collateral Agent be required to perform any activity related to the development, design, construction, operation or maintenance of the Project including, without limitation, directing or supervising any portion of the construction of the Project. Nothing contained herein shall require the Collateral Agent to advance or risk its own funds.

IN WITNESS WHEREOF, the parties, intending to be legally bound, have executed this Agreement as of the date first written above.

LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT, an agency of the State of Louisiana

By: _____
Name: Eric Kalivoda
Title: Secretary of the Louisiana Department of Transportation and Development

Witnessed By: _____

Name: _____

Witnessed By: _____

Name: _____

[●],
as Developer

By: _____
Name: **[●]**
Title: **[●]**

Witnessed By: _____

Name: _____

Witnessed By: _____

Name: _____

[●],
as Collateral Agent

By: _____
Name: **[●]**
Title: **[●]**

Witnessed By: _____

Name: _____

Witnessed By: _____

Name: _____

ANNEX 1

FORM OF STEP-IN ENTITY ACCESSION AGREEMENT

[Date]

To: **[●]**
Louisiana Department of Transportation and Development
1201 Capitol Access Road
PO Box 94245
Baton Rouge, LA 70804-9245

Copied to: **[●]**

[Lenders and other parties to Finance Documents to be listed]

[insert address]

For the attention of: **[●]**

From: ***[Step-in Entity]***

I-10 CALCASIEU RIVER BRIDGE
PUBLIC-PRIVATE PARTNERSHIP PROJECT

STEP-IN ENTITY ACCESSION AGREEMENT

Ladies and Gentlemen:

Reference is made to the Comprehensive Agreement, dated as of **[●]** (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Comprehensive Agreement"), between the Louisiana Department of Transportation and Development ("LA DOTD") and **[●]** ("Developer") and the Direct Agreement, dated as of **[●]** (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Direct Agreement"), among the LA DOTD, the Developer and **[●]**, as Collateral Agent.

Terms not otherwise defined herein will have the same meaning given to them in the Direct Agreement.

1. We, ***[entity name and entity type and state of formation]***, hereby confirm that we are a Step-in Entity pursuant to Article 4 of the Direct Agreement.

2. We acknowledge and agree that, upon and by reason of our execution of this Substitute Accession Agreement, we will become a party to the Comprehensive Agreement and the Direct Agreement, and we will assume all rights, duties, and obligations of the Developer under the Comprehensive Agreement and the Direct Agreement in accordance with the terms and conditions of the Direct Agreement.

3. Our address, fax and telephone number and address for electronic mail for the purpose of receiving notices are as follows:

[contact details of Step-in Entity]

The terms set forth herein are hereby agreed to:

[Step-in Entity]

By: _____
Name: **[●]**
Title: **[●]**

ANNEX 2

FORM OF SUBSTITUTE ACCESSION AGREEMENT

[Date]

To: **[●]**
Louisiana Department of Transportation and Development
1201 Capitol Access Road
PO Box 94245
Baton Rouge LA 70804-9245

Copied to: **[●]**

From: ***[Substitute]***

I-10 CALCASIEU RIVER BRIDGE PUBLIC-PRIVATE PARTNERSHIP PROJECT

SUBSTITUTE ACCESSION AGREEMENT

Ladies and Gentlemen:

Reference is made to the Comprehensive Agreement, dated as of **[●]** (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Comprehensive Agreement"), between the Louisiana Department of Transportation and Development ("LA DOTD") and **[●]** ("Developer") and the Direct Agreement, dated as of **[●]** (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Direct Agreement"), among the LA DOTD, the Developer and **[●]**, as Collateral Agent.

Terms defined not otherwise defined herein will have the same meaning given to them in the Direct Agreement.

1. We hereby confirm that we are a Substitute pursuant to Article 6 of the Direct Agreement.

2. We acknowledge and agree that, upon and by reason of our execution of this Substitute Accession Agreement, we will become a party to the Comprehensive Agreement and the Direct Agreement as a Substitute and, accordingly, will have the rights and powers and assume the obligations of the Developer under the Comprehensive Agreement and the Direct Agreement in accordance with the terms of the Direct Agreement.

3. Our address, fax and telephone number and address for electronic mail for the purpose of receiving notices are as follows:

[contact details of Substitute]

The terms set forth herein are hereby agreed to:

[Substitute]

By: _____

Name: _____

Title: _____

Agreed for and on behalf of:
Louisiana Department of Transportation and Development

By: _____

Name: _____

Title: _____

EXHIBIT G

PAYMENTS

1. Milestone Payments

1.1 Milestone Payment Terms

The LA DOTD will make Milestone Payments to the Developer, in accordance with Section 1.2, as follows:

(i) Upon achievement of a DB Percentage of 25%, in accordance with Section 8.08(a) of the Agreement, the LA DOTD will pay to the Developer $100,000,000 of the Public Funds Amount;

(ii) Upon achievement of a DB Percentage of 50%, in accordance with Section 8.08(b) of the Agreement, the LA DOTD will pay to the Developer $280,000,000 of the Public Funds Amount;

(iii) Upon achievement of a DB Percentage of 75%, in accordance with Section 8.08(c) of the Agreement, the LA DOTD will pay to the Developer $280,000,000 of the Public Funds Amount;

(iv) Upon achievement of Partial Acceptance, in accordance with Section 8.09 of the Agreement, the LA DOTD will pay to the Developer $100,000,000 of the Public Funds Amount; and

(v) Upon achievement of Final Acceptance, in accordance with Section 8.11 of the Agreement, the LA DOTD will pay to the Developer $40,000,000 of the Public Funds Amount.

1.2 Milestone Payment Procedures

The Developer shall request a Milestone Payment by submitting to the LA DOTD an invoice on the Developer's letterhead, attaching the 25% Completion Certificate, the 50% Completion Certificate, the 75% Completion Certificate, the Partial Acceptance Certificate, or the Final Acceptance Certificate, as appropriate.

In the invoice for the Milestone Payment for achievement of Final Acceptance, the Developer shall provide evidence that it has satisfied all requirements of Section 8.11(d) of the Agreement.

The LA DOTD will pay the Developer the relevant Milestone Payment within 45 days of receipt of a complete invoice, in accordance with this Section 1.2.

2. Change Order Payments

2.1 General

(i) Definitions

a. "Allocable Costs" means:

(i) for costs incurred by any Developer Party, the sum of such costs calculated in accordance with Section 2.3;

(ii) for services performed using the LA DOTD personnel, materials and equipment, the sum of:

(a) an amount equal to the reasonable fully burdened hourly rate (including overhead and fringe benefits) of each employee providing such services multiplied by the actual number of hours such employee performs such services; plus

(b) the reasonable and documented cost of all materials used, including sales taxes, freight and delivery charges and any allowable discounts; plus

(c) reasonable and documented out-of-pocket costs and expenses of each employee (including travel, meals and lodging costs), subject to any limitations and requirements on such costs and expenses set forth in the LA DOTD's travel guidelines; plus

(d) the reasonable and documented costs for the use, operating, maintenance, fuel, storage and other costs of all deployed tools (excluding small tools) and equipment, calculated at hourly rates determined from the most current volume of the Rental Rate Blue Book published by Nielsen/DATAQUEST, Inc. of Palo Alto, California, or its successors without area adjustment, but with equipment life adjustment made in accordance with the rate adjustment tables; provided that if rates are not published for a specific type of tool or equipment, the LA DOTD will establish a rate for it that is consistent with its cost and use in the industry; and

(iii) if the services are performed or equipment supplied by a contractor or supplier under contract with the LA DOTD, the sum of:

(a) all reasonable amounts owing under such contract; plus

(b) the amount to reimburse the LA DOTD for the actual and documented reasonable costs of administering the contract, but not to exceed 10% of the value of the contract; plus

(c) all reasonable costs the LA DOTD reasonably incurs to enforce or pursue remedies for the contractor's failure to perform in accordance with the contract;

in each case subject to verifiable documentation.

b. "Net Cost Impact" means the aggregate value of any net increase in the Developer's costs (including the Developer's Allocable Costs, any Idle Costs, and the net increase in costs of any Developer Party to the extent applicable), directly attributable to a Compensation Event, as compared with what such costs would have been absent the occurrence of the Compensation Event, less all increased costs that can reasonably be mitigated by the Developer. Net Cost Impact shall:

(i) be determined through following all principles and requirements set forth in both Section 13.01 of the Agreement and this Section 2;

(ii) exclude:

(a) third-party entertainment costs, lobbying and political activity costs, costs of alcoholic beverages, costs for first class travel in excess of prevailing economy travel costs, and costs of club memberships, in each case to the extent that such costs would not be reimbursed to an employee of the LA DOTD in the regular course of business;

(b) unallowable costs under the following provisions of the Federal Contract Cost Principles, 48 CFR Section 31.205: Section 31.205-8 (contributions or donations), Section 31.205-13 (employee morale, health, welfare, food service, and dormitory costs and credits), Section 31.205-14 (entertainment costs), Section 31.205-15 (fines, penalties, and mischarging costs), Section 31.205-27 (organization costs), Section 31.205-34 (recruitment costs), Section 31.205-35 (relocation costs), Section 31.205-43

(trade, business, technical and professional activity costs), Section 31.205-44 (training and education costs), and Section 31.205-47 (costs related to legal and other proceedings);

(iii) exclude amounts paid or to be paid to approved Affiliates that are in excess of the pricing the Developer could reasonably obtain in an arms' length, competitive transaction with an unaffiliated Subcontractor;

(iv) exclude amounts paid or to be paid under Affiliate Subcontracts that have not been approved by the LA DOTD pursuant to Section 24.01(c) of the Agreement; and

(v) take into account any Net Cost Saving or other savings in costs, including savings in finance costs, attributable to the Compensation Event.

c. "Net Cost Saving" means the aggregate value of any decrease in the costs of any Developer Party, directly attributable to a Compensation Event, as compared with what the costs would have been absent occurrence of a Compensation Event, but excluding any savings in costs already taken into account to reduce the Net Cost Impact attributable to such Compensation Event.

(ii) Payment Principles

Any estimate, calculation, or determination of Allocable Costs related to a Developer Party, Net Cost Impact, Net Cost Saving, or any other cost-related component of a Change Order under this Agreement must:

a. follow all principles and requirements set forth in this Section 2;

b. be prepared by the Developer;

c. be negotiated between the Developer and the LA DOTD on an Open-Book Basis;

d. be subject to verification under the Escrowed Proposal Documents and any other sources of original pricing information or original cost and pricing data, such as the Subcontract pricing information required under Section 17.11 of the Agreement; and

e. reflect a reduction for all increased costs that can be, or which could have been, reasonably mitigated by the Developer or any Developer Party, including taking all steps that would generally be

taken in accordance with Good Industry Practice, including filing a timely claim for insurance and pursuing such claims.

(iii) The LA DOTD will stipulate whether a Change Order will be on a negotiated lump sum basis, unit price basis, or a force account basis.

2.2 Agreed Prices

(i) If the LA DOTD has stipulated that a Change Order will be on a negotiated lump sum or unit price basis, the Change Order will stipulate the agreed price and be paid in accordance with Section 3 or such other payment terms and schedule as may be agreed by the parties.

(ii) If the LA DOTD has stipulated that a Change Order shall be on a force account basis, then the Change Order will be subject to a not-to-exceed price and administered in accordance with Section 2.3.

(iii) Change Orders to reimburse the Developer for Utility Adjustment costs in accordance with Section 5.3.1.7 of the Technical Provisions shall be on a negotiated lump sum basis in accordance with this Section 2.2.

2.3 Force Account Charges

In accordance with Section 2.1(iii), if the LA DOTD has stipulated that a Change Order shall be on a force account basis, the Change Order shall stipulate the not-to-exceed amount and be paid in accordance with Section 3. If the accepted payments under such Change Order reach 75% of the not-to-exceed amount and the Developer anticipates that known Work pursuant to such Change Order will exceed the not-to-exceed amount, the Developer shall notify the LA DOTD and submit a proposed cost to complete the Work under such Change Order in excess of the not-to-exceed amount. If the LA DOTD agrees, a Change Order will be issued to the Developer revising the not-to-exceed amount. No payment will be made for Work under such Change Order after expenditure of 100% of the not-to-exceed amount. If 100% of the not-to-exceed amount has been expended, the Developer shall proceed only if so directed by the LA DOTD.

When force account is the method of payment, the Design-Build Contractor or the O&M Contractor, as applicable, will be entitled to the direct cost of the Work as determined and documented solely in Sections 2.3(ii) through (vii).

(i) Mark-Up

The Developer is not entitled to any mark-up, overhead, indirect expenses, or profit on force account Work. All jobsite and home office overhead, indirect expenses, and profit for the Design-Build Contractor or O&M Contractor will be considered fully compensated by a 15% mark-up on allowable direct cost items described in Sections 2.3(ii) through (iv). The mark-up on direct cost for any

Subcontractors and the Design-Build Contractor or the O&M Contractor, as applicable, shall be as described in Section 2.3(viii).

(ii) Labor

For labor and working foremen in direct charge of operations, the Design-Build Contractor or the O&M Contractor, as applicable, shall receive the applicable prevailing wage rates in accordance with Section 24.06 of the Agreement. Jobsite and home office supervisory personnel must not be included as direct labor.

The Design-Build Contractor or the O&M Contractor, as applicable, shall receive the actual costs paid to, or on behalf of, workers for health and welfare benefits, pension fund benefits, or other benefits when such amounts are required by collective bargaining agreement or other employment contract applicable to the classes of labor employed on the Work.

As a condition precedent to payment for Work described in this Section 2.3(ii), all certified payrolls for the preceding month of the Design-Build Contractor or the O&M Contractor, as applicable, must be up to date and submitted to the LA DOTD.

(iii) Materials

For materials used, the Design-Build Contractor or the O&M Contractor, as applicable, shall receive the actual cost of such materials delivered to the Work including transportation charges and sales tax, if applicable. Such cost shall be limited to the lowest price available to any Developer Party, as applicable, but in no event shall such costs exceed competitive costs obtainable from other subcontractors, suppliers, manufacturers, and distributors available for delivery in the Lake Charles metropolitan area. If a cash or trade discount, rebate, or tax exemption is offered or available to any Developer Party as purchaser, the discount, rebate or exemption shall be credited to the LA DOTD even if not taken by the purchaser.

(iv) Equipment

For machinery or special equipment, the Design-Build Contractor or the O&M Contractor, as applicable, shall receive the rental rates agreed on in writing before such Work is begun. For equipment rented from independent outside sources, the Design-Build Contractor or the O&M Contractor, as applicable, shall be reimbursed the reasonable actual cost as shown on paid rental invoices. For company-owned equipment, the Design-Build Contractor or the O&M Contractor, as applicable, shall be reimbursed its internal cost recovery equipment charge rate. The LA DOTD's Engineering Directives and Standards Manual, EDSM III.1.1.27, entitled Equipment Rental Rates, provides additional guidance

concerning allowable equipment rental rates and their application. If the Design-Build Contractor or the O&M Contractor, as applicable, chooses to use a rental rate guide book instead of its internal cost recovery rates to establish rental rates for company-owned equipment, adjustments to the allowable type of equipment and hours per day must be made as described in the EDSM III.1.1.27. For machinery or special equipment that is in operational condition and is standing by with approval of the LA DOTD for participation in any extra Work, the Design-Build Contractor or the O&M Contractor, as applicable, shall receive one-half of the agreed working rate per hour in accordance with the limitations set forth in the section entitled "IDLED EQUIPMENT" of EDSM III.1.1.27. In addition, no 15% mark-up on equipment direct cost for jobsite and home office overhead expenses and profit will be allowed if the Design-Build Contractor or the O&M Contractor, as applicable, chooses to use rental rate guide book prices instead of its internal cost recovery rates.

(v) Bond, Insurance, and Tax

For additional premiums for any insurance required under Article 16 of the Agreement or Exhibit H; additional unemployment insurance contributions; additional taxes; and additional costs of Design-Build Performance Security or O&M Performance Security on force account Work, the Developer, the Design-Build Contractor, or the O&M Contractor, as applicable, shall receive the actual cost thereof. The Developer, Design-Build Contractor, or the O&M Contractor, as applicable, shall furnish the LA DOTD with satisfactory evidence of the rates paid. The LA DOTD will not pay any mark-up on such premiums, fees, and charges.

(vi) Fees and Charges to Governmental Entities

For fees and charges payable to Governmental Entities, such as the cost of obtaining all Governmental Approvals or modifications or supplements thereto (e.g. permit fees, plan check fees, review fees and charges) for additional Work, the Design-Build Contractor or the O&M Contractor, as applicable, shall receive the actual cost thereof. The LA DOTD will not pay any mark-up on such fees and charges.

(vii) Designer and Professional Services Consultants

For Designer or professional services consultant Subcontractors, such Designer or professional services consultant shall receive the previously-approved wage rates and previously-audited overhead rates agreed to in writing by the LA DOTD before beginning Work for each hour that such personnel are engaged in such Work. If there are no previously-approved wage rates or previously-audited overhead rates for such Designer or professional services consultant, the wage rates and overhead rates shall not exceed the then-current statewide average applicable to such job categories or overhead, as determined by the LA DOTD.

(viii) Subcontracting

Other than with respect to Designer or professional services consultant Subcontractors, which are addressed in Section 2.3(vii), for Change Order work performed by a second-tier or lower Subcontractor, such Subcontractor shall receive the Subcontractor's actual and reasonable allowable direct cost of such work as permitted in Sections 2.3(ii) through (vi), plus a 15% mark-up on the Subcontractor's actual and reasonable allowable direct cost of such work as permitted in Sections 2.3(ii) through (iv), which will be considered full compensation for the Subcontractor's indirect jobsite and home office overhead, expenses, and profit.

In addition, the Design-Build Contractor or the O&M Contractor, as applicable, will be paid a 10% mark-up on the second-tier or lower Subcontractor's total direct and indirect costs, which will be considered full compensation for the profit, general supervision, and sequencing of the change order work.

2.4 Statements

No payment will be made for force account Work until the Developer has furnished the LA DOTD with duplicate itemized statements of the cost of such Work detailed as follows:

(i) Name, classification, date, daily hours, total hours, rate, and extension for each laborer and foreman;

(ii) Designations, dates, daily hours, total hours, rental rate, and extension for each unit of machinery and equipment;

(iii) Quantities of materials, prices, and extensions;

(iv) Transportation of materials; and

(v) Cost of bond-, insurance-, and tax-related items articulated under Section 2.3(v).

The Developer and the LA DOTD will compare records of the cost of Work done by any Developer Party as ordered on a force account basis. Such comparison must be made daily. Statements must be accompanied by invoices for materials used and transportation charges. If materials used on force account Work are not purchased for such Work, but are taken from the Developer's stock, in lieu of invoices, the Developer shall furnish an itemized list of such materials showing that the quantity claimed was actually used and that the price and transportation costs claimed represent the actual cost to the Developer. Invoices must be accompanied by the Developer's notarized statement that payment in full has been made for the materials.

2.5 Idle Costs

Idle Costs shall include only the following direct cost items and no others and shall be determined as follows:

(i) Direct Cost of Idle Labor

Compensation for the direct cost of the actual idle time of labor will be determined in the same manner as provided in Section 2.3(ii). For recovery of this type of cost, however, the Developer must demonstrate that the workers were on the site, were unable to perform their Work, and could not have been shifted to other tasks or jobs.

(ii) Direct Cost of Idle Equipment

Compensation for the direct cost of the actual idle time of equipment will be determined in the same manner as provided in Section 2.3(iv) regarding equipment standing by with approval of the LA DOTD. If the LA DOTD determines that idle equipment should not remain on site during any idle period, then the LA DOTD shall pay the actual, reasonable costs, without markup, to: (a) demobilize the equipment during such period; and (b) remobilize the equipment at the end of such period. Compensation for idle equipment will not be paid while the subject equipment is demobilized from the site during such period.

3. Payment Procedures

3.1 In General

The payment procedures specified in this Section 3.1 shall apply to all payments made in accordance with Section 2 unless expressly provided otherwise in the Contract Documents. No later than the 5th day of each month after the Developer has performed Work eligible for payment as set forth in Section 2, the Developer shall submit to the LA DOTD an invoice for payment for such eligible Work performed in the preceding month in such form as specified by the LA DOTD. The Developer shall keep detailed records of costs and shall submit to the LA DOTD supporting documentation and such other information as the LA DOTD may reasonably require. The LA DOTD will pay the Developer any undisputed amount within 45 days of receipt of a complete invoice.

3.2 Audit

With respect to payments made in accordance with Section 2, the actual costs paid by any Developer Party shall be subject to audit by the LA DOTD. If the LA DOTD determines, pursuant to such audit, that any payment made in accordance with Section 2 exceeds the actual costs paid by any such Developer Party, then the LA DOTD will be entitled to deduct, offset, or withhold such exceeded amount in accordance with Section 25.10(b) of the Agreement.

EXHIBIT H

INSURANCE REQUIREMENTS

Section 1 Insurance Coverages Prior to Final Acceptance

The following insurance coverages are required during the performance of the Design-Build Work. The Developer will obtain and maintain the workers compensation and employer's liability insurance required under Section 1(a). The Developer will obtain and maintain, or cause the Design-Build Contractor to obtain and maintain, with the Developer as a named insured or additional insured, the insurance required under Section 1(b) through Section 1(f), Section 1(h), and Section 1(j). The Developer will obtain and maintain, or cause the Design-Build Contractor or the Lead Designer to obtain and maintain, the professional liability insurance required under and in accordance with Section 1(g). The Developer will obtain and maintain, or cause the Subcontractor that owns any vessel used in the Work to obtain and maintain, with the Developer as a named insured or additional insured, the marine protection and indemnity insurance required under Section 1(i). Policy coverage limits may be achieved through a combination of insurance policies (*e.g.*, primary and/or excess). With respect to the LNTP Work, only the following insurance coverages are required: (1) the workers compensation and employer's liability insurance required under Section 1(a); (2) the commercial general liability insurance required under Section 1(b); (3) the business automobile liability insurance required under Section 1(c); (4) the professional liability insurance required under Section 1(g); and (5) the owner's protective liability policy required under Section 1(j). The Developer shall not proceed with any Design-Build Work other than the LNTP Work without satisfying the coverage requirements for all of the insurance coverages described in this Section 1.

(a) Workers compensation insurance with statutory workers' compensation (Coverage A) limits and employer's liability (Coverage B) limits of $1 million bodily injury by accident, each accident, and $1 million bodily injury by disease, each employee. Coverage shall be extended, if needed, to cover any claims under the United States Longshore and Harbor Workers' Compensation Act (33 USC §§ 901-950) and the Jones Act (46 USC § 30104).

(b) Commercial general liability insurance including coverage for premises and operations, independent contractors, personal injury, product and completed operations, explosion, collapse and underground, and broad form contractual liability of limits of at least $1 million per occurrence and $2 million annual aggregate applicable on a per project basis. The LA DOTD is to be named as an additional insured on a primary, non-contributory basis. Completed operations coverage shall continue to be carried for a period of at least five years after Final Acceptance.

(c) Business automobile liability insurance with a limit of at least $1 million combined single limit for bodily injury and property damage covering all owned (if any), non-owned, hired, or borrowed vehicles on site or off. The LA DOTD is to be named as an additional insured on a primary, non-contributory basis.

(d) Umbrella excess coverage in excess of the underlying limits noted above for employer's liability, commercial general liability, and automobile liability annually reinstating in the amount of $100 million per occurrence and in the aggregate. The LA DOTD is to be named as an additional insured on a primary, non-contributory basis.

(e) Builder's risk insurance and delayed start up insurance for physical loss, physical destruction, or physical damage to the Work. The builder's risk insurance will cover the Developer, the Design-Build Contractor, the LA DOTD, and other Subcontractors of all tiers prior to Final Acceptance; provided, that the limits of such coverage may be based on a probable maximum loss analysis, subject to the LA DOTD's approval of such probable maximum loss analysis by an independent third party acceptable to the LA DOTD. In no event will the limits of such coverage be less than $750 million for the period between NTP and Partial Acceptance and $100 million for the period between Partial Acceptance and Final Acceptance. Coverage will include, but not be limited to, the following: right to partial occupancy; earthquake; earth movement; flood; windstorm; transit; temporary and permanent works; expediting expenses; debris removal; offsite storage; delayed opening and delayed completion with an indemnity period of not less than 12 months. Further, the policy will include sub-limits of (i) no less than $10 million per coverage extension for offsite storage, property in transit, expediting expenses, demolition and increased cost of construction, debris removal, professional fees / loss adjustment expenses, and earthquake; and (ii) no less than $100 million per coverage extension for flood and named wind storm.

(f) If the Project includes work within Railroad right-of-way, railroad protective liability insurance must be purchased on behalf of the Railroad by the Developer. The standards for railroad protective liability insurance must be in accordance with provisions of the Federal Aid Policy Guide (FAPG) Part 646 as amended. The limits of liability must be as follows: combined single limit for bodily injury liability, property damage liability, and physical damage to property: $[2] million per occurrence with an aggregate of $[6] million for the term of the policy. The Developer will furnish to the Railroad the railroad protective liability insurance policy and certificates evidencing the commercial general liability coverage required in Section 1(b). The railroad protective liability insurance policy and insurance certificates must be approved by the Railroad before any Work may be started on the Railroad's property by the Developer, Design-Build Contractor or its Subcontractors. In addition, the Developer will furnish evidence of commitment by the insurance company to notify the Railroad and the LA DOTD in writing of any material change, non-renewal, or cancellation of the policy not less than 30 days (or 10 days in the event of non-payment of premium) before such change, non-renewal, or cancellation is effective. The insurance specified must be kept in force until work within the Railroad right-of-way is completed.

(g) Professional liability coverage on a project-specific basis covering the Design-Build Contractor's liability for acts, errors, or omissions arising in connection with the Design-Build Work, for not less than $25 million any one claim and in the aggregate. Such insurance, which may be purchased and maintained by the Lead Designer or the Design-Build Contractor itself, will remain in full force and effect during the performance of the Design-Build Work and for a period of five years after Final Acceptance. If the Design-Build Contractor would prefer, the LA DOTD will accept a two-policy approach of professional liability insurance carried by

the Lead Designer and contractor's professional liability insurance policy carried by the Design-Build Contractor, with total coverage equaling not less than $25 million for any one claim and in the aggregate, each on a project-specific basis and subject to the same conditions above. The LA DOTD would also consider an approach utilizing a contractors professional protective insurance indemnity policy, identifying both the Design-Build Contractor and Lead Designer as named insureds and subject to the same conditions above. The LA DOTD is to be named on any such policies as an indemnified party.

(h) Contractor's pollution liability insurance to indemnify for bodily injury, property damage, or amounts which the Developer, its employees, its agents, or its Subcontractors are legally obligated to pay for cleanup/remediation work arising out of the Design-Build Work. Such insurance will have minimum limits of $50 million any one claim and in the aggregate and will remain in full force and effect starting at the commencement of construction through five years completed operations extension after Final Acceptance. The LA DOTD is to be named as an additional insured on a primary, non-contributory basis. The Developer shall also, if appropriate, provide coverage for marine operations and for liabilities under the Oil Pollution Act of 1990 (33. U.S. C. §§ 2701 2762) and the Comprehensive Environmental Response, Liability, and Compensation Act (42 U.S. C. §§ 9601 9675) either under the contractor's pollution liability insurance policy or the marine protection and indemnity insurance required in Section 1(i).

(i) Marine protection and indemnity insurance with respect to bodily injury or property damage arising from marine operations including damage to piers, wharves, other fixed or movable structures, and loss or damage to any other vessel, craft, or property on such other vessel or craft. Such insurance will have minimum limits of $10 million in the aggregate. The Developer is not obligated to purchase a Project-specific marine protection and indemnity insurance, but will cause such insurance coverage to name the LA DOTD as an additional insured on a primary, noncontributory basis.

(j) A separate owner's protective liability policy must be supplied by the Developer naming the LA DOTD and the State of Louisiana as named insureds. The required per occurrence/aggregate amount must be $10 million.

Section 2 Insurance Coverages Required for the Project During the Operating Period

The Developer will obtain and maintain, or cause the O&M Contractor to obtain and maintain, the following insurance coverages applicable to the O&M Work. Policy coverage limits may be achieved through a combination of insurance policies (*e.g.*, primary and/or excess) and need not be project-specific unless provided otherwise below.

(a) Workers compensation insurance will required in accordance with Section 1(a).

(b) Commercial general liability insurance will be required in accordance with Section 1(b), except that completed operations coverage shall continue to be carried for a period of at least five years after expiration of the Term.

(c) Business automobile liability insurance will be required in accordance with Section 1(c).

(d) Umbrella excess coverage will be required in accordance with Section 1(d), except that such coverage shall be annually reinstating in the amount of $50 million per occurrence and in the aggregate.

(e) Marine protection and indemnity insurance will be required in accordance with Section 1(i).

(f) Property and business interruption insurance at replacement cost covering the Developer and the LA DOTD for loss, damage, or destruction to the Project, including improvements and betterments; provided, that the limits of such coverage may be based on a probable maximum loss analysis, subject to the LA DOTD's approval of such probable maximum loss analysis by an independent third party acceptable to the LA DOTD. In no event will the limits of such coverage be less than $750 million. Further, the policy will include sub-limits of (i) no less than $10 million per coverage extension for flood; earthquake; earth movement; collapse; water (including overflow) leakage; utility interruption; debris removal; business ordinance or law for increased costs of construction; extra expenses; valuable papers; and terrorism; and (ii) no less than $100 million per coverage extension for named wind storm. Subject to the applicable deductible, such coverage also will insure against interruption or loss of projected Toll Revenues for at least six months from the occurrence of the risk, resulting from physical damage to the Project or any relevant feeder roads. The Developer is responsible for all loss or damage to personal property (including but not limited to materials, fixtures/contents, equipment, tools, and supplies) of the Developer.

(g) Pollution liability insurance to indemnify for bodily injury, property damage, or amounts which the Developer, its employees, its agents, or its Subcontractors are legally obligated to pay for cleanup/remediation work arising out of the O&M Work. Such insurance will have minimum limits of $5 million any one claim and in the aggregate. The LA DOTD is to be named as an additional insured on a primary, non-contributory basis. The Developer shall also, if appropriate, provide coverage for marine operations and for liabilities under the Oil Pollution Act of 1990 (33 USC §§ 2701-2762) and the Comprehensive Environmental Response, Liability, and Compensation Act (42 USC §§ 9601-9675) under the contractor's pollution liability insurance policy or marine protection indemnity insurance required in Section 2(e).

(h) If the Project includes construction work within a Railroad right-of-way, railroad protective liability insurance must be purchased on behalf of the Railroad by the Developer or O&M Contractor for the period of construction within the Railroad right-of-way. The standards for railroad protective liability insurance must be in accordance with provisions of the Federal Aid Policy Guide (FAPG) Part 646 as amended. The limits of liability must be as follows: combined single limit for bodily injury liability, property damage liability, and physical damage to property: $[2] million per occurrence with an aggregate of $[6] million for the term of the policy. The Developer will furnish to the Railroad the railroad protective liability insurance policy and certificates evidencing the commercial general liability coverage required in Section 2(b). The railroad protective liability insurance policy and insurance certificates must be

approved by the Railroad before any Construction Work may be started on the Railroad's property by the Developer, O&M Contractor or its Subcontractors. In addition, the Developer will furnish evidence of commitment by the insurance company to notify the Railroad and the LA DOTD in writing of any material change, non-renewal, or cancellation of the policy not less than 30 days (or 10 days in the event of non-payment of premium) before such change, non-renewal, or cancellation is effective.

(i) Professional liability insurance covering the O&M Contractor for liabilities arising out of the provision of professional services with a limit of not less than $3 million any one claim and in the aggregate. Such insurance, which may be purchased and maintained by the O&M Contractor's lead design engineer or the O&M Contractor itself, will remain in full force and effect annually during the Operating Period when Work subject to professional liability insurance is planned to be performed in accordance with the Maintenance Management Plan, and with an extended reporting period for five years after such professional services are completed. If the O&M Contractor is not an insured under the lead design engineer's policy, the O&M Contractor will maintain a separate contractor's professional liability insurance policy for each period where such insurance coverage is required pursuant to this Section 2(i) and for at least five years thereafter with a limit not less than $3 million per claim and in the aggregate. The LA DOTD would also consider an approach utilizing a contractors professional protective insurance indemnity policy, subject to review and approval of details.

(j) A separate owner's protective liability policy must be supplied by the Developer naming the LA DOTD and the State of Louisiana as named insureds. The required per occurrence/aggregate amount must be $5 million.

Section 3 Additional Insurance Requirements

(a) The following shall apply with respect to all insurance required in this Exhibit H:

(1) The insurance company(ies) issuing the policy(ies) must have no recourse against the State of Louisiana and the LA DOTD for payment of any premiums or for assessments under any form of the policy; and

(2) Any and all deductibles and self-insured retentions in the above described insurance policy(ies) must be assumed by and be at the sole risk of the Developer and its Subcontractors.

(b) Insurance is to be placed with insurance companies authorized in the State of Louisiana with an A. M. Best's rating of A-: VI or higher. This rating requirement may be waived for workers compensation coverage only.

(c) Should any policies be canceled, the Developer will immediately after obtaining knowledge of such cancelation notify the LA DOTD.

(d) Subject to Section 16.04 of the Agreement, upon failure of the Developer to furnish, deliver, and maintain such insurance as required or provide proof of insurance on a yearly basis or as requested by the LA DOTD, the Agreement, at the election of the LA DOTD,

may be immediately declared suspended, discontinued, or terminated in accordance with the Contract Documents until the Developer provides evidence of compliance. Failure of the Developer to maintain any required insurance will not relieve the Developer from any liability under the Agreement, nor will the insurance requirements be construed to conflict with the obligations of the Developer concerning indemnification under the Agreement.

(e) The Developer is responsible for requiring and verifying that all Subcontractors working on the Project maintain appropriate types and levels of insurance coverage.

EXHIBIT I

DESIGN-BUILD PAYMENT AND PERFORMANCE BONDS FORM

Be it known that _____ as Principal ***[Insert name of Developer, Design-Build Contractor or other Subcontractor]*** and _____ as Surety(ies), meeting the requirements of Louisiana Revised Statutes 48:255(D), hereby bind themselves, in solido, to _____***[Option 1: Insert the Louisiana Department of Transportation and Development (LA DOTD) if Principal is Developer] [Option 2: Insert Developer if Principal is Design-Build Contractor or other Subcontractor and include the Louisiana Department of Transportation and Development (LA DOTD) and any other additional obligees by executing the attached rider]***, and other potential claimants, for all obligations incurred by the Principal under its Contract for the design and construction of State Project No. H.003931, in 50% of the Design-Build Price ($***[Insert 50% of the total contract amount of the Design-Build Contract]***) for the Payment Bond and in 50% of the full Design-Build Price ($***[Insert 50% of the total contract amount of the Design-Build Contract]***) for the Performance Bond. The obligations of the Principal and Surety under these Payment and Performance Bonds must continue in full force and effect until all materials, equipment, and labor have been provided for the design and construction of the Project, and all requirements contained in the Contract for the design and construction of the Project have been completed in a timely, thorough, and workmanlike manner. The parties acknowledge that these Bonds are given under the provisions and limitations contained in Louisiana Revised Statutes 48:250, et seq.

By this instrument(s), the Principal and Surety(ies) specifically bind themselves and their heirs, successors, and assigns, in solido, under the following Bonds:

PAYMENT BOND. To _____***[Option 1: Insert the Louisiana Department of Transportation and Development (LA DOTD) if Principal is Developer] [Option 2: Insert Developer if Principal is Design-Build Contractor or other Subcontractor and include the Louisiana Department of Transportation and Development (LA DOTD) and any other additional obligees by executing the attached rider]*** and all "Claimants," as defined in Louisiana Revised Statutes 48:256.5, in the full sum of $***[Insert 50% of the total contract amount of the Design-Build Contract]*** (50% of the Design-Build Price), in order to secure the full and timely claims under the I-10 Calcasieu River Bridge Public-Private Partnership Project (Project) for the design and construction of the Project. The parties agree this Bond is statutory in nature and governed by Louisiana Revised Statutes 48:256.3. Claims pursuant to Louisiana Revised Statutes

48:256.5 must be made to the Undersecretary, LA DOTD, Headquarters Administration Building, Room 302G, 1201 Capitol Access Road, Baton Rouge, LA 70802.

PERFORMANCE BOND. To _____***[Option 1: Insert the Louisiana Department of Transportation and Development (LA DOTD) if Principal is Developer] [Option 2: Insert Developer if Principal is Design-Build Contractor or other Subcontractor and include the Louisiana Department of Transportation and Development (LA DOTD) and any other additional obligees by executing the attached rider]*** in the full sum of $***[Insert 50% of the total contract amount of the Design-Build Contract]*** (50% of the Design-Build Price), in order to secure the full and faithful performance and timely completion of design and construction of the Project according to the Contract, inclusive of overpayments to ***[Insert name of Developer, Design-Build Contractor or other Subcontractor]*** and stipulated damages as assessed.

Surety agrees that the performance bond is subject to rights of the lenders pursuant to the Direct Agreement dated **[●]** between the LA DOTD and the Developer. *[Note: This language will be deleted if there is no Direct Agreement]*

In witness whereof we have signed this instrument as dated.

[Insert name of Developer, Design-Build Contractor or other Subcontractor]

_____ By: _____

Witness Principal Date

Surety

_____ By: _____

Witness Attorney-in-Fact (Seal) Date

Surety

_____ By: _____

Witness Attorney-in-Fact (Seal) Date

A copy of the Comprehensive Agreement and subsequent correspondence/communication from LA DOTD with respect to the Design-Build Payment and Performance Bonds should be directed to:

SURETY	SURETY
Agent or Representative	Agent or Representative
Address	Address
Telephone Number	Telephone Number
Facsimile Number	Facsimile Number

EXHIBIT I-A

MULTIPLE OBLIGEE RIDER DESIGN-BUILD PAYMENT AND PERFORMANCE BONDS FORM

This Rider is executed concurrently with and shall be attached to and form a part of Bond No. **[●]** ("Design-Build Payment and Performance Bonds").

WHEREAS, on or about the _____ day of _____, 20____, _____***[Insert name of Design-Build Contractor or other Subcontractor]***, ("Principal"), entered into a contract bearing the date of _____, 20__ ("Contract") with _____***[Insert name of Developer]***, ("Primary Obligee") related to the performance of design and construction work for the I-10 Calcasieu River Bridge Public-Private Partnership Project ("Project"); and

WHEREAS, the Primary Obligee requires that Principal provide the Design-Build Payment and Performance Bonds and that the Louisiana Department of Transportation and Development (LA DOTD) [and _____ ***[Insert Collateral Agent, if appropriate]***] ("Additional Obligee(s)") be named as additional obligee(s) under the Design-Build Payment and Performance Bonds; and

WHEREAS, Principal and the Surety identified below have agreed to execute and deliver this Rider concurrently with the issuance of the Design-Build Payment and Performance Bonds, upon the conditions herein stated.

NOW, THEREFORE, the undersigned hereby agree and stipulate as follows:

1. The Additional Obligee(s) is/are hereby added to the Design-Build Payment and Performance Bonds as named obligee(s).

2. The aggregate liability of the Surety to the Primary Obligee and the Additional Obligee(s) is limited to the sum of the Design-Build Payment and Performance Bonds.

3. The Additional Obligee(s)'s rights under the Design-Build Payment and Performance Bonds are subject to the same defenses that the Principal and/or the Surety have against the Primary Obligee.

In witness whereof we have signed this instrument as dated.

[Insert name of Design-Build Contractor or other Subcontractor]

_____ By _____

Witness Principal Date

Surety

_____ By_____

Witness

Attorney-in-Fact (Seal) Date

Surety

_____ By_____

Witness

Attorney-in-Fact (Seal) Date

EXHIBIT J

O&M PAYMENT AND PERFORMANCE BONDS FORM

Be it known that _____ as Principal ***[Insert name of Developer or O&M Contractor]*** and _____ as Surety(ies), meeting the requirements of Louisiana Revised Statutes 48:255(D), hereby bind themselves, *in solido*, to _____ ***[Option 1: Insert the Louisiana Department of Transportation and Development (LA DOTD) if Principal is Developer] [Option 2: Insert Developer if Principal is Maintenance Contractor and include the Louisiana Department of Transportation and Development (LA DOTD) and any other additional obligees by executing the attached rider]***, and other potential claimants, for all obligations incurred by the Principal under its Contract for the maintenance of State Project No. H.003931, in the amount of $***[Insert amount required under Section 16.07(b) of the Comprehensive Agreement]*** for the Payment Bond and in the amount of $***[Insert amount required under Section 16.07(b) of the Comprehensive Agreement]*** for the Performance Bond. The obligations of the Principal and Surety under these Payment and Performance Bonds must continue in full force and effect until all materials, equipment, and labor have been provided for the maintenance of the Project, and all requirements contained in the Contract for the maintenance of the Project have been completed in a timely, thorough, and workmanlike manner. The parties acknowledge that these Bonds are given under the provisions and limitations contained in Louisiana Revised Statutes 48:250, *et seq*.

By this instrument(s), the Principal and Surety(ies) specifically bind themselves and their heirs, successors, and assigns, *in solido*, under the following Bonds:

PAYMENT BOND. To _____ ***[Option 1: Insert the Louisiana Department of Transportation and Development (LA DOTD) if Principal is Developer] [Option 2: Insert Developer if Principal is Maintenance Contractor and include the Louisiana Department of Transportation and Development (LA DOTD) and any other additional obligees by executing the attached rider]*** and all "Claimants," as defined in Louisiana Revised Statutes 48:256.5, in the full sum of $***[Insert amount required under Section 16.07(b) of the Comprehensive Agreement]*** in order to secure the full and timely claims under the I-10 Calcasieu River Bridge Public-Private Partnership Project (Project) for the maintenance of the Project. The parties agree this Bond is statutory in nature and governed by Louisiana Revised Statutes 48:256.3. Claims pursuant to Louisiana Revised Statutes 48:256.5 must be made to the Undersecretary, LA DOTD, Headquarters Administration Building, Room 302G, 1201 Capitol Access Road, Baton Rouge, LA 70802.

PERFORMANCE BOND. To _____ ***[Option 1: Insert the Louisiana Department of Transportation and Development (LA DOTD) if Principal is Developer] [Option 2: Insert Developer if Principal is***

Maintenance Contractor and include the Louisiana Department of Transportation and Development (LA DOTD) and any other additional obligees by executing the attached rider] in the full sum of $***[Insert amount required under Section 16.07(b) of the Comprehensive Agreement]***, in order to secure the full and faithful performance and timely completion of maintenance of the Project according to the Contract, inclusive of overpayments to ***[Insert name of Developer or O&M Contractor]*** and stipulated damages as assessed.

Surety agrees that the performance bond is subject to rights of the lenders pursuant to the Direct Agreement dated **[●]** between the LA DOTD and the Developer. ***[Note: This language will be deleted if there is no Direct Agreement]***

In witness whereof we have signed this instrument as dated.

[Insert name of Developer or O&M Contractor]

_____ By _____ _____
Witness Principal Date

[Insert name of Surety]

_____ By_____ _____
Witness Attorney-in-Fact (Seal) Date

[Insert name of Surety]

_____ By_____ _____
Witness Attorney-in-Fact (Seal) Date

A copy of the Comprehensive Agreement and subsequent correspondence/communication from LA DOTD with respect to the O&M Payment and Performance Bonds should be directed to:

SURETY	SURETY
Agent or Representative	Agent or Representative
Address	Address
Telephone Number	Telephone Number
Facsimile Number	Facsimile Number

EXHIBIT J-A

MULTIPLE OBLIGEE RIDER O&M
PAYMENT AND PERFORMANCE BONDS FORM

This Rider is executed concurrently with and shall be attached to and form a part of Bond No. _____ ("O&M Payment and Performance Bonds").

WHEREAS, on or about the _____ day of _____, 20____, _____***[Insert name of O&M Contractor]***, ("Principal"), entered into a contract bearing the date of _____, 20__ ("Contract") with _____***[Insert name of Developer]***, ("Primary Obligee") related to the performance of the maintenance work for the I-10 Calcasieu River Bridge Public-Private Partnership Project ("Project"); and

WHEREAS, the Primary Obligee requires that Principal provide the Maintenance Payment and Performance Bonds and that the Louisiana Department of Transportation and Development (LA DOTD) [and _____ ***[Insert Collateral Agent, if appropriate]***] ("Additional Obligee(s)") be named as additional obligee(s) under the O&M Payment and Performance Bonds; and

WHEREAS, Principal and the Surety identified below have agreed to execute and deliver this Rider concurrently with the issuance of the O&M Payment and Performance Bonds, upon the conditions herein stated.

NOW, THEREFORE, the undersigned hereby agree and stipulate as follows:

1. The Additional Obligee(s) is/are hereby added to the O&M Payment and Performance Bonds as named obligee(s).

2. The aggregate liability of the Surety to the Primary Obligee and the Additional Obligee(s) is limited to the sum of the O&M Payment and Performance Bonds.

3. The Additional Obligee(s)'s rights under the O&M Payment and Performance Bonds are subject to the same defenses that the Principal and/or the Surety have against the Primary Obligee.

In witness whereof we have signed this instrument as dated.

[Insert name of Developer or O&M Contractor]

_____ By: _____

Witness Principal Date

[Insert name of Surety]

_____ By: _____

Witness Attorney-in-Fact (Seal) Date

[Insert name of Surety]

_____ By: _____

Witness Attorney-in-Fact (Seal) Date

EXHIBIT K

FEDERAL REQUIREMENTS

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Attachment A Louisiana Department of Transportation and Development Required Contract Provisions for Federal-Aid Construction Contracts

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Attachment F Supplemental Specifications for On-the-Job-Training

ATTACHMENT A

LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

REQUIRED PROVISIONS FOR FEDERAL-AID CONSTRUCTION PROJECTS

GENERAL. — The Work herein proposed will be financed in whole or in part with federal funds, and therefore all of the statutes, rules, and regulations promulgated by the federal government and applicable to work financed in whole or in part with federal funds will apply to such Work. The "Required Contract Provisions, Federal-Aid Construction Contracts, Form FHWA 1273," are included in this Attachment A – Louisiana Department of Transportation and Development Required Provisions for Federal-Aid Construction Projects." When utilized in the "Required Contract Provisions, Federal-Aid Construction Contracts, Form FHWA 1273," the following terms will have the following meanings:

(A) "SHA contracting officer," "SHA resident engineer," or "authorized representative of the SHA" shall be construed to mean LA DOTD or its authorized representative, including the Department's Project Manager;

(B) "Contractor," "prime contractor," "bidder," or "prospective primary participant" shall be construed to mean the Developer or its authorized representative, including any of its Key Personnel;

(C) "Contract" or "prime contract" shall be construed to mean the Comprehensive Agreement between the Developer and LA DOTD for the Project, including all of the Contract Documents referenced therein;

(D) "Subcontractor," "supplier," "vendor," "prospective lower tier participant," or "lower tier subcontractor" shall be construed to mean any Subcontractor or Supplier; and

(E) "Department," "agency," or "department or agency entering into this transaction" shall be construed to mean the LA DOTD, except where a different department or agency is specified.

NON-COLLUSION PROVISION. — The provisions in this section are applicable to all contracts except contracts for Federal Aid Secondary Projects. Title 23, United States Code, Section 112, requires as a condition precedent to approval by the Federal Highway Administrator of the Contract for this Work that each Proposer file a sworn statement executed by, or on behalf of, the person, firm, association, or corporation to whom such Contract is to be awarded, certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted Proposal. A form to make the non-collusion affidavit statement required by 23 U.S.C. 112 is included in the Request for Proposals (RFP). (*See* Instructions to Proposers, Appendix C – Proposal Forms, Form of Proposal.)

CONVICT PRODUCED MATERIALS

(A) Federal Highway Administration federal-aid projects are subject to 23 Code of Federal Regulations (CFR) 635.417, entitled "Convict produced materials."

(B) Materials produced after July 1, 1991, by convict labor may only be incorporated in a federal-aid highway construction project if such materials have been: (i) produced by convicts who are on parole, supervised release, or probation from a prison; or (ii) produced in a prison project in which convicts, during the 12 month period ending July 1, 1987, produced materials for use in federal-aid highway construction projects, and the cumulative annual production amount of such materials for use in federal-aid highway construction does not exceed the amount of such materials produced in such project for use in federal-aid highway construction during the 12 month period ending July 1, 1987.

ACCESS TO RECORDS

(A) As required by 49 CFR 18.36(i)(10), the Design-Builder and its Subcontractors shall allow FHWA and the Comptroller General of the United States, or their duly authorized representatives, access to all books, documents, papers, and records of the Design-Builder and Subcontractors which are directly pertinent to any grantee or subgrantee contract, for the purpose of making audit, examination, excerpts, and transcriptions thereof.

(B) The Design-Builder agrees to include this section in each subcontract at each tier, without modification except as appropriate to identify the Subcontractor that will be subject to its provisions.

FHWA-1273 -- Revised July 5, 2022

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Non-segregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
XI. Certification Regarding Use of Contract Funds for Lobbying
XII. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to

material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 601.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (*see* 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

> "It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the

EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

(1) Withholding monthly progress payments;

(2) Assessing sanctions;

(3) Liquidated damages; and/or

(4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than $10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 “Contract provisions and related matters” with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to

exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account

assets for the meeting of obligations under the plan or program.

2. Withholding (29 CFR 5.5)

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records (29 CFR 5.5)

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from

the full wages earned, other than permissible deductions as set forth in 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees (29 CFR 5.5)

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility (29 CFR 5.5)

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1 of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 of this section. 29 CFR 5.5.

* $27 as of January 23, 2019 (See 84 FR 213-01, 218) as may be adjusted annually by the Department of Labor; pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990).

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this section. 29 CFR 5.5.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section. 29 CFR 5.5.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term “perform work with its own organization” in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on longstanding interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers,

contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of $150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.326.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.326.

. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting

agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. “First Tier Covered Transactions” refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or

destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

3. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible

for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(b) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(c) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be

included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B) This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State

Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

ATTACHMENT B

LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

REQUIRED CONTRACT PROVISIONS FOR
DBE PARTICIPATION IN FEDERAL AID CONTRACTS
(DBE GOAL PROJECT)

A. AUTHORITY AND DIRECTIVE: The Code of Federal Regulations, Title 49, Part 26 (49 CFR Part 26) as amended and the Louisiana Department of Transportation and Development's (DOTD) Disadvantaged Business Enterprise (DBE) Program are hereby made a part of and incorporated by this reference into this contract. Copies of these documents are available, upon request, from DOTD Compliance Programs Office, P.O. Box 94245, Baton Rouge, LA 70804-9245.

B. POLICY: It is the policy of the DOTD that it shall not discriminate on the basis of race, color, national origin, or sex in the award of any United States Department of Transportation (US DOT) financially assisted contracts or in the administration of its DBE program or the requirements of 49 CFR Part 26. The DOTD shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT assisted contracts. The DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification of failure to carry out the approved DBE program, the US DOT may impose sanctions as provided for under 49 CFR Part 26 and may in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C.3801 et seq.).

C. DBE OBLIGATION: The design-builder, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The design-builder shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT assisted contracts. Failure by the design-builder to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the DOTD deems appropriate.

The preceding policy and DBE obligation shall apply to this design-build contract and shall be included in the requirements of any subcontract. Failure to carry out the requirements set forth therein shall constitute a breach of contract and, after notification by DOTD, may result in termination of the contract, a deduction from the contract funds due or to become due the design-builder or other such remedy as DOTD deems appropriate. The design-builder is encouraged to use the services offered by banks in the community which are owned and controlled by minorities or women when feasible and beneficial. The term DBE is inclusive of women business enterprises (WBE) and all obligations applicable to DBE shall apply to firms certified and listed as WBE.

D. FAILURE TO COMPLY WITH DBE REQUIREMENTS: The design-builder that is awarded this contract and all subcontractors are hereby advised that failure to carry out the requirements set forth above and in Section G shall constitute a breach of contract and, after notification by DOTD may result in action taken by DOTD as specified in Heading G(6) below. Failure to comply with the DBE requirements shall include but not be limited to failure to meet the established goal and/or failure to submit documentation of good faith efforts; failure to exert a reasonable good faith effort (as determined by DOTD) to meet established goals; and failure to realize the DBE participation set forth on approved Form CS-6AAA (DB) and attachments. The utilization of DBE is in addition to all other equal opportunity requirements of the contract. The design-builder shall include the provisions in Sections B, C and D of these provisions in subcontracts so that such provisions will be binding upon each subcontractor, regular dealer, manufacturer, consultant, or service agency.

E. ELIGIBILITY OF DBE: The DOTD maintains a current list containing the names of firms that have been certified as eligible to participate as DBE on US DOT assisted contracts. This list is not an endorsement of the quality of performance of the firm but is simply an acknowledgment of the firm's eligibility as a DBE. Only DBE listed on this list may be utilized to meet the established DBE goal for these projects.

F. COUNTING DBE PARTICIPATION TOWARD DBE GOALS: DBE participation toward attainment of the goal will be credited on the basis of total subcontract prices agreed to between the design-builder and subcontractors for the work or portions of work being sublet as reflected on Form CS-6AAA (DB) and attachments, in accordance with the DOTD DBE Program, and the following criteria.

(1) Credit will only be given for use of DBE that are certified by the Louisiana Unified Certification Program. Certification of DBE by other agencies is not recognized.

(2) The total value of subcontracts awarded for construction and services to an eligible DBE is counted toward the DBE goal provided the DBE performs a commercially useful function. The design-builder is responsible for ensuring that the goal is met using DBE that perform a commercially useful function.

The design-builder shall operate in a manner consistent with the guidelines set forth in the DOTD DBE Program. A commercially useful function is performed when a DBE is responsible for the execution of a distinct element of work by actually managing, supervising, and performing the work in accordance with standard industry practices except when such practices are inconsistent with 49 CFR Part 26 as amended, and the DOTD DBE Program, and when the DBE receives due compensation as agreed upon for the work performed. To determine whether a DBE is performing a commercially useful function, the DOTD shall evaluate the work subcontracted in accordance with the DOTD DBE Program, industry practices and other relevant factors. When an arrangement between the design-builder and the DBE represents standard industry practice, if such arrangement erodes the ownership, control or independence of the DBE, or fails to meet the commercially useful function requirement, the design-builder will not receive credit toward the goal.

(3) A DBE design builder may count only the contract amount toward DBE participation for work he/she actually performs and for which he/she is paid. Any subcontract amounts awarded to certified DBE by a DBE prime will also be credited toward DBE participation provided the DBE subcontractor performs a commercially useful function.

(4) A design-builder may count toward the DBE goal 100 percent of verified delivery fees paid to a DBE trucker. The DBE trucker must manage and supervise the trucking operations with its own employees and use equipment owned by the DBE trucker. No credit will be counted for the purchase or sale of material hauled unless the DBE trucker is also a DOTD certified DBE supplier. No credit will be counted unless the DBE trucker is an approved subcontractor.

(5) A design-builder may count toward the DBE goal that portion of the dollar value with a joint venture equal to the percentage of the ownership and control of the DBE partner in the joint venture. Such crediting is subject to a favorable DOTD review of the joint venture agreement. The joint venture agreement shall include a detailed breakdown of the following:

a. Contract responsibility of the DBE for specific items of work.

b. Capital participation by the DBE.

c. Specific equipment to be provided to the joint venture by the DBE.

d. Specific responsibilities of the DBE in the control of the joint venture.

e. Specific manpower and skills to be provided to the joint venture by the DBE.

f. Percentage distribution to the DBE of the projected profit or loss incurred by the joint venture.

(6) A design-builder may count toward the DBE goal only expenditures for materials and supplies obtained from DBE suppliers and manufacturers in accordance with the following:

a. The DBE supplier assumes actual and contractual responsibility for the provision of materials and supplies.

b. The design-builder may count 100 percent of expenditures made to a DBE manufacturer provided the DBE manufacturer operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the design-builder.

c. The design-builder may count 60 percent of the expenditures to DBE suppliers who are regular dealers but not manufacturers, provided the DBE supplier performs a

commercially useful function in the supply process including buying the materials or supplies, maintaining an inventory, and selling materials regularly to the public. Dealers in bulk items such as steel, cement, aggregates and petroleum products are not required to maintain items in stock, but they must own or operate distribution equipment. The DBE supplier shall be certified as such by DOTD.

d. A DBE may not assign or lease portions of its supply, manufactured product, or service agreement without the written approval of the DOTD.

(7) A design-builder may count toward the DBE goal reasonable expenditures to DBE firms including fees and commissions charged for providing a bona fide service; fees charged for hauling materials unless the delivery service is provided by the manufacturer or regular dealer as defined above; and fees and commissions for providing any bonds or insurance specifically required for the performance of the contract.

(8) The design-builder will not receive credit if the design-builder makes direct payment to the material supplier. However, it may be permissible for a material supplier to invoice the design-builder and DBE jointly and be paid by the design-builder making remittance to the DBE firm and material supplier jointly. Prior approval by DOTD is required.

(9) The design-builder will not receive credit toward the DBE goal for any subcontracting arrangement contrived to artificially inflate the DBE participation.

G. DOCUMENTATION AND PROCEDURE: This project has specific DBE goal requirements set forth in the design-build contract. The design-builder hereby certifies that:

(1) The goal for DBE participation prescribed in the design-build contract shall be met or exceeded and arrangements will be made with certified DBE or good faith efforts made to meet the goal will be demonstrated.

(2) Affirmative actions have been taken to seek out and consider DBE as potential subcontractors. The design-builder shall contact DBE to solicit their interest, capability, and prices in sufficient time to allow them to respond effectively, and shall retain, on file, proper documentation to substantiate their good faith efforts

(3) Form CS-6AAA (DB) and "Attachment to Form CS-6AAA (DB)" shall be submitted by the design-builder at least 45 days prior to the work being performed by each DBE performing work under the contract. Submittals **must** be entered online at http://www.dotd.la.gov/administration/compliance/cs6aaa/home.aspx within 45 days of the subcontractor starting work. If necessary, the Good Faith Efforts Documentation Form will also be filled out online at this time. Once reviewed and after the Form CS-6AAA (DB) and attachments are approved, an email will be sent back to the design-builder to obtain the required signatures. After signatures are obtained, the original forms must then be received by the DOTD Compliance Programs Office within 30 days of the subcontractor starting work.

a. The names of DBE subcontractors that will actually participate in meeting the contract goal; and

b. A complete description of the work to be performed by the DBE; and

c. The total dollar value of work that can be credited toward the contract goal; and

d. Any assistance to be provided to the DBE; and

e. The original signature of each DBE and the design-builder attesting that negotiations are in progress and that it is the intention of the parties to enter into a subcontract within 30 calendar days.

It shall be the design-builder's responsibility to ascertain the certification status of designated DBEs. The certification status will be determined as of the date of submission of Form CS-6AAA (DB) and attachments. An extension of time for submittal of Form CS-6AAA (DB) and attachments will not be granted. Questionable technical points will be cleared with the DOTD Compliance Programs Office within the time period allowed. If the documentation required is not provided in the time and manner specified, DOTD will take the actions specified in Heading (6) below.

(4) If the design-builder is not able to meet the DBE goal, the DBE firms that can meet a portion of the goal shall be listed on the form CS-6AAA (DB). Form CS-6AAA (DB) and attachments shall be completed and submitted in accordance with Heading (3) above. Form CS-6AAA (DB) shall indicate the DBE participation which has been secured along with documentation of good faith efforts. The design-builder shall document and submit justification stating why the goal could not be met and demonstrate the good faith efforts as shown in Section J.

For consideration, good faith efforts shall include the requirements listed in these provisions as well as other data the contractor feels is relevant.

(5) Form CS-6AAA (DB) and attachments, and documentation of good faith efforts, when appropriate, will be reviewed by DOTD. The information provided shall be accurate and complete.

(6) Unless good faith efforts is established, a design-builder’s failure, neglect, or refusal to submit Form CS-6AAA (DB) and attachments committing to meet or exceed the DBE goal within the specified time frame shall constitute a breach of contract and, after notification by DOTD, may result in termination of the contract; a deduction from the contract due or to become due the design-builder; or other such remedy as DOTD deems appropriate. The DOTD DBE Oversight Committee will review the design-builder’s reasons for not meeting these DBE Provisions and make a determination.

(7) The design-builder has the right to appeal the DOTD's findings and rulings to the DOTD Chief Engineer. The design-builder may present information to clarify the

previously submitted documentation. The decision rendered by the DOTD Chief Engineer will be administratively final. There shall be no appeal to the US DOT.

H. POST AWARD COMPLIANCE

(1) If the contract is awarded and subsequently executed, such award and execution will not relieve the design-builder of the responsibility to continue exerting good faith efforts. The design-builder shall submit documentation of good faith efforts http://www.dotd.la.gov/administration/compliance/cs6aaa/home.aspx with requests to sublet prior to approval of subcontracting work being performed on the project.

(2) The design-builder shall establish a program which will effectively promote increased participation by DBE in the performance of contracts and subcontracts. The design-builder shall also designate and make known to the DOTD a liaison officer who will be responsible for the administration of the design-builder's DBE program.

(3) The design-builder shall enter into subcontracts or written agreements with the DBE identified on Form CS-6AAA (DB) and attachments for the kind and amount of work specified. The subcontracting requirements of the contract will apply. The design-builder shall submit copies of subcontracts or agreements with DBE to DOTD upon request.

(4) The design-builder shall keep each DBE informed of the construction progress schedule and allow each DBE adequate time to schedule work, stockpile materials, and otherwise prepare for the subcontract work.

(5) At any point during the project when it appears that the scheduled amount of DBE participation may not be achieved, the design-builder shall provide evidence demonstrating how the goal will be met.

(6) If the design-builder is unable to demonstrate to the DOTD's satisfaction that it failed to achieve the scheduled DBE participation and that good faith efforts have been used to obtain the scheduled contract participation, the DOTD may withhold an amount equal to the difference between the DBE goal and the actual DBE participation achieved as damages.

(7) When the DOTD has reason to believe the design-builder, subcontractor, or DBE may not be operating in compliance with the terms of these DBE provisions, to include, but not be limited to the encouragement of fronting, brokering, or not providing a commercially useful function, the DOTD will conduct an investigation of such activities with the cooperation of the parties involved. If the DOTD finds that any person or entity is not in compliance, the DOTD will notify such person or entity in writing as to the specific instances or matters found to be in noncompliance.

At the option of the DOTD, the person or entity may be allowed a specified time to correct the deficiencies noted and to achieve compliance. In the event that the person or entity cannot achieve compliance, or fails or refuses to do so, the DOTD reserves the right to

initiate action against the design-builder which may include but not be limited to terminating the contract; withholding payment equal to the shortfall amount until corrective action is taken; or other action the DOTD deems appropriate. The design-builder has the right to appeal the DOTD's finding and rulings to the DOTD Chief Engineer. The decision rendered by the DOTD Chief Engineer will be administratively final.

The design-builder may present additional information to clarify that previously submitted. Any new information not included in the original submittal will not be used in the final determination. The decision rendered by the DOTD Chief Engineer will be administratively final.

(8) To ensure that the obligations under subcontracts awarded to subcontractors are met, the DOTD will review the design-builder's efforts to promptly pay subcontractors for work performed in accordance with the executed subcontracts. The design-builder shall promptly pay subcontractors and suppliers, including DBE, their respective subcontract amount within 14 calendar days after the design-builder receives payment from DOTD for the work satisfactorily performed by the subcontractors in accordance with Louisiana Revised Statute 9:2784. The design-builder shall provide the DBE with a full accounting of any deductions made from the DBE's payment at the time the check is delivered. Retainage may not be held by the design-builder. Delay or postponement of payment to the subcontractor may be imposed by the design-builder only when there is evidence that the subcontractor has failed to pay its labor force and suppliers for materials received and used on the project. Delay or postponement of payment must have written approval by the Project Manager. Failure to promptly pay subcontractors or to release subcontractors' retainage shall constitute a breach of contract and after notification by the DOTD may result in (1) a deduction from the contract funds due or to become due the design-builder, (2) disqualification of a design-builder as a proposer or bidder on future projects, or (3) any other such remedy under the contract as DOTD deems appropriate. All subcontracting agreements made by the design-builder shall include the current payment to subcontractors' provisions as incorporated in the contract. All disputes between design-builders and subcontractors relating to payment of completed work or retainage shall be referred to the DBE Oversight Committee. Members of the DBE Oversight Committee are: a designee by the Chief Engineer; the DOTD Compliance Programs Director; and an FHWA Division Representative.

(9) The design-builder shall submit DOTD Forms OMF-1A (DB), Request to Sublet and OMF-2A (DB), Subcontractor's EEO Certification. These forms shall be approved by DOTD before any subcontract work is performed.

(10) DOTD reserves the right to withhold any payment from the design-builder when it is determined that a DBE is not performing a commercially useful function or that achievement of the goal is in jeopardy. Payment may be withheld in the amount of the DBE goal that is in jeopardy until either the design-builder submits to DOTD a revised plan for achieving the contract goal and the plan is approved, or the DBE goal amount in question has been met.

(11) The DOTD will monitor the design-builder's DBE involvement during the contract, the level of effort by the design-builder in meeting or exceeding the goal requirements in the contract, the design-builder's attempts to do so, and the efforts in soliciting such involvement. If, at the completion of the project, the design-builder has failed to meet the DBE goal and has not demonstrated good faith efforts or obtained a waiver or reduction of the goal, DOTD will withhold an amount equal to the difference between the DBE goal and the actual DBE participation achieved as damages.

I. SUBSTITUTIONS OF DBE FIRMS

(1) The design-builder shall conform to the scheduled amount of DBE participation.

(2) Contract work designated to be performed by the DBE on Form CS-6AAA (DB) and attachments shall be performed by the designated DBE or DOTD approved substitute. Substitutions of named DBE shall be approved in writing by the DOTD Compliance Programs Section. Substituted DBE shall not commence work until the design-builder is able to demonstrate that the listed DBE is unable to perform because of default, overextension on other jobs, or other acceptable justification. It is not intended that a design-builder's ability to negotiate a more advantageous contract with another subcontractor be considered a valid basis for change. Substitution of DBE will be allowed only when the DBE is unable to perform due to default, overextension on other jobs, or other similar justification. Evidence of good faith efforts exerted by the design-builder shall be submitted to DOTD for approval. Work eliminated from the project will not diminish the design-builder’s DBE participation.

(3) Under no circumstances will a design-builder perform work originally designated to be performed by a DBE without prior written approval from the DOTD Compliance Programs Section.

(4) When a listed DBE is unwilling or unable to perform the items of work specified in the Form CS-6AAA (DB) and attachments, the design-builder shall immediately notify the DOTD Compliance Programs Section.

When a design-builder's request to be relieved of the obligation to use the named DBE results in a DBE Goal shortfall, the design-builder shall immediately take steps to obtain another certified DBE to perform an equal amount of allowable credit work or make documented good faith efforts to do so. The new DBE's name and designated work shall be submitted to the DOTD for approval using Form OMF-1A, Request to Sublet, prior to proceeding with the work.

If the design-builder is unable to replace a defaulting DBE with another DBE for the applicable work, a good faith effort shall be made to subcontract other work to DBE for the purpose of meeting the goal. The DOTD Compliance Programs Section will determine if the design-builder made an acceptable good faith effort in awarding work to DBE firms. Any disputes concerning good faith efforts will be referred to the DBE Oversight

Committee. The DOTD Compliance Programs Section may allow a waiver or adjustment of the goal as may be appropriate, depending on individual project circumstances.

J. GOOD FAITH EFFORTS: Good faith efforts are required by the design-builder when the DBE goals established for a contract are not met, or at any time during the contract when achievement of the DBE goal is in jeopardy. It is the design-builder's responsibility to provide sufficient evidence for DOTD to ascertain the efforts made. The design-builder shall demonstrate good faith efforts to maximize participation by DBE during the life of the contract. Good faith efforts include personal contacts, follow-ups and earnest negotiations with DBE. DOTD will consider, at a minimum, the following efforts as relevant, although this listing is not exclusive or exhaustive and other factors and types of efforts may be relevant:

(1) Efforts made to select portions of the work to be performed by DBE in order to increase the likelihood of achieving the stated goal. It is the design-builder's responsibility to make a sufficient portion of the work available to subcontractors and suppliers and to select those portions of work or materials consistent with the availability of DBE subcontractors and suppliers to assure meeting the goal for DBE participation. Selection of portions of work are required to at least equal the DBE goal in the contract.

(2) Written notification at least 14 calendar days prior to the electronic submission of Form CS6-AAA (DB) and attachments, as required in Heading G(3), which solicits a reasonable number of DBE interested in participation in the contract as a subcontractor, regular dealer, manufacturer, or consultant for specific items of work. The design-builder shall provide notice to a reasonable number of DBE that their interest in the contract is being solicited, with sufficient time to allow the DBE to participate effectively. The design-builder shall seek DBE in the same geographic area from which it generally seeks subcontractors for a given project. If the design-builder cannot meet the goal using DBE from the normal area, the design-builder shall expand its search to a wider geographic area.

(3) Demonstrated efforts made to negotiate in good faith with interested DBE for specific items of work include:

a. The names, addresses and telephone numbers of DBE contacted. The dates of initial contact and whether initial solicitations of interest were followed-up personally, by mail, or by phone to determine the DBE interest.

b. A description of the information provided to DBE regarding the nature of the work, the plans and specifications and estimated quantities for portions of the work to be performed.

c. A statement of why additional agreements with DBE were not reached.

d. Documentation of each DBE contacted but rejected and the reasons for rejection. All bids and quotations received from DBE subcontractors whether verbal or written, and the design-builder's efforts to negotiate a reasonable price shall be submitted. Rejecting a DBE's bid because it was not the lowest quotation received

will not be a satisfactory reason without an acceptable explanation of how it was determined to be unreasonable. A statement that the DBE's quotation was more than the design-builder's price proposal for an item or items will not be acceptable.

e. Copies of all bids and quotations received from DBE subcontractors and an explanation of why they were not used.

f. Scheduling meetings to discuss proposed work or to walk the job-site with DBE.

g. Informing DBE of any pre-bid conferences scheduled by the DOTD.

h. Assisting DBE in obtaining bonding, insurance, or lines of credit required by the design-builder.

i. Evidence of DBE contacted but rejected as unqualified, accompanied by a reason for rejection based on a thorough investigation of the DBEs capabilities.

j. Any additional information not included above which would aid the DOTD in evaluation of the design-builder's good faith efforts.

(4) The following are examples of actions that <u>will not</u> be accepted as justification by the design-builder for failure to meet DBE contract goals:

a. Failure to contract with a DBE solely because the DBE was unable to provide performance and/or payment bonds.

b. Rejection of a DBE bid or quotation based on price alone.

c. Failure to contract with a DBE because the DBE will not agree to perform items of work at the unit price bid.

d. Failure to contract with a DBE because the design-builder normally would perform all or most of the work in the contract.

e. Rejection of a DBE as unqualified without sound reasons based on a thorough investigation of their capabilities.

f. Failure to make more than mail solicitations.

K. RECORD KEEPING REQUIREMENTS: The design-builder shall keep such records as are necessary for the DOTD to determine compliance with the DBE contract obligations. These records shall include the names of subcontractors, including DBE; copies of subcontracts; the type of work being performed; documentation such as canceled checks and paid invoices verifying payment for work, services, and procurement; and documentation of correspondence, verbal contacts, telephone calls, and other efforts to obtain services of DBE. When requested, the design-builder shall submit all subcontracts and other financial transactions executed with DBE in such form, manner and content as prescribed by DOTD. The DOTD reserves the right to investigate,

monitor and/or review actions, statements, and documents submitted by any design-builder, subcontractor, or DBE.

L. REPORTING REQUIREMENTS: The design-builder shall submit monthly reports on DBE involvement. At the conclusion of each month the design-builder shall submit the Form CP-1A (DB), DESIGN-BUILDER'S MONTHLY DBE PARTICIPATION, to the project manager to verify actual payments to DBE for the previous month's reporting period. These reports will be required until all DBE subcontracting activity is complete or the DBE Goal has been achieved. Reports are required regardless of whether or not DBE activity has occurred in the monthly reporting period.

Upon completion of all DBE participation, the design-builder shall submit the Form CP-2A (DB), DBE FINAL REPORT, to the DOTD Compliance Programs Section with a copy to the project manager detailing all DBE subcontract payments. When the actual amount paid to DBE is less than the subcontract amount, a complete explanation of the difference is required. If the DBE goal is not met, documentation supporting good faith efforts shall be submitted. Failure to submit the required reports will result in the withholding of payments to the design-builder until the reports are submitted. All payments due subcontractors which affect DBE goal attainment, including retainage, shall be paid by the design-builder before the DOTD releases the final payment.

The DOTD reserves the right to conduct an audit of DBE participation prior to processing the final payment and at any time during the work.

M. APPLICABILITY OF PROVISIONS TO DBE DESIGN-BUILDERS: These provisions are applicable to all design-builders including each design-builder that is a DBE (DBE design-builder). If the DBE design-builder sublets any portion of the contract, the DBE design-builder shall comply with provisions regarding design-builder and subcontractor relationships. A DBE design-builder may count only the contract amount toward DBE participation for work that he/she actually performs and any amounts awarded to other certified DBE subcontractors that perform a commercially useful function.

FORM CS-6AAA (DB)

DESIGN-BUILDER'S ASSURANCE OF DBE PARTICIPATION

S.P.# H.003931	**Contract Amount: $**
	DBE Goal Percentage
Award Date:	**DBE Goal Dollar Value: $**

By its signature affixed hereto, the design-builder assures the DOTD that one of the following situations exists (check only one box):

☐ The project goal will be met or exceeded.

☐ A portion of the project goal can be met, as indicated below. Good faith effort documentation is attached. DBE Goal Participation Amount_____ % $_____.

The design-builder certifies that each firm listed is currently on the DBE list as maintained by DOTD and is certified for the items of work shown on the attachment(s). The design-builder having assured that the goal for DBE participation prescribed in the design-build contract will be met or exceeded, or that the portion of the DBE goal will be met or exceeded, attests that negotiations are in progress or complete and that a subcontract(s) will be executed with the firm(s) listed below within 30 calendar days.

NAME OF DBE FIRM(S)	INTENDED SUBCONTRACT PRICE[1]

[1]For suppliers list only the value of the subcontract that can be credited toward the DBE goal. This amount shall be equal to the amount shown for the supplier on the Attachment to Form CS-6AAA (DB). Details are listed on the attachment(s) to Form CS-6AAA (DB).

The design-builder assessed the capability and availability of named firm(s) and sees no impediment to prevent award of subcontract(s) as described on the attachments.

The design-builder shall evaluate the subcontract work or services actually performed by the DBE to ensure that a commercially useful function is being served in accordance with the Required Contract Provisions for DBE Participation in Federal Aid Construction Contracts. The design-

builder understands that no credit toward the DBE goal will be allowed for DBE that do not perform a commercially useful function. The design-builder has a current copy of the DOTD DBE Program Implementation Guide which details the methods of operation that are acceptable on projects containing DBE goals. Copies of this guide may be obtained by calling the DOTD Compliance Programs Section at (225) 379-1382.

NAME OF DESIGN-BUILDER	
AUTHORIZED SIGNATURE	
TYPED OR PRINTED NAME	
TITLE	
DESIGN-BUILDER'S DBE LIAISON OFFICER (typed or printed name)	
PHONE NUMBER	
DATE	**TAX ID#**

07/09

ATTACHMENT TO FORM CS-6AAA (DB)

Design-Builder shall submit a separate attachment for each DBE listed on Form CS-6AAA (DB).

S.P.# H.003931	
NAME OF DBE	
PHONE #	**CONTACT PERSON:**

Fully describe the work to be performed (furnish materials and install, labor only, supply only, manufacture, hauling, etc.), quantity, unit price, and dollar value for each item to be subcontracted to the DBE listed below.

	QUANTITY/UNIT PRICE/DESCRIPTION OF WORK TO BE PERFORMED	**$ VALUE**

Describe the types of assistance, if any, the design-builder will provide to any DBE on this project.

The design-builder and DBE subcontractor attest that a subcontract will be executed for the items of work listed above. The design-builder acknowledges that it will only receive credit toward the DBE goal if the subcontractor performs a commercially useful function. The DBE understands that it is responsible for performing a commercially useful function.

DBE SUBCONTRACTOR'S SIGNATURE	
TYPED OR PRINTED NAME	
TITLE	
DATE	**TAX ID#**
DESIGN-BUILDER'S SIGNATURE	
TYPED OR PRINTED NAME	
TITLE	
DATE	

07/09

FORM CP-1A (DB)
LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DESIGN-BUILDER'S MONTHLY DBE PARTICIPATION

STATE PROJECT NO. H.003931	**DESIGN-BUILDER:**
ESTIMATE NO.	**REPORT PERIOD: _____ TO_____**

DOTD CERTIFIED DBE SUBCONTRACTOR OR SUPPLIER	WORK PERFORMED AND PAIDTHIS ESTIMATE PERIOD	AMOUNT PAID THIS MONTH[1]	TOTAL PAID TO DATE[1]

[1]For suppliers, list total amount paid and the 60 percent value counted toward the goal.

This report covers the previous estimate period and shall be submitted to the Project Manager or the Project Manager's designated representative with the current month's pay estimate. Estimates will be withheld until the required form is submitted. Questions should be directed to the DOTD Compliance Programs Section at (225) 379-1382.

The Design-Builder certifies that the above amounts <u>were paid</u> to the listed DBEs and that documentation of these payments is available for inspection.
Project Manager or Project Manager's designated representative has reviewed this form.
(Signature of Project Manager or Project Manager's designated representative).

Authorized Signature	
Typed or Printed Name	
Title	
Phone No.	
Date	

07/09

FORM CP-2A (DB)
LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DBE FINAL REPORT

STATE PROJECT NO. H.003931	**DBE GOAL AMOUNT: $**	**DESIGN-BUILDER:**
	CONTRACT AMOUNT: $	
PARISH(ES)	**AWARD DATE:**	

DOTD CERTIFIED DBESUBCONTRACTOR OR SUPPLIER	WORK PERFORMED AND PAID	TOTAL DOLLAR AMOUNTPAID TO SUB OR SUPPLIER (60%)

This is to certify that $_____ has been paid to Disadvantaged Business Enterprise Subcontractors/Suppliers listed above.

Authorized Signature	
Typed or Printed Name	
Title	
Date	

Parish or County

State of _____

Subscribed and sworn to, before me, this

_____ day of _____, A.D. 20___.

_____

Notary Public

My commission expires: _____

07/09

DBE GOOD FAITH EFFORT DOCUMENTATION (DB)

The intent of this form is to document the good faith effort attempts made by the design-builder in soliciting DBE firms to meet the DBE project goal. Please note that the project goal will not be waived and the design-builder must make efforts to achieve the goal throughout the life of the contract.
Every work type where there is a certified DBE, the design-builder must submit the form as follows:

- 1 available DBE – must contact 1 DBE
- 2-5 available DBEs – must contact 3 DBEs minimum
- 6-7 available DBEs – must contact 4 DBEs minimum
- 8-9 available DBEs – must contact 5 DBEs minimum
- 10 or more available DBEs – must contact 6 DBEs minimum

All information submitted on this form is subject to audit by the DBE Goal Committee

Date Submitted: _____
State Project Number: _____Parish: _____
Design-Builder Name: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Contact Person: _____ Telephone Number: _____
Email Address: _____

Project Goal Percentage: _____
Commitment Percentage: _____
Unattained Percentage: _____

I certify that the information contained in this good faith effort documentation form is true and correct to the best of my knowledge. I further understand that any willful falsification, fraudulent statement or misrepresentation will result in appropriate sanctions which may involve debarment and/or prosecution under applicable State and Federal laws.

Authorized Representative Signature: _____

Title: _____ Date: _____

DBE GOOD FAITH EFFORT DOCUMENTATION

Work Type Number	Description of Work, Service or Material	DBE Firm Name		
Contact Name (First and Last)	**Contact Date**	**Contact Method**	**Contact Results**	**Bid Amount**
1.				
2.				
3.				
Comments:				
Work Type Number	**Description of Work, Service or Material**	**DBE Firm Name**		
Contact Name (First and Last)	**Contact Date**	**Contact Method**	**Contact Results**	**Bid Amount**
1.				
2.				
3.				
Comments:				
Work Type Number	**Description of Work, Service or Material**	**DBE Firm Name**		
Contact Name (First and Last)	**Contact Date**	**Contact Method**	**Contact Results**	**Bid Amount**
1.				
2.				
3.				
Comments:				

EXAMPLES OF GOOD FAITH EFFORT DOCUMENTATION

The following is a list of types of actions a design-builder should take when documenting good faith efforts. This list is not intended to be exclusive or exhaustive, nor are all the actions mandatory. Other factors or types of efforts may be relevant in appropriate cases.

SOLICITATION /ADVERTISEMENT EFFORTS - should include your efforts to solicit quotes, through all reasonable and available means, the interest of all certified firms who have the capability to perform the work of the contract. The design-builder should ensure that the requests are made within sufficient time to allow DBE firms to respond. The design-builder should take the initiative to contact firms which have indicated an interest in participating as a subcontractor/supplier.

NEGOTIATION EFFORTS - should include your efforts to make a portion of the project work available consistent with the availability and capabilities of our DBE firms in order to facilitate DBE participation. You are encouraged to break out contract work into smaller economically feasible subcontracts to ensure DBE participation. As a part of your negotiation you should make plans/specifications available to the DBE firms which have shown an interest in participating. When negotiating with DBE firms a design-builder should use good business judgment by considering price and capability, as well as, project goals. A design-builder is not expected to accept a price that is not reasonable and is excessive. Comparison figures should accompany your good faith effort submittal which supports the price differential.

ASSISTANCE EFFORTS - should include your efforts to assist DBE firms in obtaining bonding, lines of credit, insurance, equipment, materials, supplies or other project related assistance. Design-builders are encouraged to assist firms with independently securing/obtaining these resources. A design-builder may <u>not</u> provide these resources to the DBE firm, except in certain instances were joint checks are permissible with DOTD's prior approval. The level of assistance should be limited to referral sources, introductions, and making initial contacts with industry representatives on the DBE firm's behalf.

ADDITIONAL EFFORTS - could include any additional efforts to utilize the services of minority/women organizations, groups; local, state and federal business offices which provide assistance in the recruitment and placement of DBE firms. Utilizing the services offered by the department's DBE supportive services consultant for assistance with advertisement and recruitment efforts. Design-builders are encouraged to undertake and document any other efforts taken in their attempt to fulfill the project goal.

Form OMF-1A (DB)
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
REQUEST TO SUBLET AND EXTRACT OF SUBCONTRACT
FOR FEDERAL-AID CONTRACTS

DATE: _____

STATE PROJECT NO. **H.003139**

NAME OF PROJECT **I-10 Calcasieu River Bridge Public-Private Partnership Project**
Notes to design-builder:
You may use the attachment if additional space is needed.

As design-builder of the above project, I request you consent to sublet the following items of work to the undersigned Subcontractor

Description of Work to be Performed	Subcontractor Price

I, as design-builder, understand and agree that the subcontract shall not relieve me of my liability under the contract and bonds, and that the subcontract work is a part of the work covered by a written agreement I have with the subcontractor which incorporates all requirements and pertinent provisions of the design-build contract, including, but not limited to, on federal-aid projects, the Required Contract Provisions for Federal Aid Contracts, as required by 23 CFR 635.116(b), and the Required Contract Provisions for DBE Participation as required by 49 CFR 26.13(b). The terms of this request shall be deemed and shall constitute a part of the written subcontract for the work listed hereinabove.

DESIGN-BUILDER _____ PHONE NO._____ FAX NO._____
NAME OF OWNER (use only if company is a Sole Proprietorship)

_____

ADDRESS_____ LICENSE NO. _____

_____ FEDERAL TAX I.D. _____

BY: _____
(Signature)

TITLE _____

I, as subcontractor, understand and agree that no part of the above listed subcontract work shall be further sublet without written consent. I certify that the subcontracted work is covered by a written agreement with the design-

builder which states the work shall be performed in accordance with the DOTD construction contract with the design-builder for this project, and that the written subcontract agreement incorporates all requirements and pertinent provisions of the prime contract, including, but not limited to, on federal-aid projects, the Required Contract Provisions for Federal Aid Contracts, as required by 23 CFR 635.116(b), and the Required Contract Provisions for DBE Participation as required by 49 CFR 26.13(b) and that the minimum wages stated in said prime contract shall be applied to the subcontracted work, and the terms of this request shall be deemed and shall constitute a part of the written subcontract for the work listed hereinabove.

SUBCONTRACTOR _____ PHONE NO._____ FAX NO._____
NAME OF OWNER (use only if company is a Sole Proprietorship)

_____

ADDRESS_____ LICENSE NO. _____

_____ FEDERAL TAX I.D. _____

BY: _____
(Signature)

TITLE _____

REVIEWED BY: _____ APPROVED BY: _____
(Signature) Compliance Programs

DATE _____ DATE: _____

RETURN TO:
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
ATTENTION: COMPLIANCE PROGRAMS SECTION
P. O. BOX 94245
BATON ROUGE, LA 70804-9245 DATE: _____

REQUEST TO SUBLET AND EXTRACT OF SUBCONTRACT ATTACHMENT

PROJECT NUMBER: SP# H.003931

SUBCONTRACTOR:_____

Description of Work to be Performed	Unit Price

LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
SUBCONTRACTOR'S EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION
FEDERAL-AID CONTRACTS

Certification with regard to the performance of previous contracts or subcontracts subject to the equal opportunity clause and the filing of required reports – federal-aid contracts.

STATE PROJECT NO. **H.003931**
PARISH
NAME OF DESIGN-BUILDER _____

The proposed Subcontractor certifies that it has ☐, has not ☐, participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that it has ☐, has not ☐, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a federal government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

_____
COMPANY

By: _____

DATE _____ Print: _____

Title: _____

The above certification is required by the Equal Employment Opportunity (EEO) regulations of the Secretary of Labor (41 CFR 60-1.7 (B)(1)), and must be submitted by Proposers and proposed Subcontractors in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. Generally only contracts or subcontracts of $10,000 or under are exempt.

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed Design-builders, their members, and Subcontractors that have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports shall submit a report covering the delinquent period or such other period specified by the Federal Highway Administration or the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

Form OMF-2A (DB)

ATTACHMENT C
LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
SUPPLEMENTAL SPECIFICATIONS
SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES

1. General

a. Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Orders 11246 and 11375 are set forth in Required Contract Provisions (Form FHWA-1273) and these Supplemental Specifications which are imposed pursuant to Section 140 of Title 23, U.S.C., as established by Section 22 of the Federal Aid Highway Act of 1968. The requirements set forth herein shall constitute the specific affirmative action requirements for project activities under this contract and supplement the EEO requirements set forth in the Required Contract Provisions.

b. The contractor shall work with the Department and the Federal Government in carrying out EEO obligations and in their review of his activities under the contract.

c. The contractor and all his subcontractors holding subcontracts (not including material suppliers) of $10,000 or more shall comply with the following minimum specific requirement activities of EEO. The EEO requirements of Executive Order 11246, as set forth in the Federal-Aid Policy Guide 23 CFR 230A, are applicable to material suppliers as well as contractors and subcontractors. The contractor shall include these requirements in every subcontract of $10,000 or more with such modification of language as necessary to make them binding on the subcontractor.

2. EEO Policy

The contractor shall accept as his operating policy the following statement which is designed to further the provision of EEO to all persons without regard to their race, color, religion, sex or national origin, and to promote the full realization of EEO through a positive continuing program:

It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color or national origin. Such action shall include employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship and on-the-job training.

3. EEO Officer

The contractor shall designate and make known to the Department an EEO Officer who shall have the responsibility for and must be capable of effectively administering and promoting an active contractor EEO program and who must be assigned adequate authority and responsibility to do so.

4. Dissemination of Policy

a. All members of the contractor's staff who are authorized to hire, supervise, promote and discharge employees, or who recommend such action, or who are substantially involved in such action, shall be made fully cognizant of and shall implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions shall be taken as a minimum:

(1) Periodic meetings of supervisory and personnel office employees shall be conducted before the start of work and then at least once every 6 months, at which time the contractor's EEO policy and its implementation shall be reviewed and explained. The meetings shall be conducted by the EEO Officer or other knowledgeable company official.

(2) All new supervisory or personnel office employees shall be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of the contractor's EEO obligations within 30 days after their reporting for duty with the contractor.

(3) All personnel who are engaged in direct recruitment for the project shall be instructed by the EEO Officer or appropriate company official in the contractor's procedures for locating and hiring minority group employees.

b. To make the contractor's EEO policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the contractor shall take the following actions:

(1) Notices and posters setting forth the contractor's EEO policy shall be placed in areas readily accessible to employees, applicants for employment and potential employees.

(2) The contractor's EEO policy and the procedures to implement such policy shall be brought to the attention of employees by means of meetings, employee handbooks or other appropriate means.

5. Recruitment

a. When advertising for employees, the contractor shall include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements shall be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

b. The contractor shall, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the contractor shall, through his EEO Officer, identify sources of potential minority group employees and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

If the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor shall encourage his present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants shall be discussed with employees.

6. Personnel Actions

Wages, working conditions and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff and termination, shall be taken without regard to race, color, religion, sex or national origin. The following procedures shall be followed.

a. The contractor shall conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor shall periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor shall periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor shall promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor shall promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, shall attempt to resolve such complaints, and shall take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor shall inform every complainant of all of his avenues of appeal.

7. Training and Promotion

a. The contractor shall assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship and job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. If the Supplemental Specifications for Job Training are provided under this contract, this subparagraph will be superseded as indicated in Attachment 2.

c. The contractor shall advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor shall periodically review the training and promotion potential of minority group and women employees and shall encourage eligible employees to apply for such training and promotion.

8. Unions

If the contractor relies in whole or in part upon unions as a source of employees, the contractor shall use his best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent shall include the procedures set forth below:

a. The contractor shall use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The contractor shall use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex or national origin.

c. The contractor shall obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the Department and shall set forth what efforts have been made to obtain such information.

d. If the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor shall, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex or national origin, making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) If the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these specifications, such contractor shall immediately notify the Department.

9. Subcontracting

a. The contractor shall use his best efforts to solicit bids from and utilize minority group subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of minority-owned construction firms from the Department.

b. The contractor shall use his best efforts to ensure subcontractor compliance with their EEO obligations.

10. Records and Reports

a. The contractor shall keep such records as necessary to determine compliance with the contractor's EEO obligations. The records kept by the contractor shall indicate:

(1) the number of minority and nonminority group members and women employed in each work classification on the project,

(2) the progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to contractors who rely in whole or in part on unions as a source of their work force),

(3) the progress and efforts being made in locating, hiring, training, qualifying and upgrading minority and female employees, and

(4) the progress and efforts being made in securing the services of minority group subcontractors with meaningful minority and female representation among their employees.

b. All such records must be retained for a period of 3 years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the Department and the Federal Highway Administration.

c. The contractor shall submit an annual report to the Department each July for the duration of the project, indicating the number of minority, women and nonminority group employees currently engaged in each work classification required by the contract work. This information shall be reported on Form PR-1391. If job training is required, the contractor shall furnish Form DOTD 03-37-0014.

ATTACHMENT D

LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
SUPPLEMENTAL SPECIFICATIONS
FEMALE AND MINORITY PARTICIPATION IN CONSTRUCTION

The following notice shall be included in, and shall be a part of, all solicitations for offers and bids on all federal and federally assisted construction contracts or subcontracts in excess of $10,000 to be performed in geographical areas designated by the director of OFCCP. Execution of the contract by the successful bidder and any subsequent subcontracts will be considered the contractor's and subcontractor's commitment to the EEO provisions contained in this notice.

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals for minority and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

AREA	PARISH OR COUNTY	GOAL (%)
FEMALE PARTICIPATION		
-	All Covered Areas	6.9
MINORITY PARTICIPATION (UNDER NEW ORLEANS PLAN)		
-	* See Note Below	20 to 23
MINORITY PARTICIPATION (NOT UNDER NEW ORLEANS PLAN)		
1	Jefferson LA, Orleans LA, St. Bernard LA, St. Tammany LA	31.0
2	Assumption LA, Lafourche LA, Plaquemines LA, St. Charles LA, St. James LA, St. John the Baptist LA, Tangipahoa LA, Terrebonne LA, Washington LA, Forrest MS, Lamar MS, Marion MS, Pearl River MS, Perry MS, Pike MS, Walthall MS	27.7
3	Ascension LA, East Baton Rouge LA, Livingston LA, West Baton Rouge, LA	26.1
4	Concordia LA, East Feliciana LA, Iberville, LA, Pointe Coupee LA, St. Helena LA, West Feliciana LA, Adams MS, Amite MS, Wilkinson, MS	30.4
5	Lafayette LA	20.6
6	Acadia LA, Evangeline LA, Iberia LA, St. Landry LA, St. Martin LA, St. Mary LA, Vermillion LA	24.1
7	Calcasieu LA	19.3
8	Allen LA, Beauregard LA, Cameron LA, Jefferson Davis LA, Vernon LA	17.8
9	Grant LA, Rapides LA	25.7
10	Avoyelles LA, Bienville LA, Bossier LA, Caddo LA, Claiborne LA, DeSoto LA, Natchitoches LA, Red River LA, Sabine LA, Webster LA, Winn LA	29.3
11	Ouachita LA	22.8
12	Caldwell LA, Catahoula LA, East Carroll LA, Franklin LA, Jackson LA, LaSalle LA, Lincoln LA, Madison LA, Morehouse LA, Richland LA, Tensas LA, Union LA, West Carroll LA,	27.9

*These goals apply only to those contractors signatory to the New Orleans Plan and only with respect to those trades which have unions participating in said Plan. The New Orleans Plan Covered Area is as follows: The parishes of Orleans, Jefferson, St. Bernard, St. Tammany, St. Charles, St. John the Baptist, Plaquemines, Washington, Terrebonne, Tangipahoa (that area east of the Illinois Central Railroad), Livingston (that area southeast of the line from a point off the Livingston and Tangipahoa Parish line adjacent from New Orleans and Baton Rouge), St. James (that area southeast of a line drawn from the Town of Gramercy to the point of intersection of St. James, Lafourche and Assumption Parishes), and Lafourche.

These goals are applicable to all the contractor's construction work (whether or not it is federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor is also subject to the goals for both its federally involved and non-federally involved construction.
The contractor's compliance with the Executive Order and the regulations in 41 CFR 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor, or from project to project, for the purpose of meeting the contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The contractor shall provide written notification to the Regional Administrator of the Office of Federal Contract Compliance Programs (555 Griffin Square Building, Dallas, TX 75202) within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and geographical area in which the contract is to be performed.

4. As used in this Notice and in the contract, the "covered area" is that area shown in the foregoing table in which the project is located.

The following Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246) shall be included in, and shall be a part of, all solicitations for offers and bids on all federal and federally assisted construction contracts or subcontracts in excess of $10,000. Execution of the contract by the successful bidder and any

subsequent subcontracts will be considered the contractor's and subcontractor's commitment to the EEO provisions contained in these Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246).

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U. S. Treasury Department Form 941.

d. "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. If the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, he shall include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation.

3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved Plan is required to comply with his obligations under the EEO clause, and to make good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractor or subcontractors toward a goal in an

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approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals.

4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any OFCCP office or from federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women, shall excuse the contractor's obligations under these specifications, Executive Order 11246, nor the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U. S. Department of Labor.

7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications will be based on his effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign 2 or more women to each construction project. The contractor shall ensure that all foremen, superintendents and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to

community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the contractor has taken.

d. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman set by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting his EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as superintendent, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than 1 month prior to the date for the acceptance of

applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above describing the openings, screening procedures and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women, and where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR 60-3.

l. Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling its obligations under 7a through 7p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female workforce participation, makes a good faith effort to meet his goals and timetables and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.

9. A goal for minorities and a separate goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a group is employed

in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation of the Executive Order if a minority group of women in underutilized).

10. The contractor shall not use the goals or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.

11. The contractor shall not enter into a subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The contractor, in fulfilling his obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as the standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors will not be required to maintain separate records.

15. Nothing herein shall be construed as a limitation on the application of other laws which establish different standards of compliance or on the application of requirements for hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

16. In addition to the reporting requirements set forth elsewhere in this contract, the contractor and subcontractors holding subcontracts (not including material suppliers) in excess of $10,000

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shall submit for every month of July during which work is performed, employment data as contained under Form FHWA-1391 in accordance with instructions included thereon.

ATTACHMENT E
WAGE DETERMINATION

[Execution version to include wage decision numbers LA20230002 and LA20230013 in effect as of 14 days before Proposal Date.]

"General Decision Number: LA20230002 01/13/2023

Superseded General Decision Number: LA20220002

State: Louisiana

Construction Type: Heavy

Counties: Acadia, Ascension, Bossier, Caddo, Calcasieu, East Baton Rouge, Lafayette, Lafourche, Livingston, Ouachita, Rapides, St Landry, St Martin, Terrebonne, Webster and West Baton Rouge Counties in Louisiana.

HEAVY CONSTRUCTION PROJECTS (includes flood control, water & sewer lines, and water wells; excludes elevated storage tanks, industrial construction-chemical processing, power plants, and refineries)

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least $16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours

	spent performing on the contract in 2023.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least $12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at http://www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/06/2023
1	01/13/2023

CARP1098-004 07/01/2022

ASCENSION, EAST BATON ROUGE, LIVINGSTON AND WEST BATON ROUGE PARISHES

	Rates	Fringes
CARPENTER (formbuilding/formsetting).....	$ 29.04	10.86

CARP1098-014 07/01/2022

CALCASIEU PARISH

	Rates	Fringes
CARPENTER (formbuilding/formsetting).....	$ 29.04	10.86

CARP1098-015 07/01/2022

ACADIA, LAFAYETTE, ST. LANDRY AND ST. MARTIN PARISHES

	Rates	Fringes
CARPENTER (formbuilding/formsetting).....	$ 29.04	10.86

CARP1098-016 07/01/2022

BOSSIER, CADDO, OUACHITA, RAPIDES AND WEBSTER PARISHES

	Rates	Fringes
CARPENTER (formbuilding/formsetting).....	$ 29.04	10.86

CARP1846-008 07/01/2022

LAFOURCHE and TERREBONNE PARISHES

	Rates	Fringes
CARPENTER (formbuilding/formsetting).....	$ 29.09	10.27

ELEC0130-009 12/05/2022

LAFOURCHE AND TERREBONNE PARISHES

	Rates	Fringes
ELECTRICIAN.....	$ 32.75	14.51

ELEC0194-007 09/05/2022

BOSSIER, CADDO, and WEBSTER PARISHES

	Rates	Fringes
ELECTRICIAN	$ 31.25	14.34

ELEC0446-007 09/01/2022

OUACHITA PARISH

	Rates	Fringes
ELECTRICIAN	$ 26.48	2%+13.04

ELEC0576-006 09/01/2022

RAPIDES PARISH

	Rates	Fringes
ELECTRICIAN	$ 26.40	4.25%+9.60

ELEC0861-006 09/01/2022

ACADIA, CALCASIEU, LAFAYETTE, AND ST. MARTIN PARISHES

	Rates	Fringes
ELECTRICIAN	$ 29.53	4.34%+13.05

* ELEC0995-006 01/01/2023

ASCENSION, EAST BATON ROUGE, LIVINGSTON, ST. LANDRY, AND WEST BATON ROUGE PARISHES

	Rates	Fringes
ELECTRICIAN	$ 27.49	12.66

* SULA2004-006 04/29/2004

	Rates	Fringes
CARPENTER (all other work)	$ 12.81 **	0.00

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Cement Mason/Concrete Finisher...$ 13.77 **          0.00

Laborers
     Common.....................$  8.20 **          0.00
     Pipelayer..................$  9.45 **          0.00

Power Equipment Operators
     Backhoe/Excavator..........$ 13.01 **          0.00
     Bulldozer..................$ 13.83 **          0.00
     Crane......................$ 16.62             3.28
     Dragline...................$ 15.16 **          0.00
     Front End Loader...........$ 11.50 **          0.00
     Motor Grader/Blade.........$ 11.75 **          0.00
     Oiler......................$  8.59 **          2.50
     Trackhoe...................$ 12.64 **          0.00
     Water Well Driller.........$ 11.91 **          2.44
     Winch......................$ 11.38 **          0.00

Truck Driver, Dump.............$ 10.25 **          0.00
----------------------------------------------------------------

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

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** Workers in this classification may be entitled to a higher
minimum wage under Executive Order 14026 ($16.20) or 13658
($12.15).  Please see the Note at the top of the wage
determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave
for Federal Contractors applies to all contracts subject to the
Davis-Bacon Act for which the contract is awarded (and any
solicitation was issued) on or after January 1, 2017.  If this
contract is covered by the EO, the contractor must provide
employees with 1 hour of paid sick leave for every 30 hours
they work, up to 56 hours of paid sick leave each year.
Employees must be permitted to use paid sick leave for their
own illness, injury or other health-related needs, including
preventive care; to assist a family member (or person who is
like family to the employee) who is ill, injured, or has other
health-related needs, including preventive care; or for reasons
resulting from, or to assist a family member (or person who is
like family to the employee) who is a victim of, domestic
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violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at https://www.dol.gov/agencies/whd/government-contracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination

* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

==========

END OF GENERAL DECISIO"

"General Decision Number: LA20230013 01/06/2023

Superseded General Decision Number: LA20220013

State: Louisiana

Construction Type: Highway

Counties: Ascension, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Grant, Iberville, Lafayette, Livingston, Pointe Coupee, Rapides, St Helena, St Martin, West Baton Rouge and West Feliciana Counties in Louisiana.

HIGHWAY CONSTRUCTION PROJECTS

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least $16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the

	contract in 2023.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least $12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at http://www.dol.gov/whd/govcontracts.

Modification Number 0 — Publication Date 01/06/2023

ENGI0406-001 10/28/2010

	Rates	Fringes
Mechanic	$ 25.40	8.05

LABO0207-001 07/01/2006

Calcasieu and Cameron Counties

	Rates	Fringes
LABORER: Common or General	$ 12.79 **	1.73

LABO0762-004 01/01/2005

Grant, Lafayette, and Rapides Counties

	Rates	Fringes
LABORER: Common or General	$ 11.00 **	3.50

LABO1177-003 09/01/2005

Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Martin, West Baton Rouge, and West Feliciana Counties

	Rates	Fringes
LABORER: Common or General	$ 15.00 **	2.77

SULA2011-005 08/17/2011

	Rates	Fringes
CARPENTER, Includes Form Work	$ 18.22	4.48
CEMENT MASON/CONCRETE FINISHER	$ 20.03	4.24
IRONWORKER, REINFORCING	$ 17.49	
Power equipment operators:		
Asphalt Paver	$ 17.20	4.97
Backhoe/Excavator/Trackhoe	$ 16.13 **	
Broom/Sweeper	$ 14.05 **	
Bulldozer	$ 16.40	
Crane	$ 24.30	
Grader/Blade	$ 15.88 **	
Milling Machine	$ 15.38 **	2.14
Roller (Asphalt and Dirt Compaction)	$ 14.29 **	4.23
Trencher	$ 14.38 **	
Truck drivers:		
Dump Truck	$ 12.69 **	
Water Truck	$ 13.79 **	

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 ($16.20) or 13658 ($12.15). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at https://www.dol.gov/agencies/whd/government-contracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate

(weighted union average rate).

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Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

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A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

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* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

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Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

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U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

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U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISIO"

07/08
(1) Page 1 of 4

ATTACHMENT F
LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
SUPPLEMENTAL SPECIFICATIONS
ON-THE-JOB TRAINING

The Louisiana Department of Transportation and Development (LADOTD) has partnered with the Louisiana Associated General Contractors (LAGC) to ensure that on-the-job training is provided on a voluntary basis by contractors performing work on LADOTD's federally assisted construction projects.

The LAGC has committed that its member contractors will enroll a minimum of 15 trainees statewide during the period July 1 through June 30 annually. It is anticipated that this annual training goal will be increased in future years as participation in the program grows.

The LADOTD on-the-job training program will be monitored by the Compliance Programs Section. At all times it will be the responsibility of the contractor to comply with the Job Training Supplemental Specifications. LAGC will provide support to their member contractors in the area of on-the-job training as they would in any contractual activity. LAGC has committed to assisting contractors in areas such as recruitment, record keeping, graduation certificates, and ongoing encouragement of contractors to participate in the training program. LAGC has expressed their willingness to work with LADOTD and FHWA in making the contracting industry as strong as possible in all areas, including on-the-job training.

Non-LAGC members are encouraged to participate in the LADOTD on-the-job training program. No aspect of the LADOTD/LAGC partnership is designed to eliminate the right of any non-LAGC member to participate in the training program described in these specifications. If any non-LAGC member does not utilize a previously approved training program, he/she is directed to develop and submit a training program to LADOTD for approval by LADOTD and FHWA.

Although training under this contract is not limited to minorities and females, contractors should be aware that one of the objectives of the training program is to increase the participation and skills of minorities and females in highway construction. Contractors must exert good faith efforts to comply with the Equal Employment Opportunity contract requirements governing recruitment and upgrading when seeking to fill vacancies in the work force and select candidates for the training program. Adequate documentation of good faith efforts should be maintained and submitted to the Compliance Programs Section Training Program Manager (TPM) when requested.

These supplemental specifications are in implementation of 23 USC 140(a). Training under this contract shall be optional to the successful bidder, provided the item for which training is requested is less than 70 percent complete. If the contractor elects to provide training under the

contract as established in these specifications, he may submit a written request to the project engineer with a copy to the Construction Section. A plan change will be prepared to incorporate a pay item using the trainee hours stated in the Special Provisions elsewhere herein. Training will only be reimbursed after the approval of this plan change.

It is intended that training under these supplemental specifications be in crafts directly related to highway construction. Therefore, training in classifications such as clerk-typist, secretary, bookkeeper, fireman, office engineer, estimator, timekeeper, and unskilled or common laborer will not be approved for participation under these supplemental specifications.

No employee shall be employed as a trainee in any classification in which he/she has successfully completed a training course leading to journey person status or in which he/she has been employed as a journey person. The contractor shall satisfy this requirement by completing the Contractor's Trainee Enrollment & Interview Form for each potential trainee. The completed form shall be electronically submitted to the TPM for review and approval.

The contractor will be reimbursed $3.00 per hour of training provided in accordance with an approved training program. Reimbursement will be made for training hours in excess of the number specified herein. This reimbursement will be made even though the contractor receives additional training program funds from other sources, provided such other sources do not specifically prohibit the contractor from receiving other reimbursement. The contractor will be reimbursed for the number of trainee hours actually trained on the project in accordance with these supplemental specifications.

The contractor will be credited for each trainee employed on the project that is currently enrolled or becomes enrolled in an approved training program and will be reimbursed for such trainees as provided in these supplemental specifications.

The minimum length and type of training for each classification selected by the contractor will be established in the training program approved by the Department, Federal Highway Administration (FHWA), and/or Office of Federal Contract Compliance Programs (OFCCP). The Department, FHWA, and/or OFCCP will approve a program if it is reasonably calculated to meet the Equal Employment Opportunity obligations of the contractor and to qualify the average trainee for journey person status in the classification concerned by the end of the training period. Apprenticeship programs registered with the U. S. Department of Labor, Bureau of Apprenticeship and Training or with a state apprenticeship agency recognized by the Bureau and training programs approved but not necessarily sponsored by the U. S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training will also be considered acceptable if it is being administered in a manner consistent with the equal employment obligations of federal-aid highway construction contracts.

It is normally expected that a trainee will begin training on the project as soon as feasible after start of work utilizing the skill involved and remain on the project as long as training opportunities exist in his/her work classification or until he/she has completed the training program.

Enrollment of trainees in excess of the required number will be permitted, with approval, to allow the contractor to maintain the required continuous effort to complete the training of individual trainees.

Trainees will be paid at least 60 percent of the appropriate minimum journey person's rate specified in the contract for the first half of the training period, 75 percent for the third quarter of the training period, and 90 percent of the last quarter of the training period, unless apprentices or trainees in an approved existing program are enrolled as trainees on this project. In that case, the appropriate rates approved by the Departments of Labor or Transportation in connection with the existing program shall apply to all trainees being trained for the same classification who are covered by these supplemental specifications.

The contractor, prior to the start of training, shall provide written notice to each person to be trained under these supplemental specifications of that person's designation as a trainee, the training program and classification under which training will be provided, the length of the training program, and the hourly wage rate to be paid to the trainee. This requirement shall be fulfilled by use of the Contractor's Trainee Enrollment & Interview Form.

Upon graduation, the contractor shall issue the trainee a certification showing the type and length of training satisfactorily completed along with a permanent photo identification card designating the bearer as a graduate journey person of the appropriate training program.

The contractor shall electronically submit the Contractor's Trainee Enrollment & Interview Form for each employee on the project who is enrolled as a trainee in an approved training program or apprenticeship program. The trainee enrollments shall be submitted to the TPM within the first payroll period in which each trainee or apprentice is assigned to the project.

In order to collect the $3.00 per hour reimbursement for training, the contractor shall electronically submit to the project engineer's office each week that training is conducted on the project the Contractor's OJT Weekly Reporting Form along with the payroll. For projects where weekly payroll submission is not required, the Contractor's OJT Weekly Reporting Form shall be submitted to the project engineer's office.

At anytime during the life of the project, provided that the item for which training is requested is less than 70 percent complete, a subcontractor may elect to train. The subcontractor should follow the steps described above in order to participate in the on-the-job training program. If the

subcontractor does not utilize a previously approved training program, he/she is directed to develop and submit a training program to the TPM for approval by LADOTD and FHWA.

Contractors are to train according to their work force needs and as training opportunities exist on a project. If a trainee graduates from a training classification, training opportunities no longer exist in the approved classification, or a contractor's work force needs change, a trainee could be enrolled in a different classification. The Contractor's OJT Change Form is to be used when these circumstances necessitate enrolling a current trainee or a graduate in a new classification. Multiple enrollments of an individual should not be used to diminish the objectives of these specifications, but to enhance the trainee's career growth, benefit the contractor's operations, and improve the contracting industry overall.

All required forms can be found on the LADOTD website on the Compliance Programs page and the Construction Letting Information page under Doing Business with DOTD. Instructions for completing any required form may be obtained from the TPM.

It is the goal of the LADOTD/LAGC partnership to maintain a voluntary on-the-job training program, but revisions to the program may be deemed necessary should participation fall below acceptable levels.

EXHIBIT L

FORMS OF LA DOTD LEGAL OPINION AND PABS CERTIFICATION

Exhibit L-1 Form of LA DOTD Legal Affirmation and Opinion

Exhibit L-2 Form of LA DOTD Certificate Regarding PABs Official Statement

EXHIBIT L-1

FORM OF LA DOTD LEGAL AFFIRMATION AND OPINION

[●], as issuer and developer
[Insert address]

[●], as collateral trustee and securities intermediary
[Insert address]

[●], as purchaser and senior noteholder
[Insert address]

[●], as lender
[Insert address]

[●], as underwriter
[Insert address]

[●], as administrative agent
[Insert address]

Ladies and Gentlemen:

As the undersigned Counsel for the Louisiana Department of Transportation and Development ("LA DOTD"), I hereby affirm and opine that LA DOTD is created as a body corporate with all powers afforded by law thereunder and Eric Kalivoda, Ph.D., Secretary of LA DOTD, has the authority under law to enter into all agreements on behalf of LA DOTD and legally bind LA DOTD. More specifically, as it relates to the I-10 Calcasieu River Bridge Public-Private Partnership Project (the "Project") pursuant to the terms and conditions of the Comprehensive Agreement for the Project, dated as of **[●]** ("Comprehensive Agreement"), between LA DOTD and **[●]** ("Developer") (Developer and LA DOTD shall collectively be referred to as the "Parties"), counsel is of the opinion that, on the date hereof:

1) LA DOTD is a department of the State of Louisiana and is authorized to enter into contracts in its own right under and by virtue of the laws of the State of Louisiana and the United States.

2) The execution and delivery of the (a) Comprehensive Agreement, (b) Direct Agreement, and (c) Escrow Agreement (hereinafter collectively referred to as the "LA DOTD Agreements") by the LA DOTD and the performance by the LA DOTD of its obligations contained in the LA DOTD Agreements have been duly authorized by all requisite action on the part of the LA DOTD. The LA DOTD has the authority under Louisiana law to enter into contracts for public private partnerships.

3) The LA DOTD Agreements constitute the legal, valid and binding obligations of the LA DOTD and are enforceable against the LA DOTD in accordance with their terms.

4) To Counsel's knowledge, there is no action, suit, proceeding, investigation or litigation pending and served on the LA DOTD or overtly threatened in writing against the LA DOTD which challenges the LA DOTD's authority to execute, deliver or perform, or the validity or enforceability of, the LA DOTD Agreements.

5) To Counsel's knowledge, the execution and delivery by the LA DOTD of the LA DOTD Agreements do not, and LA DOTD's performance of its obligations under the LA DOTD Agreements will not, violate any current State of Louisiana statutes, Title 23 of the United States Code (U.S.C.), and Titles 23 and Part 26 of Title 49 of the CFR that are applicable to the LA DOTD and the Project and that are valid and in effect on the date of execution and delivery of the LA DOTD Agreements.

The affirmation and opinion expressed herein are matters of professional judgment, are not a guarantee of result and are effective only as of the date hereof. Counsel expresses no opinion other than as expressly set forth herein and no expansion of this opinion may or should be made by implication or otherwise. Nothing contained in this letter shall be deemed a waiver of any contractual rights or defenses of the LA DOTD under law or in equity.

Counsel has been informed that this affirmation and opinion is being relied upon in connection with the closing of the transactions contemplated by the LA DOTD Agreements. The foregoing opinion shall not be relied upon for any other purpose or by any other party; provided that you may use or otherwise communicate this opinion to the extent required by applicable laws and may provide a copy of this opinion (i) pursuant to judicial process or government order or requirement of applicable law or regulation; (ii) to your accountants, auditors and counsel; and (iii) to bank or other regulatory examiners; provided that none of the foregoing are entitled to rely on this opinion letter. The use or reliance upon this affirmation and opinion by any other person or entity is prohibited.

Sincerely,

Darhlene Major
Executive Counsel
Louisiana Department of Transportation and Development

EXHIBIT L-2

FORM OF LA DOTD CERTIFICATE REGARDING PABS OFFICIAL STATEMENT

The undersigned _____ of the State of Louisiana, as a duly authorized representative of the Louisiana Department of Transportation and Development (the "LA DOTD"), does hereby certify as follows:

1) That information contained in the Appendices and under the captions in the Preliminary Official Statement dated [●] (the "Preliminary Official Statement") and the Official Statement dated [●] (the "Official Statement") identified in Attachment 1 (collectively the "Identified Portions") relating to the [INSERT TITLE OF PRIVATE ACTIVITY BONDS], did not as of the date of the Preliminary Official Statement and the Official Statement and do not as of the date hereof contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements made therein, in light of the circumstances under which they were made.

2) To the best of my knowledge, there has been no material adverse change in the financial condition of the LA DOTD from that set forth in the Identified Portions.

3) To the best of my knowledge, no event affecting the LA DOTD has occurred since the date of the Official Statement which is necessary to disclose therein in order to make the statements and information contained in the Identified Portions not misleading in any respect.

Dated: [●]

Louisiana Department of Transportation and Development
an Agency of the State of Louisiana

By: _____

ATTACHMENT 1 TO EXHIBIT L-2

IDENTIFIED PORTIONS OF THE OFFICIAL STATEMENT

1. Information under the following captions:

_____
_____.

2. Information included in the following Appendices:

_____
_____.

EXHIBIT M

SUBCONTRACTOR INFORMATION FORM

Subcontractor/Supplier Name/Contact	Address of Head Office	Telephone/E-mail Address	Specialty

EXHIBIT N

LANE CLOSURES

Section 1.01 Lane Closure Liquidated Damages

(a) In its performance of the Work, the Developer may temporarily close the roadways only in accordance with the Technical Provisions. Any such closure that (i) exceeds the time period permitted in the Technical Provisions, (ii) did not receive prior Approval from DTOE, or (iii) is otherwise not permitted by the Technical Provisions is a "Non-Permitted Closure".

(b) If a Non-Permitted Closure occurs, the Developer shall notify the LA DOTD of such Non-Permitted Closure and of the associated Lane Closure Liquidated Damages, in writing, within 24 hours.

(c) If a Non-Permitted Closure occurs for which the LA DOTD has not received a written notice from the Developer in accordance with Section 1.01(b), the LA DOTD will notify the Developer of such Non-Permitted Closure and of the associated Lane Closure Liquidated Damages.

(d) Unless waived in writing by the LA DOTD, the Developer shall pay to the LA DOTD the liquidated damages set forth below, subject to indexation (the "Lane Closure Liquidated Damages"):

Lane Closure Liquidated Damages				
Liquidated Damages ($ per interval, per lane, and per event)				
Elapsed Time	**I-10 Mainline and Ramps, and I-210 Mainline and Ramps**	**I-10 Service Roads, Veteran's Memorial Boulevard, Ryan Street, LA 378, LA 379, and US 90**	**PPG Drive, Trousdale Road, and Miller Avenue (except where also designated as LA 379)**	**All Other Roads**
0 minutes – 15 minutes, or any portion thereof	$6,150	$2,500	$1,000	$600
Every additional 15-minute interval, or portion thereof, after the initial 15 minutes stated above	$5,650	$2,000	$500	$100
Maximum per event	$90,900	$32,500	$8,500	$2,100
Maximum daily total	$100,000			

(e) Lane Closure Liquidated Damages payable under Section 1.01(d) will accrue daily and be payable in accordance with Section 8.12(g) of the Agreement.

(f) The parties acknowledge that:

(i) because of the unique and complicated nature of the Section and its scale, it is difficult or impossible to determine with precision the amount of damages or Losses that would or might be incurred by the LA DOTD as a result of any Non-Permitted Closure; and

(ii) the Lane Closure Liquidated Damages payable under Section 1.01(d) are in the nature of liquidated damages (and not a penalty) and represent a genuine and reasonable estimate of fair compensation for the damages and Losses that will be suffered by the LA DOTD for a Non-Permitted Closure and constitute fair and reasonable compensation to the LA DOTD for damages and Losses they will suffer as a result of Non-Permitted Closures, including additional or increased costs and Losses associated with:

(A) administering the Contract Documents;

(B) loss of use, enjoyment, and benefit of the Project for the LA DOTD, relevant stakeholders, and the general public; and

(C) injury to the credibility and reputation of the LA DOTD among policymakers and the general public.

(g) At every five-year anniversary of the Partial Acceptance Date, either the LA DOTD or the Developer, by written notice to the other no later than 90 days before such anniversary, may request a review of the Lane Closure Liquidated Damages, including the lane closure restrictions in the Technical Provisions. Within 15 days after delivery of any such written notice, the LA DOTD and the Developer shall meet to review the then-existing Lane Closure Liquidated Damages and discuss in good faith whether any amendments may be appropriate or desired, including to make adjustments to reflect shifts in travel patterns. If the LA DOTD and the Developer agree to any such revisions, the parties shall enter into an amendment to the Agreement to give effect to such revisions.

Section 1.02 Lane Closure Warning

(a) If a Lane Closure Warning Trigger occurs, the LA DOTD may deliver to the Developer a Lane Closure Warning.

(b) Each Lane Closure Warning provided by the LA DOTD to the Developer in accordance with Section 1.02(a) must:

(i) notify the Developer of the amount of Lane Closure Liquidated Damages it has accumulated in the relevant rolling time period;

(ii) notify the Developer of the amount of Lane Closure Liquidated Damages that will result in a Lane Closure Increased Monitoring Trigger; and

(iii) notify the Developer that if a Lane Closure Increased Monitoring Trigger occurs, the LA DOTD may increase the level of its monitoring, inspection, and auditing of the Work and the Developer's compliance with this Agreement as they relate to Non-Permitted Closures.

(c) The Developer shall promptly, and in any event within seven days after receiving the Lane Closure Warning, acknowledge in writing receipt of the Lane Closure Warning to the LA DOTD.

Section 1.03 Lane Closure Increased Monitoring

(a) Without limiting any other rights the LA DOTD may have under the Contract Documents, if a Lane Closure Increased Monitoring Trigger occurs, the LA DOTD may, upon written notice to the Developer:

(i) increase the level of its monitoring, inspection, and auditing of the Work and the Developer's compliance with the Contract Documents as they relate to Non-Permitted Closures; and

(ii) require the Developer to prepare and submit, within 30 days of receipt of written notice from the LA DOTD, a remedial plan ("Lane Closure Remedial Plan") setting out:

(A) specific actions to be undertaken,

(B) an associated schedule to be followed by the Developer,

intended to prevent future Non-Permitted Closures, with which the Developer shall comply and conform.

(b) The LA DOTD may continue to exercise its rights under Section 1.03(a) until such time as the Developer has demonstrated to the reasonable satisfaction of the LA DOTD that:

(i) the Developer is in compliance with the Lane Closure Remedial Plan; and

(ii) the incidents of Non-Permitted Closures will be reduced to a level acceptable to the LA DOTD in the future.

(c) The Developer shall reimburse the LA DOTD for any increased or additional costs and expenses incurred by the LA DOTD in exercising its rights under Section 1.03(a) in the manner set forth in Section 10.04(c) of the Agreement.

Section 1.04 Termination for Persistent Closure

Without limiting any other rights the LA DOTD may have under the Contract Documents, if a Persistent Closure occurs, the LA DOTD may terminate the Agreement in accordance with Section 20.03 of the Agreement.

EXHIBIT O

NONCOMPLIANCE EVENTS

Section 1.01 Noncompliance Events Tables

(a) The Performance Requirements Tables identify:

(i) certain failures by the Developer in the performance of its obligations under the Contract Documents that constitute Noncompliance Events;

(ii) the Mitigation Period (if any) for each Noncompliance Event;

(iii) the Temporary Repair Period (if any) for each Noncompliance Event;

(iv) the Permanent Repair Period (if any) for each Noncompliance Event;

(v) the corresponding Recurrence Interval for the Mitigation Period, Temporary Repair Period, or Permanent Repair Period for each Noncompliance Event; and

(vi) the number of Noncompliance Points allocated to each Noncompliance Event that may be assessed in accordance with Section 1.5 (Assessment of Noncompliance Points).

(b) The Noncompliance Events in Exhibit 22-1 of the Technical Provisions apply to the DB Period

(c) The Noncompliance Events in Exhibit 22-2 of the Technical Provisions apply to the Operating Period.

Section 1.02 Notification of Noncompliance Events by the Developer

(a) The Developer shall record each occurrence of any Noncompliance Event in the Maintenance Management System in real time upon discovery (either by the Developer or by notification from a User or any other third party), and in any event within 24 hours after the applicable Noncompliance Event Start Date (the "Developer Noncompliance Notice").

(b) Each Developer Noncompliance Notice must:

(i) identify the relevant Noncompliance Event;

(ii) identify the relevant Noncompliance Event Start Date and time;

(iii) identify the relevant Mitigation Period (if any) and corresponding Recurrence Interval;

(iv) identify the relevant Temporary Repair Period (if any) and corresponding Recurrence Interval;

(v) identify the relevant Permanent Repair Period (if any) and corresponding Recurrence Interval;

(vi) identify the number of Noncompliance Points that are allocated to that Noncompliance Event in the Performance Requirements Tables; and

(vii) provide reasonable detail of the circumstances of the Noncompliance Event.

Section 1.03 Notification of Noncompliance Events by the LA DOTD

(a) If the LA DOTD believes a Noncompliance Event has occurred that the Developer has not recorded in the Maintenance Management System under Section 1.02(a), the LA DOTD may deliver to the Developer a written notice of the LA DOTD's determination that the Noncompliance Event has occurred ("LA DOTD Noncompliance Event Notice").

(b) Each LA DOTD Noncompliance Event Notice must:

(i) identify the relevant Noncompliance Event;

(ii) identify the relevant Noncompliance Event Start Date;

(iii) identify the relevant Mitigation Period (if any) and corresponding Recurrence Interval;

(iv) identify the relevant Temporary Repair Period (if any) and corresponding Recurrence Interval;

(v) identify the relevant Permanent Repair Period (if any) and corresponding Recurrence Interval; and

(vi) identify the number of Noncompliance Points that are allocated to that Noncompliance Event in the Performance Requirements Tables.

(c) If Section 1.03(a) applies, the LA DOTD may also include in a LA DOTD Noncompliance Event Notice the Developer's failure to notify the LA DOTD of a Noncompliance Event under Exhibit 22-1, ID #13.28 of the Technical Provisions or Exhibit 22-2, ID #14.28 of the Technical Provisions.

Section 1.04 Mitigation, Temporary Repair, and Permanent Repair of Noncompliance Events

(a) If a Noncompliance Event occurs, the Developer shall, as soon as reasonably practicable:

(i) if there is a Mitigation Period for that Noncompliance Event, complete Mitigation of the Noncompliance Event within the Mitigation Period (if any);

(ii) if there is a Temporary Repair Period for that Noncompliance Event, complete a Temporary Repair of the Noncompliance Event within the Temporary Repair Period; and

(iii) if there is a Permanent Repair Period for that Noncompliance Event, complete a Permanent Repair of the Noncompliance Event within the Permanent Repair Period,

in each case, in accordance with the Contract Documents, Good Industry Practice, and applicable Law.

(b) The Developer shall take all steps necessary to minimize the disruption to the Work during performance of any Mitigation, Temporary Repair, or Permanent Repair.

(c) For any Noncompliance Event, the Mitigation Period, Temporary Repair Period, and Permanent Repair Period will run concurrently from the Noncompliance Event Start Date.

Section 1.05 Assessment of Noncompliance Points

Subject to Section 1.05(h), Noncompliance Points will be assessed in accordance with the principles set forth in this Section 1.05.

(a) Mitigation

(i) For a Noncompliance Event with a Mitigation Period, the number of Noncompliance Points specified for that Noncompliance Event in the Performance Requirements Tables will be assessed:

(A) on the date that the Mitigation Period expires; and

(B) on the date that the first and each successive Recurrence Interval expires,

in each case, if Mitigation has not been completed on or before that date.

(ii) If the Mitigation Period for a Noncompliance Event is identified as having a cure period of "Immediately" in the Performance Requirements Tables, the number of Noncompliance Points specified for that Noncompliance Event will be assessed:

(A) on the Noncompliance Event Start Date; and

(B) on the date that each successive Recurrence Interval expires.

(b) Temporary Repair

For a Noncompliance Event with a Temporary Repair Period, the number of Noncompliance Points specified for that Noncompliance Event in the Performance Requirements Tables will be assessed:

(i) on the date that the Temporary Repair Period expires; and

(ii) on the date that the first and each successive Recurrence Interval expires,

in each case, if Temporary Repair has not been completed on or before that date.

(c) Permanent Repair

(i) Subject to Section 1.05(c)(ii), for a Noncompliance Event with a Permanent Repair Period, the number of Noncompliance Points specified for each Noncompliance Event in the Performance Requirements Tables will be assessed:

(A) on the date that the Permanent Repair Period expires; and

(B) on the date that the first and each successive Recurrence Interval expires,

in each case, if Permanent Repair has not been completed on or before that date.

(ii) If the Permanent Repair Period for a Noncompliance Event is identified as having a cure period of "Immediately" in the Performance Requirements Tables, the number of Noncompliance Points specified for that Noncompliance Event will be assessed:

(A) on the Noncompliance Event Start Date; and

(B) on the date that each successive Recurrence Interval expires.

(d) Continuous, Independent, and Cumulative Assessment of Noncompliance Points

(i) Noncompliance Points will continue to be assessed under each of Section 1.05(a), Section 1.05(a)(ii), and Section 1.05(c) until the applicable Mitigation, Temporary Repair, or Permanent Repair of the relevant Noncompliance Event has been completed.

(ii) The Noncompliance Points assessed under Section 1.05(a), Section 1.05(a)(ii), and Section 1.05(c) are independent and cumulative, so that if Noncompliance Points would be assessed under two or more of Section 1.05(a), Section 1.05(a)(ii), and Section 1.05(c) with respect to the same Noncompliance Event, Noncompliance Points will be assessed under each of those applicable Sections.

(e) Non-Applicability of Mitigation, Temporary Repair, or Permanent Repair

If the Mitigation Period, Temporary Repair Period, or Permanent Repair Period is identified as "N/A" in the Performance Requirements Tables, no Noncompliance Points will be assessed for the failure to complete Mitigation, Temporary Repair, or Permanent Repair (as applicable) of the relevant Noncompliance Event.

(f) Failure to Report

Nothing in the Contract Documents will prevent the assessment of Noncompliance Points for both the occurrence of a Noncompliance Event and the Developer's failure to notify the LA DOTD of the same Noncompliance Event under Exhibit 22-1, ID #13.28 of the Technical Provisions or Exhibit 22-2, ID #14.28 of the Technical Provisions.

(g) Disputes

If the Developer disputes the LA DOTD's assessment of Noncompliance Points under this Section 1.05, the LA DOTD and the Developer shall resolve the matter in accordance with the dispute resolution procedures set forth in ARTICLE 21 of the Agreement.

(h) Exception to Assessment of Noncompliance Points

Assessment of Noncompliance Points under to the Performance Requirements Tables will not commence until (i) 48 hours after the conclusion of any debris clean-up performed by the LA DOTD as a result of a hurricane, or (ii) 2 hours after the conclusion of any Winter Maintenance.

Section 1.06 Concurrent Noncompliance Events

(a) If Noncompliance Points would be assessed during a Reporting Period for more than one Noncompliance Event as a direct result of the same breach or failure to perform obligations under the Contract Documents ("Concurrent Noncompliance Events") then, for that Reporting Period:

(i) Noncompliance Points will be assessed for the Concurrent Noncompliance Event for which the highest number of Noncompliance Points would be assessed during that Reporting Period; and

(ii) Noncompliance Points for each other Concurrent Noncompliance Event will not be assessed during that Reporting Period.

(b) If there is any conflict, ambiguity, or inconsistency between the Concurrent Noncompliance Events, the Concurrent Noncompliance establishing a higher standard of safety, reliability, durability, performance, or service will prevail.

Section 1.07 Records of Noncompliance Events

The Developer shall use the Maintenance Management System to keep, and provide the LA DOTD with read-only access to, current records of:

(a) all Noncompliance Events;

(b) the number of Noncompliance Points assessed for all such Noncompliance Events and the date of each assessment;

(c) each Noncompliance Event Start Date; and

(d) the date each relevant Mitigation, Temporary Repair, or Permanent Repair was achieved.

Section 1.08 Noncompliance Points Liquidated Damages

(a) Calculation, Accrual, and Payment of Noncompliance Points Liquidated Damages

(i) The Developer shall pay liquidated damages to the LA DOTD for each Noncompliance Point assessed against the Developer.

(ii) Noncompliance Point Liquidated Damages will be calculated as follows:

NCPLD = NCP x NCPV

NCPLD = Noncompliance Points Liquidated Damages

NCP = number of Noncompliance Points

NCPV = the unit value of each Noncompliance Point, being $4,000, subject to Indexation

(iii) Noncompliance Points Liquidated Damages will accrue at the same time the applicable Noncompliance Points are assessed and will be payable in accordance with Section 8.12(g) of the Agreement.

(iv) At every 10-year anniversary of the Partial Acceptance Date, either the LA DOTD or the Developer, by written notice to the other no later than 90

days before to such anniversary, may request a review of the Noncompliance Events, Noncompliance Points, and associated Noncompliance Points Liquidated Damages. Within 15 days after delivery of any such notice, the LA DOTD and the Developer shall meet to review the then-existing Noncompliance Events, Noncompliance Points, and Noncompliance Points Liquidated Damages and discuss in Good Faith whether any revisions may be appropriate or desired. If the LA DOTD and the Developer agree any such revisions, the Parties shall enter into an amendment to the Agreement to give effect to such revisions.

(b) Acknowledgement of Noncompliance Points Liquidated Damages The Parties acknowledge that:

(i) because of the unique and complicated nature of the Project and its scale, it is difficult or impossible to determine with precision the amount of damages or Losses that would or might be incurred by the LA DOTD as a result of any Noncompliance Event;

(ii) the amounts payable under Section 1.08(a) are in the nature of liquidated damages (and not a penalty) and represent a genuine and reasonable estimate of fair compensation for the damages and Losses that will be suffered by the LA DOTD as a result of Noncompliance Events and constitute fair and reasonable compensation to the LA DOTD for damages and Losses it will suffer as a result of Noncompliance Events, including additional or increased costs and Losses associated with:

(A) administering the Contract Documents;

(B) loss of use, enjoyment, and benefit of the Project for the LA DOTD, Stakeholders, and the general public; and

(C) injury to the credibility and reputation of the LA DOTD among policymakers and with the general public.

Section 1.09 Noncompliance Warning

(a) Without limiting any other rights the LA DOTD may have under the Contract Documents, if a Noncompliance Warning Trigger occurs, the LA DOTD may deliver to the Developer a Noncompliance Warning, notifying the Developer:

(i) of the number of Noncompliance Points it has accumulated in the relevant rolling time period;

(ii) of the number of Noncompliance Points that will result in a Noncompliance Increased Monitoring Trigger; and

(iii) that if a Noncompliance Increased Monitoring Trigger occurs, the LA DOTD may increase the level of its monitoring, inspection, testing, and

auditing of the Work and the Developer's compliance with the Contract Documents.

(b) The Developer shall promptly, and in any event within seven days after receiving the Noncompliance Warning, acknowledge in writing receipt of the Noncompliance Warning to the LA DOTD.

Section 1.10 Noncompliance Increased Monitoring

(a) Without limiting any other rights the LA DOTD may have under the Contract Documents, if a Noncompliance Increased Monitoring Trigger occurs, the LA DOTD may, upon written notice to the Developer do one or more of the following:

(i) increase the level of the LA DOTD's monitoring, inspection, testing, and auditing of the Work and the Developer's compliance with the Contract Documents to such level as the LA DOTD determines in its sole discretion;

(ii) require the Developer to do either or both of the following:

(A) increase the level of Quality Assurance to be undertaken; or

(B) revise or replace the Quality Assurance procedures to improve performance,

and, in either case, submit an updated Quality Management Plan to reflect such increase or revisions for approval by the LA DOTD; or

(iii) require the Developer to prepare and submit, within 30 days of receipt of written notice from the LA DOTD, a remedial plan ("Noncompliance Remedial Plan") setting out:

(A) specific actions to be undertaken by the Developer,

(B) an associated schedule to be followed by the Developer,

to ensure the cure of all uncured Noncompliance Events, and the Developer shall comply with that Noncompliance Remedial Plan.

(b) The LA DOTD may continue to exercise its rights under Section 1.10(a) until the Developer has demonstrated to the reasonable satisfaction of the LA DOTD that:

(i) the Developer is diligently pursuing the cure of all uncured Noncompliance Events; and

(ii) the Developer intends to diligently perform and is capable of performing its obligations under the Contract Documents.

(c) The Developer shall reimburse the LA DOTD for any increased or additional costs and expenses incurred by the LA DOTD in exercising its rights under Section 1.10(a) in the manner set forth in Section 10.04(c) of the Agreement.

Section 1.11 Termination for Noncompliance Developer Default

Without limiting any other rights the LA DOTD may have under the Contract Documents, if the Noncompliance Developer Default Trigger occurs, the LA DOTD may terminate the Agreement in accordance with Section 20.03 of the Agreement.

EXHIBIT P

FINANCING ADJUSTMENTS FOR BENCHMARK RATES AND BASELINE CREDIT SPREADS

Section 1.01 General

No later than 30 days prior to the scheduled Financial Close Date, the Developer and the LA DOTD will collaboratively prepare a protocol that will set forth additional details for how the calculations in this Exhibit P will be applied to the Initial Base Case Financial Model, including for how revisions to the Public Funds Amount (if any) will be applied to individual Milestone Payments. Such protocol will reserve the right for the LA DOTD to determine the timing and profile for how revisions to the Public Funds Amount (if any) are applied to individual Milestone Payments, provided that the principles applicable to changes in Benchmark Rates and Baseline Credit Spreads in this Exhibit P are followed. For the purposes of this Exhibit P, the Initial Base Case Financial Model will be adjusted to reflect only those changes permitted under Section 7.03(d) of the Agreement.

Section 1.02 Adjustments for Benchmark Rates

To account for changes in the Benchmark Rates between the Interest Rate Protection Start Date and the Pricing Date, the Initial Base Case Financial Model shall be run to solve for a revised Public Funds Amount, holding the Initial Equity IRR and Key Ratios constant and inputting only the updated benchmark index interest rates as of the Pricing Date.

Section 1.03 Adjustments for Baseline Credit Spreads

(i) To account for changes in Baseline Credit Spreads between the Interest Rate Protection Start Date and the Pricing Date on approved Bonds assumed in the Initial Base Case Financial Model, the financial model resulting from the adjustment under Section 1.02 shall be run to solve for a further revised Public Funds Amount, holding the Initial Equity IRR and Key Ratios constant and inputting the final Bond structure as of the Pricing Date with respect to coupons, yields, serial and term structure, and redemption provisions.

(ii) If the Developer is eligible for Baseline Credit Spread risk mitigation in accordance with Section 7.03(d) of the Agreement, the updated value for the Public Funds Amount shall be calculated using the following formula:

Updated PFA = PFA1 + ([PFA2 – PFA1] * 85%)

Where:

Updated PFA = the updated value for the Public Funds Amount accounting for changes in Benchmark Rates and Baseline Credit Spreads;

PFA1 = the revised value for the Public Funds Amount accounting for changes in Benchmark Rates, calculated in accordance with Section 1.02; and

PFA2 = the further revised value for the Public Funds Amount accounting for changes in Baseline Credit Spreads, calculated in accordance with Section 1.03(i).

(iii) If the Developer is not eligible for Baseline Credit Spread risk mitigation, the revised value for the Public Funds Amount accounting for changes in the Benchmark Rates, calculated in accordance with Section 1.02, will become the updated value for the Public Funds Amount.

Section 1.04 Establishing the Base Case Financial Model

(i) The updated value for the Public Funds Amount calculated in accordance with Section 1.03(ii) or Section 1.03(iii) will then be input as the Public Funds Amount in the financial model resulting from the adjustment under Section 1.03(i), allowing the Equity IRR to fluctuate while maintaining other Key Ratios, and this will be the final Public Funds Amount in the Base Case Financial Model utilized at Financial Close.

(ii) Subject to the protocol prepared in accordance with Section 1.01, commensurate with Financial Close, the Developer and the LA DOTD will execute an amendment to the Agreement revising the Public Funds Amount to equal the value established in Section 1.03(ii) or Section 1.03(iii), as applicable.

EXHIBIT Q

OTHER CONTRACT DOCUMENTS

The LA DOTD warrants the following Reference Documents, which, subject to the exceptions set forth herein, shall be considered Contract Documents:

1. Bridge Inspection Reports (warranted only as of the date of each such inspection)
    A. I-10 Calcasieu River Bridge.pdf
    B. I-10 EB over Bilbo St.pdf
    C. I-10 EB over Columbia Southern Rd.pdf
    D. I-10 EB over N. Lakeshore Dr. (La 385).pdf
    E. I-10 EB over Ryan St..pdf
    F. I-10 WB over Bilbo St.pdf
    G. I-10 WB over Columbia Southern Rd.pdf
    H. I-10 WB over N. Lakeshore Dr. (La 385).pdf
    I. I-10 WB over Ryan St..pdf
    J. I-210 ramp to I-10 WB.pdf
    K. US 90 Bridge over I-10.pdf
2. Geotechnical Data (warranted only as set forth in the definition of Differing Site Condition in Exhibit A)
    A. H.003931 Geotech Data Report – AAI.pdf
    B. H.003931 Geotech Data Report – APS.pdf
    C. H.003931 Geotech Data Report – Eustist.pdf
    D. H.003931 Geotech Data Report – Fugro.pdf
    E. H.003931 Geotech Data Report – Terracon.pdf
    F. H.003931 Geotech Data Report – Thompson.pdf

3. Design-Build Limits (warranted as of the Setting Date and until the LA DOTD approves the final DB Limits in accordance with Section 8.02(a)(iv))

    A. I-10 Calcasieu PPP - DB Limits.pdf

4. Operations and Maintenance Limits (warranted as of the Setting Date and until the LA DOTD approves the final O&M Limits in accordance with Section 8.09(c)(xi))

    A. I-10 Calcasieu PPP - O&M Limits.pdf

5. Existing Structures Coating Test Results (test results warranted only as set forth in the definition of Differing Site Condition in Exhibit A)

    A. Calcasieu - Existing Structures Coating Test Results.pdf

    B. I-10_Calcasieu River Bridge_Painting_Assessment_HNTB-KTA.pdf

6. Subsurface Utility Engineering Report (warranted only as set forth in the definition of Mislocated Utility in Exhibit A)

    A. H.003931.5 Survey Certification Letter Phases 1-3.pdf

    B. H.003931.5_Phases 1-3 QLB_SUE Report.pdf

    C. H.003931.5_SUE QLB Deliverables.pdf

    D. H.003931.5_SUE QLB Deliverables.zip

    E. H.003931.5_SUE QLDandC Deliverable and Notes_8-13-21.pdf

EXHIBIT R

LETTER OF CREDIT FORM

IRREVOCABLE STANDBY LETTER OF CREDIT

ISSUER: _____

PLACE FOR PRESENTATION OF DRAFT: (Name and Address of Bank/Branch)

APPLICANT: _____

BENEFICIARY: Louisiana Department of Transportation and Development

1201 Capitol Access Road
Baton Rouge, LA 70802-4438

LETTER OF CREDIT NUMBER:

PLACE AND DATE OF ISSUE:

AMOUNT: **[*Insert amount of letter of credit.*] ($[●])**

EXPIRATION DATE:

The Issuer hereby issues this Irrevocable Standby Letter of Credit ("Letter of Credit") in favor of the Louisiana Department of Transportation and Development LA DOTD), for any sum or sums up to the aggregate amount of **[*Insert amount of letter of credit.*] ($[●])**, available by draft at sight drawn on the Issuer. Any draft under this Letter of Credit shall:

1. Identify this Letter of Credit by the name of the Issuer, and the Letter of Credit number, amount, and place and date of issue; and

2. Be accompanied by a certificate, executed by an authorized signatory of the Beneficiary, stating that:

   (a) the person signing the certificate is an authorized signatory of the Beneficiary; and

   (b) "This drawing is due to (Applicant's Name)'s failure to perform certain obligations under the Comprehensive Agreement of the I-10 Calcasieu River Bridge Public-Private Partnership Project of the Louisiana Department of Transportation and Development (State Project No. H.003931; Federal Aid Project No. 010121)."

All drafts will be honored if presented to (Bank/Branch - Name & Address) on or before (Expiration Date).

This Letter of Credit shall be canceled on the earlier of (i) the stated "Expiration Date" (above) and (ii) the date of receipt by the Issuer of a letter, signed by the Beneficiary, stating that this Letter of Credit may be canceled and accompanied by the original Letter of Credit and any original amendments(s), (if any).

This Letter of Credit is governed by the laws of the State of Louisiana and is subject to the International Standby Practices (ISP98), International Chamber of Commerce Publication No. 590 [ISP]. In the event of any conflict between Louisiana law and the ISP, Louisiana law shall prevail. This Letter of Credit shall be deemed to be a contract made under the laws of the State of Louisiana, and the parties expressly agree that the courts of the State of Louisiana shall have exclusive jurisdiction to decide any questions arising hereunder.

Issuer:

By:

(Authorized signature of Issuer)

EXHIBIT S

PROPOSAL

[TO BE ATTACHED PRIOR TO EXECUTION]

EXHIBIT T

BUILD AMERICA, BUY AMERICA CERTIFICATION

State Project Number:	H.003931	Federal Project Number:	010121
Project Name:	I-10 Calcasieu River Bridge Public-Private Partnership Project		
Contractor:	Click or tap here to enter text.		
Contract Number:	Click or tap here to enter text.		

"Build America, Buy America (BABA)" was signed into law as part of the "Infrastructure Investment and Jobs Act," PL 117-58, on November 15, 2021.

These new requirements are now incorporated into the Comprehensive Agreement for the Project.

As a Supplier for the Project listed above, I certify that I have read, understand, and will comply with Section 24.07 of the Comprehensive Agreement for the Project. Furthermore, I understand that Section 24.07 of the Comprehensive Agreement for the Project applies to any and all portions of this Project, including subcontracted portions and I certify that all materials I supply for the Project comply with BABA and Section 24.07 of the Comprehensive Agreement.

Signature of Duly Authorized Representative Date

Printed Name and Title of Duly Authorized Representative

Name of Representative's Company

Company Address

Company Telephone Number