

**SECOND AMENDMENT TO PROJECT AGREEMENT  
SH 161 TOLL PROJECT**

THIS SECOND AMENDMENT TO PROJECT AGREEMENT (this "Amendment"), by and between the **TEXAS DEPARTMENT OF TRANSPORTATION**, an agency of the State of Texas, as authorized by the Texas Transportation Commission ("TxDOT"), and the **NORTH TEXAS TOLLWAY AUTHORITY**, a regional tollway authority and a political subdivision of the State of Texas (the "Authority"), is executed to be effective the 20<sup>th</sup> day of September, 2010 (the "Effective Date").

**WITNESSETH**

**WHEREAS**, TxDOT and the Authority are parties to that certain Project Agreement State Highway 161 dated July 30, 2009 and amended effective March 23, 2010 (the "Project Agreement"). All capitalized terms not otherwise defined in this Amendment will have the same meaning as described in the Project Agreement; and

**WHEREAS**, TxDOT and the Authority desire to amend the Project Agreement; and

**WHEREAS**, Section 30 of the Project Agreement permits TxDOT and the Authority to amend the Project Agreement through written amendment.

**AGREEMENT**

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

1. **Amendment to Section 7(a)**. Section 7(a) of the Project Agreement is hereby amended in its entirety to read as follows:

“(a) TxDOT Structures. Except as otherwise provided in the following sentence, TxDOT, at its sole cost, shall be responsible for the timely development of the plans, specifications and estimate and construction of those portions of the Project specifically described on Exhibit C attached hereto and made a part hereof (being collectively defined as the "TxDOT Structures"), including all required construction management and construction materials testing services. TxDOT shall be responsible for all remaining utility relocations and/or adjustments required in connection with the construction of the TxDOT Structures, and shall pay that portion of the cost of such utility relocations and/or adjustments as TxDOT is authorized to pay under Section 203.092 of the Code.

The Authority shall, except as otherwise authorized under Section 366.171 of the Code, pay the remaining costs of such utility relocations and adjustments as part of the cost of construction of the Project; provided that the Authority shall have no obligation to pay those remaining costs until (i) the payment of the Upfront Payment to TxDOT, and (ii) the RTC programs funds for the purpose of paying those remaining costs and enters into a written agreement with TxDOT, in form and substance reasonably satisfactory to the Authority, for the transfer of those funds to the Authority.

If the Authority and TxDOT hereafter agree that the UPR Bridge (as defined in Exhibit A) will not be constructed by TxDOT but instead will be constructed by the Authority as part of Phase 4, TxDOT shall provide the Authority with final design plans and specifications for the UPR Bridge, as approved in writing by Union Pacific Railroad, and shall, to the extent legally capable and upon compliance with all procedures legally required therefor, assign, in writing, to the Authority all of TxDOT's right, title and interest in any errors or omission coverage related to such plans and specifications. The Authority's issuance of a notice to proceed under the Design-Build Contract for the construction of the UPR Bridge shall be deemed an agreement by the parties for the Authority to build the UPR Bridge; provided that the Authority shall have no obligation to build the UPR Bridge until the occurrence of the Commitment.

TxDOT shall use its best efforts to construct and complete the TxDOT Structures by the completion dates therefor in Exhibit C, subject only to delays caused by Force Majeure events (as defined herein). TxDOT has reviewed and approved the design and construction schedule and the completion dates for the TxDOT Structures and agrees that they are reasonable and achievable. TxDOT's construction obligations for the main lanes, ramps, frontage roads and cross streets shall include all major items such as pavement, bridges and walls, as well as all columns; supports; curbs; headwalls; wingwalls; aprons; right-of-way fencing; guardrail and fencing; impact attenuators and other safety devices; junction boxes, inlets, manholes, culverts, channels, piping, containment and mitigation systems, conduits and other drainage structures; illumination devices; signage; pavement markings and other delineation devices; and other typical and necessary appurtenances that are not specifically identified as the responsibility of the Authority as provided in this Agreement. TxDOT shall permit the Authority to review, at mutually acceptable review intervals, any designs, plans, specifications, and construction records pertaining to TxDOT's construction obligations under this Section 7 in order to ensure that said work is accomplished in a manner and to standards that, in the reasonable opinion of both TxDOT and the Authority, are consistent with the overall aesthetic guidelines, design and construction of the Project.”

2. **Amendment to Section 17.** Section 17 of the Project Agreement is hereby amended by the addition of new paragraph (c) to read as follows:

“(c) Selection of Project for Application of TELA Fee. The Authority and the RTC have entered into an Agreement Concerning Return of Fee Payments under Toll Equity Loan Agreement dated July 23, 2010. Within thirty (30) days of receipt of any fees paid by the Authority to TxDOT under Section 2.06 of the Toll Equity Loan Agreement (the “TELA Fees”), TxDOT shall submit a written request to the RTC to identify the transportation projects in the Dallas and Fort Worth Districts of TxDOT for the application of the TELA Fees. At the RTC's request, TxDOT shall submit a minute order to the Commission seeking its concurrence with the RTC's selection of those projects for the application of TELA Fees. Nothing in the preceding sentence purports to bind, nor shall be construed as binding, the Commission to take any particular action regarding such minute order.

2. **Amendment to Section 18(a).** Section 18(a) of the Project Agreement is hereby amended in its entirety to read as follows:

“(a) Upfront Payment. On or before 2 p.m. Central Time on the earlier of (i) December 27, 2010 or (ii) one business day after the closing of the Financing that is secured by the Toll Equity Loan Agreement and/or Project revenues (the “Upfront Payment Financing”), the Authority shall pay the Upfront Payment in immediately available funds to TxDOT in the manner described in this Section 18(a). The Upfront Payment shall be subject to adjustment as described in Sections 18(d) and (e).

If the Authority does not pay the Upfront Payment by February 28, 2010, the portion of the Upfront Payment representing reimbursement to TxDOT for funding draw requests for Phases 2 and 3 (the “Reimbursement Portion”) shall thereafter bear interest, at a rate equal to the rate that interest would have accrued on those funds had the funds been on deposit in Fund 6 plus 100 basis points (the “Interest Rate”) until the date the Reimbursement Portion of the Upfront Payment is paid.

The remaining portion of the Upfront Payment (the “Remaining Portion”) shall not bear interest if paid on or before May 27, 2010. If the Authority does not pay the Upfront Payment by May 27, 2010, the Remaining Portion shall bear interest equal to the amount of interest earned on the \$200 million (the “Deposit Amount”) deposited by the Authority with the NCTCOG to be held in escrow in an NCTCOG account that is segregated from other funds held by the NCTCOG until such time as the Authority directs the NCTCOG or the Securities Intermediary, as defined in a securities account control agreement among the Authority, the NCTCOG, and the Securities Intermediary, to return those funds to the Authority. If the Authority directs the NCTCOG or the Securities Intermediary to return the Deposit Amount to the Authority for any reason other than (i) the anticipated closing of the Upfront Payment Financing, or (ii) a determination that the Authority will not proceed with the development of the Project, the Remaining Portion shall thereafter bear interest at the Interest Rate from the date the Deposit Amount is withdrawn from the NCTCOG account until paid to TxDOT.

The Authority’s agreement with the NCTCOG shall require funds held in the account to be invested in accordance with NCTCOG’s investment policy, consistent with the Public Funds Investment Act, and shall require the NCTCOG to provide TxDOT and the Authority with periodic reports on the investment of funds held in the account. If the Authority or NCTCOG believe that the account is no longer a suitable depository for the funds, the Authority shall discuss with TxDOT an appropriate course of action for finding a suitable replacement.

The Authority’s agreement with the NCTCOG shall provide that after the Authority, as provided in that agreement, notifies the NCTCOG and, as required, the Securities Intermediary of the anticipated closing date for the Upfront Payment Financing, the NCTCOG or the Securities Intermediary, as applicable,

will return the Deposit Amount, plus accrued interest, to the Authority on the business day immediately preceding such closing date. The Authority's agreement with the NCTCOG shall provide that the NCTCOG, as provided in that agreement, will return the Deposit Amount to the Authority, plus accrued interest, if the Authority makes a determination that it will not proceed with the development of the Project."

3. **Amendment to Section 25(c).** Section 25(c) of the Project Agreement is hereby amended in its entirety to read as follows:

"(c) Upfront Payment. Either party may terminate this Agreement by written notice to the other party if (i) the Upfront Payment has not been paid by 2 p.m. Central Time on December 27, 2010, or (ii) prior to December 27, 2010, the Authority makes a determination that it will not proceed with the development of the Project, which shall be evidenced by written notice by the Authority to TxDOT that the Authority has made this determination."

4. **Authorization.** Each party to this Amendment represents to the other that it is fully authorized to enter into this Amendment and to perform its obligations hereunder and that no waiver, consent, approval, or authorization from any third party is required to be obtained or made in connection with the execution, delivery, or performance of this Amendment in accordance with its terms, other than those that have been obtained.

5. **Remainder of Agreement.** Except as amended hereby, the Project Agreement shall continue in full force and effect in the form that was effective immediately before the execution of this Amendment.

6. **Counterparts.** This Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Remainder of Page Intentionally Left Blank]

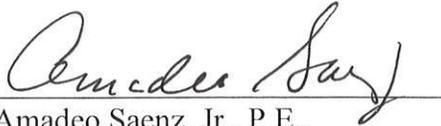
IN WITNESS WHEREOF, TxDOT and the Authority have executed this Amendment by six (6) multiple counterparts on the dates shown hereinbelow, effective on the Effective Date listed above.

**NORTH TEXAS TOLLWAY  
AUTHORITY**

By:   
Allen Clemson,  
Executive Director

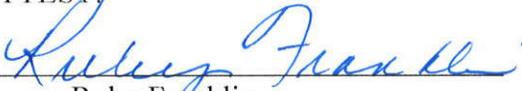
Date: 9-7-2010

**TEXAS DEPARTMENT OF  
TRANSPORTATION**

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

Date: 9/20/10

ATTEST:

  
Ruby Franklin,  
Secretary

APPROVED AS TO FORM:

LOCKE LORD BISSELL & LIDDELL LLP  
Outside General Counsel to the Authority

By:   
Kevin L. Twining