

AMENDED AND RESTATED
MEMORANDUM OF UNDERSTANDING
(CDA PROJECTS AND TXDOT TOLL PROJECTS PROCUREMENTS)

THIS AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING dated as of October 25, 2006 is entered into by and between **TEXAS DEPARTMENT OF TRANSPORTATION**, an agency of the State of Texas ("TxDOT"), and **NORTH TEXAS TOLLWAY AUTHORITY**, a regional tollway authority authorized under Chapter 366 of the Texas Transportation Code (the "NTTA"). This Amended and Restated Memorandum of Understanding shall hereinafter be referred to as the "CDA MOU".

WHEREAS, a Memorandum of Understanding between TxDOT and the NTTA pertaining to Comprehensive Development Agreement ("CDA") Projects and Procurements (the "Original MOU") was approved by TxDOT and the NTTA Board of Directors and finally executed on August 24, 2006; and

WHEREAS, the Proposed TxDOT/NTTA Regional Protocol ("the Protocol") was approved by the NTTA Board of Directors on August 10, 2006, and was approved by the Texas Transportation Commission on August 24, 2006; and

WHEREAS, TxDOT is authorized to construct and operate toll projects and is currently in the process of pursuing CDAs authorized under Chapter 223 of the Texas Transportation Code with private entities for toll road projects throughout the State of Texas, including within the NTTA Service Area; and

WHEREAS, as part of the CDA procurement for each Project, the private entities ("Proposers") seeking to become the developer under the CDA shall be required to design, construct, develop, operate, maintain and/or finance the Project; and

WHEREAS, the NTTA owns and operates various toll roads in the NTTA Service Area and has experience in toll road operations and management; and

WHEREAS, TxDOT and the NTTA have effectively cooperated on highway and toll road projects in the NTTA's service area in the past; and

WHEREAS, TxDOT and the NTTA acknowledge that the NTTA is interested in participating in the Projects and providing certain services in connection therewith to the Proposers, and may at times be interested in competing as a potential developer by submitting a public sector comparator for TxDOT consideration; and

WHEREAS, TxDOT acknowledges that some Proposers may wish to utilize some of the NTTA's services on the Projects; and

WHEREAS, TxDOT wishes to provide the NTTA with the ability and opportunity to participate in Projects and to be available to provide services to Proposers ; and

WHEREAS, TxDOT and the NTTA acknowledge it is of paramount importance to the Projects and the State of Texas that each Project procurement be undertaken in a manner consistent with applicable law and in a fair and equitable manner; and

WHEREAS, TxDOT and the NTTA desire to set forth the general parameters and procedures governing participation by the NTTA in the Projects in order to evidence their joint commitment to the foregoing principles; and

WHEREAS, this CDA MOU has the limited purpose of effecting that portion of Section 7 of the Protocol that states that the NTTA and TxDOT will agree to amend the Original MOU to develop processes for the pricing, performance standards and evaluation of current Projects under procurement and future Projects; and

WHEREAS, a Tolling Services Agreement for the SH 121 Toll Project and a Memorandum of Understanding Between the Texas Department of Transportation and the North Texas Tollway Authority Regarding Cooperative Planning and Development of Toll Roads (the "Protocol MOU") are concurrently being executed, in order to effect the parts of the Protocol not addressed herein;

NOW, THEREFORE, for and in consideration of these premises, TxDOT and the NTTA agree as follows:

1. DEFINITIONS

When the following words are capitalized in this CDA MOU, the following definitions shall apply:

"Expiration Date of the Protocol" means 12:00 a.m. on August 24, 2011, unless before that moment TxDOT and the NTTA agree in writing to amend the term of the Protocol whereupon the "Expiration Date of the Protocol" shall mean 12:00 a.m. on the day following the last day of the newly designated term of the Protocol.

"Mandatory Services" means services described in Part 2A, 2B, 2C (but only if the NTTA takes all of the collection risk for a Project), and 2D, on Exhibit A (except that this definition shall not be interpreted to constrain a Developer's flexibility to establish its own project website, and engage in marketing and promotion activities to attract traffic to the project specifically, either independently or in concert with the NTTA)

"NTTA Service Area" means the counties of Dallas, Tarrant, Denton and Collin. Additionally, if any of the counties of Cooke, Grayson, Wise, Parker, Johnson, Ellis, Kaufman, Rockwall, Hunt and Fannin becomes a part of the NTTA pursuant to Texas Transportation Code §366.031, or other lawful process, that county shall be included in this definition of "NTTA Service Area" at that time.

“Optional Service” means any service described on Exhibit A that is not a Mandatory Service.

“Project” means a project described in Section 2(a) of this CDA MOU.

2. APPLICABILITY OF THIS CDA MOU

(a) The provisions of this CDA MOU apply only to the following:

(i) a toll road project undertaken in the NTTA Service Area by TxDOT without using a CDA that meets the requirements of Sections 2(a)(iii)(B) and (C) below, and for which TxDOT and a prime contractor have finally executed a contract for construction or a substantially similar contract for all or any substantial portion of such project prior to the Expiration Date of the Protocol;

(ii) a toll road project undertaken in the NTTA Service Area by TxDOT pursuant to a solicited or unsolicited CDA that meets the requirements of Sections 2(a)(iii)(B) and (C) below that includes the provision of any of the Mandatory Services identified on Exhibit A, for which TxDOT issues a request for qualifications (“RFQ”) or request for proposals and qualifications (“RFPQ”) prior to the Expiration Date of the Protocol; and

(iii) except to the extent TxDOT either (1) reasonably determines it will constitute a breach of or default under, or will interfere with the rights conferred on Cintra Zachry, L.P. by that certain “Comprehensive Development Agreement for the TTC-35 High Priority Corridor by and between Texas Department of Transportation and Cintra Zachry, L.P., dated March 11, 2005” (“the TTC-35 CDA”), or (2) is notified, informed or otherwise becomes aware that requiring the provision of Mandatory Services by the NTTA will have a reasonable likelihood of exposing TxDOT to a lawsuit or claim by Cintra-Zachry, L.P. for which the NTTA does not agree to fully fund and discharge all potential resulting costs and liabilities (and provide suitable collateral therefor), a toll road project developed under the TTC-35 CDA, provided that:

(A) the toll road project is not located within the TTC-35 Corridor, as defined in the TTC-35 CDA, but serves a connectivity or financing purpose for the Corridor;

(B) a majority of the centerline miles of such toll road project are within the NTTA Service Area; and

(C) no part of such toll road project extends outside the NTTA Service Area and the counties of Cooke, Grayson, Wise, Parker, Johnson, Ellis, Kaufman, Rockwall, Hunt, and Fannin, to the extent such counties are not then part of the NTTA Service Area.

(b) For the avoidance of doubt, the NTTA may offer on an optional basis any of the services identified on Exhibit A for a toll road project developed under the TTC-35 CDA that meets the requirements of Sections 2(a)(iii)(B) and (C), even if the provisions of this CDA MOU relating to the provision of Mandatory Services do not apply to that toll road project.

(c) TxDOT shall not modify the TTC-35 CDA in a manner that materially impairs the NTTA's rights under this CDA MOU.

3. NTTA DECISION REGARDING PARTICIPATION

(a) If the process set forth in the Protocol MOU leads to a conclusion that TxDOT will undertake development of a Project by a method other than a CDA, TxDOT as developer will negotiate directly with the NTTA to provide services for that Project in accordance with the provisions of this CDA MOU.

(b) If the process set forth in the Protocol MOU leads to a conclusion that TxDOT will undertake development of a Project utilizing a CDA, the NTTA will during those same discussions use all reasonable efforts to decide and notify TxDOT in writing whether the NTTA wishes to submit a public sector comparator for the Project or whether it wishes to instead provide services to the Developer of the Project.

(c) At times, it is possible that the Texas Transportation Commission will need to decide whether to authorize the issuance of a RFQ or RFPQ even though the discussions referenced in Section 3(b) have occurred in accordance with this CDA MOU but have not resulted in the NTTA informing TxDOT about its preference for participation in a Project. In these circumstances, if the NTTA has not informed TxDOT in accordance with Section 3(b) by the time the Texas Transportation Commission authorizes issuance of a RFQ or RFPQ, then before the 31st day after the Texas Transportation Commission issues written authorization for TxDOT staff to issue a RFQ or RFPQ for the Project, the NTTA shall provide written notice to TxDOT about whether it wishes to submit a public sector comparator for the Project or instead to provide services to the Developer of the Project..

(d) If the NTTA does not provide timely written notice in accordance with Section 3(c), it shall be conclusively presumed that the NTTA has irrevocably elected to provide services for the Project.

(e) If the NTTA decides to submit a public sector comparator for the Project, it may not negotiate or otherwise discuss or communicate with any prospective Proposer the possibility that it might provide services for the Project. However, if a private Proposer is chosen to be the developer of the Project and a CDA for the Project has been finally executed, the NTTA may negotiate with the Developer prices, terms and conditions for the NTTA to provide Optional Services. The NTTA shall not provide or offer to provide Mandatory Services for the Project for at least the first five years after the Developer

commences its tolling operations for the Project, unless TxDOT confirms to the NTTA in writing that the following conditions have been satisfied:

- (i) the Developer for the Project has certified to TxDOT, on a schedule and in a form and manner satisfactory to TxDOT, that the Developer has had no prior contact with the NTTA, that violates this CDA MOU, regarding any aspect of the Project; and
- (ii) the NTTA has certified to TxDOT, on a schedule and in a form and manner satisfactory to TxDOT, that the NTTA has had no prior contact with the Developer, that violates this CDA MOU, regarding any aspect of the Project; and
- (iii) the NTTA has provided to TxDOT a proposed Tolling Services Agreement for the Project, with reasonable explanatory information to demonstrate the value that the NTTA's services can bring to the Project, along with any other information TxDOT might request; and
- (iv) TxDOT has approved the proposed Tolling Services Agreement in writing; and
- (v) TxDOT has notified the NTTA in writing that TxDOT has no objection to the NTTA contacting the Developer for the purpose of offering services for the Project that would otherwise fit the definition of Mandatory Services in Section 1.

Nothing in this Section 3(e) requires TxDOT to approve a request by the NTTA to offer Mandatory Services to the Developer. In determining whether the conditions above have been satisfied, TxDOT shall consider not only the value that NTTA's services might bring to the Project, but also the impact such a decision might have on the CDA procurement for the Project and the CDA program as a whole.

(f) TxDOT shall include information in the RFQ or RFPQ explaining whether the NTTA will submit a public sector comparator or whether the NTTA will instead provide services for the Project, so that prospective Proposers have notice whether the NTTA will be available to provide any of the Mandatory or Optional Services for that Project.

(g) For any Project for which the NTTA has elected to provide services, before the 31st day after the Texas Transportation Commission issues written authorization for TxDOT staff to issue a RFQ or RFPQ for the Project, the NTTA may provide to TxDOT reasonable estimates of the prices to be included in the Tolling Services Agreement and Project Services Sheet identified in Section 8. TxDOT shall include that information in the RFQ or RFPQ or, if it is not provided by the NTTA, information derived from the Tolling Services Agreement most recently approved by TxDOT regarding prices, terms and conditions applicable to the NTTA's services.

(h) For any Project for which the NTTA has elected to provide services, after issuance of a RFQ or RFPQ, TxDOT shall provide the NTTA with specific and sufficient

information about the Project and provide the proposed Tolling Services Agreement so that the NTTA can prepare the proposed pricing and Project Services Sheet, identified in Section 8, that will pertain to the Project. To the extent reasonably possible without jeopardizing the integrity and enforceability of the procurement, TxDOT will invite the NTTA to information-gathering meetings with Proposers, in which case the NTTA will comply with the restrictions TxDOT places on its participation. TxDOT will, however, provide the necessary information to the NTTA no later than 60 days prior to issuance of a RFP or request for detailed proposals ("RFDP"), so that the NTTA has adequate time to prepare the proposed pricing, Project Services Sheet and NTTA Contract described in Section 8.

(i) The NTTA shall provide the proposed pricing, any proposed revisions to the Tolling Services Agreement, the Project Services Sheet and the NTTA Contract to TxDOT within 45 days after receiving the information described in Section 3(h). TxDOT shall review the proposed pricing, any proposed revisions to the Tolling Services Agreement, Project Services Sheet and NTTA Contract to determine whether they satisfy the requirements of Section 8. If TxDOT reasonably determines that they do not, TxDOT shall so inform the NTTA, providing sufficient explanation of any claimed noncompliance to enable the NTTA to correct the noncompliance or demonstrate that its proposed pricing and proposed revisions to the Tolling Services Agreement, the Project Services Sheet and the NTTA Contract satisfy the requirements of Section 8.

(j) The NTTA shall have 10 days to cure all aspects of noncompliance identified by TxDOT pursuant to Section 3(i), or to demonstrate that its proposed pricing and proposed revisions to the Tolling Services Agreement, the Project Services Sheet and the NTTA Contract were compliant; provided, however, that during this 10-day period TxDOT shall promptly provide information and attend meetings reasonably requested by the NTTA, and both parties shall negotiate diligently and in good faith to resolve any such noncompliance issue.

(k) If TxDOT receives from the NTTA proposed pricing, proposed revisions to the Tolling Services Agreement, Project Services Sheet and NTTA Contract that satisfy the requirements of Section 8, that information shall be included in a RFP or RFDP for the Project, and the proposed pricing and proposed revisions to the Tolling Services Agreement shall be incorporated into the Tolling Services Agreement.

(l) If, notwithstanding their compliance with the requirements of this Section 3, the NTTA and TxDOT are unable to agree upon a Tolling Services Agreement, including pricing, through execution of a mutual agreement approving the form of the Tolling Services Agreement for the Project, by the end of the period set forth in Section 3(j), then all the Mandatory Services and NTTA's pricing therefor shall be treated as Optional Services pursuant to this CDA MOU and added to the NTTA Contract, and no Proposer shall be obligated to use Mandatory Services for the Project or to enter into a Tolling Services Agreement for the Project.

4. NTTA SERVICES

(a) For any Project described in Section 2(a)(ii) or Section 2(a)(iii) for which the NTTA does not compete for the role of developer by submitting a public sector comparator, subject to Section 3(l), the NTTA shall be the provider for the Mandatory Services for a period of five years commencing with the first start of revenue operations by the developer under the CDA for any portion of that Project. After that initial five-year period, the Developer and the NTTA will be free to negotiate mutually acceptable terms regarding the Mandatory Services, failing which the Developer may choose another alternative. The Developer may also choose, but shall not be obligated, to have NTTA provide Optional Services, subject to the terms and conditions set forth in this CDA MOU.

(b) For any Project described in Section 2(a)(i), unless the NTTA has been limited to providing only Optional Services pursuant to Section 3(l), the NTTA shall be the provider for the Mandatory Services for a period of five years commencing with the first start of revenue operations by TxDOT for any portion of that Project. The NTTA will provide the Mandatory Services for that Project subject to the terms of the Tolling Services Agreement, including pricing, that was negotiated pursuant to Section 3. After that initial five-year period, if TxDOT and the NTTA have not mutually agreed that the NTTA will continue to provide those services, TxDOT will be free to choose another service provider for the Project, and the NTTA will be free to cease providing services for the Project, subject to any contrary and still-operative terms of the Tolling Services Agreement for the Project.

(c) Pricing for Mandatory Services and Optional Services is governed by Section 8.

(d) Subject to Section 3(l), all Developers under CDAs governed by Section 4(a) shall enter into the form of Tolling Services Agreement for the Mandatory Services approved by TxDOT and NTTA for the Project, and shall pay the NTTA for its services, for the first five years of revenue operations under the CDA, at the prices set forth in the Tolling Services Agreement. The Developer may use other service providers for the Optional Services. The Developer may also use alternative providers or negotiate prices with the NTTA that are different from those set forth in the Tolling Services Agreement after the first five years of revenue operations under the CDA.

(e) Neither TxDOT nor the NTTA may revise or limit the scope of services available from the NTTA on a particular Project without the other's consent, except as allowed by this CDA MOU or the Tolling Services Agreement for the Project. Where NTTA and a Developer desire a change order under a Tolling Services Agreement between them either to (1) reduce the scope of NTTA's services or (2) change the method or amount of NTTA's compensation for the Mandatory Services for a reason other than Developer's deployment of a non-screen-line tolling system architecture, TxDOT's prior written approval of such change order shall be required. TxDOT will have the right to disapprove or condition its approval if, in TxDOT's good faith judgment, any of the following grounds exist, and for no other reason:

- (i) the change order does or will adversely affect TxDOT's rights, interests or protections, or does or will increase TxDOT's risks or obligations, under the CDA documents, including adverse effect on performance standards and requirements;
- (ii) TxDOT has a right under the CDA documents to favorable adjustment in the economic terms thereof, including compensation for TxDOT, in connection with the proposed change order and the Developer and TxDOT have not resolved the nature and amount of the adjustment;
- (iii) the change order in any manner increases risk to TxDOT regarding the integrity or regularity of, or risk of protest of, TxDOT's procurement and selection of the Developer;
- (iv) the NTTA has not satisfied TxDOT that it complied with Sections 5 and 6 of this CDA MOU, or the Developer has not satisfied TxDOT that it complied with provisions of the procurement documents governing or restricting communications with NTTA, prior to execution and delivery of the Tolling Services Agreement; or
- (v) as a consequence of the proposed change order, TxDOT does or will incur greater burden or expense in carrying out its services as a transponder issuer and customer account manager.

For any other proposed change order or change directive under a Tolling Services Agreement that requires TxDOT's approval, the restrictions of this provision shall not apply to TxDOT's exercise of its approval right.

- (f) The NTTA acknowledges and agrees that it will not seek to participate in any way on any Project except under this CDA MOU, and it will not take any action that shall adversely affect the implementation of the Project as a CDA Project or completion of TxDOT's procurements and award of a contract for the Project. This Section 4(f) shall survive the termination of this CDA MOU, if the termination results from default by the NTTA, until at least 12:00 a.m. on August 24, 2011, or until 12:00 a.m. on the date following the last day of any extension of the term of the Protocol that may be agreed upon by TxDOT and the NTTA.
- (g) TxDOT will not in any manner discourage any Proposer or Developer on any Project from utilizing the services that can be provided by the NTTA pursuant to this CDA MOU.

5. PARTICIPATION ON PROPOSER TEAMS

- (a) If the NTTA decides to submit a public sector comparator for a Project, it shall not have contact at any time with any prospective Proposer or any of its team members or affiliates for that Project.

(b) If it does not submit a public sector comparator for a Project, the NTTA may meet with prospective and short-listed Proposers for a Project solely for the purpose of negotiating terms and conditions pertinent to Optional Services, and shall not engage in any communications for that Project, with prospective or short-listed Proposers concerning Mandatory Services except as part of meetings TxDOT convenes with prospective or short-listed Proposers (pursuant to Section 3(h) or otherwise) or as otherwise approved by TxDOT in writing in its sole discretion. Such meetings shall be subject to Section 6(b).

(c) To facilitate the negotiation of Optional Services described in Section 5(b), the NTTA may:

(i) meet and communicate with prospective and short-listed Proposers on a Project, in accordance with Section 6;

(ii) participate in joint meetings with all prospective and short-listed Proposers on a Project and TxDOT;

(iii) provide information to TxDOT for delivery to all prospective and short-listed Proposers on a Project about the NTTA and the Optional Services that it may provide to the Developer and the Project;

(iv) submit materials to TxDOT for delivery to all prospective and short-listed Proposers on a Project regarding the NTTA's qualifications for purposes of any qualification submittal or detailed proposal submittal to TxDOT by such Proposers;

(v) receive and respond to questions from prospective and short-listed Proposers concerning a Project posed through TxDOT, with answers circulated to all prospective and short-listed Proposers pursuing that Project;

(vi) provide to TxDOT for delivery to all prospective and short-listed Proposers on a Project, technical information developed in accordance with this CDA MOU;

(vii) enter into a conditional agreement with any short-listed Proposer to provide Optional Services, which agreement shall include the principal business and other terms and conditions developed by the NTTA as a standardized form applicable in all material respects to all short-listed Proposers and which is included by TxDOT in the Project procurement package.

(d) The conditional agreement described in Section 5(c)(vii) shall not in any way limit the NTTA's right to enter into conditional agreements regarding Optional Services with other short-listed Proposers. Any conditional agreement may only become effective upon satisfaction of all of the following conditions:

(i) award of the CDA to the Proposer;

- (ii) the execution by TxDOT and the Developer of a CDA for the Project;
 - (iii) the execution by TxDOT, the Developer and the NTTA of a three-party agreement; and
 - (iv) satisfaction of such other terms and conditions as may be set forth in the conditional agreement that are consistent with the terms of this CDA MOU.
- (e) The conditional agreement shall include technical information and reference the prices developed in accordance with Section 8.

6. IMPARTIALITY TOWARDS PROPOSER TEAMS

(a) In all communications with prospective or short-listed Proposers, the NTTA agrees to treat each Proposer fairly and equitably in connection with each Project. Without limiting the generality of the foregoing, the NTTA shall:

- (i) be entitled to meet and communicate individually or directly with any prospective or short-listed Proposer concerning Optional Services in accordance with Sections 5 and 6;
- (ii) not enter into any sole source or exclusive relationship with any prospective or short-listed Proposer to provide services for a Project until such time as TxDOT enters into a CDA with the Developer;
- (iii) not knowingly take any action that discriminates for or against any prospective or short-listed Proposer;
- (iv) act consistently with any procedures that are set forth in any Project procurement document issued by TxDOT which are applicable to the prospective or short-listed Proposers in connection with interactions with the NTTA or in connection with a Project, provided that TxDOT shall reasonably cooperate with the NTTA in order to facilitate the NTTA's interaction with the prospective and short-listed Proposers;
- (v) consult and reasonably cooperate with each prospective and short-listed Proposer to enable such Proposer to timely prepare for responding to any request for qualifications or proposals;
- (vi) provide reasonably equal access to the NTTA's personnel (with comparable experience, expertise, capability and authority), documentation, reports and materials to each prospective or short-listed Proposer that requests such access, including providing a standardized package of information and data with respect to the NTTA, its Optional Services under this CDA MOU and technical information relating thereto (which standardized package of information shall also be provided to TxDOT in advance of distribution to any prospective or

short-listed Proposer and may be included by TxDOT in any procurement package for any Project); and

(vii) equitably allocate its resources, staffing and time for consultations and cooperative work so that no particular prospective or short-listed Proposer gains a competitive advantage over other prospective or short-listed Proposers by reason of disproportionate allocation of resources, staffing and time.

(b) If the NTTA wishes to have individual or direct contact with a prospective or short-listed Proposer concerning Optional Services, through a meeting, telephone call or otherwise, the NTTA shall promptly provide reasonable advance written notification to TxDOT of the time, place and purpose of the proposed meeting, the time, phone number and purpose for the call. TxDOT, in its discretion, may participate in such meeting or call. In the case of correspondence or email communication to a prospective or short-listed Proposer, NTTA shall concurrently copy TxDOT's designated representative. Promptly following a meeting or call (and in no event later than 5 calendar days thereafter), and irrespective of whether TxDOT participated therein, the NTTA shall provide to TxDOT a reasonably detailed written summary of items discussed at the meeting/call, the outcome of any decisions and any future action items.

(c) The NTTA shall designate (i) specified individuals within the NTTA to interact with prospective and short-listed Proposers and limit such interactions to such individuals; and (ii) one or more individuals to be the primary contact person for each Project.

(d) The NTTA shall designate an individual to monitor internal conformance with the terms of this CDA MOU and these protocols and for training internal personnel in connection therewith.

(e) Notwithstanding the foregoing, the NTTA may communicate with a prospective or short-listed Proposer regarding matters unrelated to the Project, the CDA procurement for the Project, and the NTTA's provision of Mandatory and/or Optional Services for the Project.

7. CONFIDENTIALITY

(a) The NTTA acknowledges and agrees that a prospective or short-listed Proposer may provide to the NTTA confidential and proprietary information concerning a Project or a CDA procurement, including, without limitation, some or all of (i) the Proposer's technical approaches or proposals for Project development, design, construction, operation and maintenance; (ii) traffic and revenue data, analysis, modeling and projections developed by the Proposer; (iii) financial data, modeling and plans developed by the Proposer; (iv) information concerning proprietary or licensed technology or software; (v) Project pricing and cost methodology information; (vi) drafts of qualification submittal or detailed proposals prior to submittal to TxDOT; and (vii) such

other matters as the Proposer deems confidential or proprietary (collectively, "Proposer Confidential Information").

(b) The NTTA acknowledges and agrees that TxDOT may also provide it with confidential or proprietary information concerning a Project or a CDA procurement, including, without limitation, information about one or more Proposers or the CDA procurement process, documentation and technical requirements. TxDOT and the NTTA also contemplate entering into discussions concerning tolling approaches, business rules, the provision of services by the NTTA, collection and enforcement affecting TxDOT and the NTTA toll projects throughout the State of Texas and such discussions may produce additional agreements between TxDOT and the NTTA. During the pendency of such discussions and prior to the finalization and execution of such additional agreements, interim drafts of agreements and other documents and materials will likely be transmitted between TxDOT and the NTTA. (For purposes of this CDA MOU, the materials and information described in this Section 7 (b) shall be referred to herein as "TxDOT Confidential Information").

(c) Except as required by law, the NTTA shall (i) not disclose the Proposer Confidential Information provided by one Proposer to any other Proposer or third party; (ii) not disclose the TxDOT Confidential Information to any Proposer or third party or use the same to the detriment of any Proposer, including, without limitation, by using it for the benefit of any Proposer which has elected to use the NTTA for services; (iii) maintain the Proposer Confidential Information and the TxDOT Confidential Information in a safe, secure place; (iv) not use the Proposer Confidential Information for any purpose other than in connection with assessing the viability of providing, and entering into an agreement to provide, services to the Proposer submitting the same in connection with a Project; (v) instruct all personnel that will have access to the Proposer Confidential Information or the TxDOT Confidential Information about the confidentiality requirements relating thereto and obtain written confidentiality and nondisclosure agreements consistent with this CDA MOU from each of such individuals before allowing them access to such materials; and (vi) take and enact such other reasonable procedures and safeguards as are necessary or appropriate to satisfy the principles of this paragraph. The NTTA acknowledges and agrees that it shall not, by virtue of being provided TxDOT Confidential Information or Proposer Confidential Information, obtain or accede to any intellectual property rights and privileges in such items and materials, including, without limitation, patent, trademark, copyright, licensing or ownership rights. TxDOT acknowledges that the NTTA and the Developer have the ability to obtain and confer, by mutual agreement, intellectual property rights and privileges in the Proposer Confidential Information of that Developer, including patent, trademark, copyright, licensing or ownership rights, resulting from their post-selection working relationship, limited only to the extent that no such agreement between the NTTA and a Proposer/Developer can in any way impair TxDOT's rights or the Developer's obligations to TxDOT under the CDA regarding intellectual property rights and privileges, and related subject matter.

(d) TxDOT acknowledges and agrees that the NTTA may provide it with confidential or proprietary information concerning a Project or a CDA procurement or the NTTA's technical approaches thereto ("NTTA Confidential Information").

(e) Except as required by law, TxDOT shall (i) not disclose the NTTA Confidential Information to any Proposer or third party; (ii) maintain the NTTA Confidential Information in a safe, secure place; (iii) not use the NTTA Confidential Information for any purpose other than in connection with assessing the NTTA's inclusion on a Proposer team or involvement or participation on a Project; (iv) instruct all personnel that will have access to the NTTA Confidential Information about the confidentiality requirements relating thereto and obtain written confidentiality and nondisclosure agreements consistent with this CDA MOU from each of such individuals before allowing them access to such materials; and (v) take and enact such other reasonable procedures and safeguards as are necessary or appropriate to satisfy the principles of this paragraph. TxDOT acknowledges and agrees that it shall not, by virtue of being provided the NTTA Confidential Information, obtain or accede to any intellectual property rights and privileges in such items and materials, including, without limitation, patent, trademark, copyright, licensing or ownership rights.

(f) The provisions of this Section 7 shall survive the expiration or termination of this CDA MOU.

8. PRICING; TERMS AND CONDITIONS FOR A PROJECT

(a) The prices, terms and conditions related to providing Mandatory Services for each Project described in Section 2(a) shall be established by using the Tolling Services Agreement that was most recently approved by TxDOT and the NTTA for a Project as a starting point, except that no change orders or change directives thereunder, including any to which TxDOT has given its approval, shall apply. Prices for Mandatory Services for future Projects are subject to adjustment (upwards or downwards) from those provided in such Tolling Services Agreement in accordance with the following pricing principles hereby adopted by TxDOT and NTTA:

(i) Prices are subject to adjustment to more accurately reflect the marginal cost to the NTTA directly attributable to performing the Mandatory Services; and

(ii) Prices shall also include a reasonable rate of return over and above NTTA's marginal cost directly attributable to the Mandatory Services commensurate with the risks undertaken by the NTTA under the terms of the Tolling Services Agreement respecting the Mandatory Services and under the method of pricing such services, which rate of return may vary from that for the most recently approved Tolling Services Agreement where such risks are different from those under the terms of that Tolling Services Agreement; and

(iii) A proposal either by TxDOT to reduce pricing by more than 20% as compared to that under the Tolling Services Agreement most recently approved or

- by the NTTA to increase pricing by more than 20% as compared to that under the Tolling Services Agreement most recently approved, shall be prima facie unreasonable, in which case the proposing party shall bear the burden of clearly demonstrating that such adjustment is required by reason of inflation or deflation in the economy or major differences in underlying assumptions affecting the costs or risks of pricing Mandatory Services between the subject Project and the Project under the Tolling Services Agreement most recently approved.
- (b) The new prices and any other variations from the other terms and conditions established by the most recently approved Tolling Services Agreement shall be subject to mutual written approval of TxDOT and NTTA in accordance with Section 3 and this Section 8 before taking effect.
- (c) With respect to each Project for which the NTTA provides Optional Services under this CDA MOU, the NTTA shall provide to TxDOT (i) a menu and price sheet substantially in the form of Exhibit B (the "Project Services Sheet") with respect to the Optional Services on Exhibit A that the NTTA is willing to provide on such Project; and (ii) a standardized form of contract that the NTTA proposes to use to be retained to provide such services for such Project (the "NTTA Contract"). The Project Services Sheet and the NTTA Contract shall be prepared by the NTTA specifically for each Project and shall take into account the technical provisions and scope of work requirements that TxDOT shall utilize in connection with the Project.
- (d) The prices for all services on the Project Services Sheet shall be calculated to compensate the NTTA for its costs of performing the services, including a rate of return it deems commensurate with the risk taken by the NTTA if it provides the Optional Services.
- (e) TxDOT shall provide the Tolling Services Agreement, the terms of the Project Services Sheet and the NTTA Contract to short-listed Proposers. The Tolling Services Agreement shall be binding upon the NTTA. The Project Services Sheet shall not be binding upon the NTTA. Should the NTTA not include a service for a Project on a Project Services Sheet, it shall not be entitled, except as set forth in Section 8(g) to provide such service to a Proposer with respect to such Project without obtaining TxDOT's written consent, in TxDOT's reasonable discretion.
- (f) Prior to the selection of the Developer and the execution of the CDA, if the NTTA wishes to deviate from the terms of the Project Services Sheet, it shall submit to TxDOT, at least 60 business days prior to the proposal due date for such Project, (i) the new terms and conditions and pricing proposed by the NTTA; (ii) a detailed narrative summary and description of the differences between the new terms and conditions and pricing and the Project Services Sheet and the NTTA Contract and an explanation about why the NTTA believes the new terms and conditions and pricing should be used; and (iii) such other information requested by TxDOT with respect to any alternative proposals. Such deviations shall be subject to TxDOT's approval, in its reasonable discretion and in no event shall the new prices exceed the limits set forth in this Section 8.

(g) Subsequent to the selection of the Developer and the execution of the CDA, and upon notice to TxDOT, the Developer and the NTTA, in their discretion, may jointly agree to modify the pricing and other terms set forth for Optional Services in the applicable Project Services Sheet for a Project based upon actual operating experience, further clarification or refinement regarding service levels, or other operational decisions (but in no event due to any factor listed in Section 8(h)).

(h) Without limiting the generality of the foregoing, in no event shall the NTTA differentiate pricing or term on the basis of (1) the identity of the Proposer; (2) past working history or experiences with the Proposer; (3) planned, expected or promised future working relationships with the Proposer; or (4) "volume" or other discounts arising or relating to other projects or business relationships between the NTTA and the Proposer.

(i) In connection with each Project for which the NTTA intends to provide services, it shall submit to TxDOT, at least 15 business days prior to the proposal due date for such Project, a certification in the form of Exhibit C executed by the NTTA concerning compliance with the terms of this CDA MOU. Failure to submit such certification shall render the NTTA ineligible to perform services on such Project.

(j) For any Project described in Section 2(a)(ii) and Section 2(a)(iii) (if competitively procured) for which the NTTA has elected to provide services to a Proposer pursuant to this CDA MOU, TxDOT shall use all reasonable efforts to include releases and waivers of protest in the procurement documents whereby the Proposers shall be requested to execute such release and waiver of protest as part of its proposal so long as the NTTA has complied in all material respects with the terms of this CDA MOU.

9. REIMBURSEMENT OF COSTS RESULTING FROM SUCCESSFUL PROTEST

(a) If a Proposer files or asserts a bid/proposal protest with TxDOT or otherwise on the basis of the NTTA's conduct in connection with a Project (including, without limitation, its failure to comply with the terms of this CDA MOU), and should the bid/proposal protest be successful and the NTTA be found to have violated the terms of this CDA MOU or otherwise be found liable or responsible for the conduct that resulted in the bid/protest, the NTTA shall release and reimburse TxDOT, the members of the commission, the Federal Highway Administration, and their successors and assigns and their respective officers, directors, agents and employees (collectively referred to as the "Released and Reimbursed Parties") for all claims, causes of action, suits, judgments, investigations, legal or administrative proceedings, costs, penalties, fines, damages, losses, liabilities and response costs, and including penalties, fines, attorneys', accountants' and expert witness fees and costs incurred in connection with the enforcement of this reimbursement obligation. The NTTA's reimbursement obligation shall be deemed to expressly include re-procurement costs for the Project (including, without limitation, the costs incurred by TxDOT for technical, legal and financial consultants to assist them with the re-procurement), compensation for delays to the

Project and compensation for any impact on Project financing. If the NTTA is found to have been jointly or contributorily (instead of exclusively or solely) liable or responsible for a successful bid/proposal protest, its reimbursement obligation hereunder shall be limited to the same percentage of the above-described claims and costs as the percentage for which it was jointly or contributorily responsible or liable.

(b) Should a bid/proposal protest be successful and should the NTTA be found to have violated the terms of this CDA MOU or otherwise be found liable or responsible for the conduct that resulted in the bid/protest, TxDOT may terminate this CDA MOU, in which case, the NTTA shall be precluded from participation on any Project (or, alternatively, in TxDOT's discretion, the NTTA may continue its participation in Projects, but subject to such additional provisions and constraints as TxDOT shall see fit to impose, in its discretion).

(c) Notwithstanding the foregoing provisions of this Section 9, because of the longstanding cooperative relationship between TxDOT and the NTTA, the potential benefits that the NTTA may provide to a Proposer that desires, in its discretion, to utilize the NTTA, and the belief that, as a public agency experienced in procurements, that the NTTA has an independent incentive to act in accordance with the terms of this CDA MOU and at the highest levels of ethics and integrity, the NTTA's sole liability under this Section 9 and for any other breach of this CDA MOU shall be limited to \$1 million per Project, in addition to TxDOT's rights under Section 11.

(d) In addition to the limitations set forth in Section 9(c), the NTTA's reimbursement obligations under this Section 9 or TxDOT's termination or other default rights under this CDA MOU shall not apply with respect to a Project if the NTTA has complied with (i) a TxDOT written directive issued in connection with such Project; or (ii) the terms and conditions of this CDA MOU.

(e) TxDOT and the NTTA shall reasonably cooperate with one another in defending or otherwise responding to any bid/proposal protest or other claim filed or asserted on the basis of the NTTA's conduct in connection with a Project, and will defend against such bid/proposal protest or other claim in good faith.

(f) This Section 9 shall survive the expiration and termination of this CDA MOU with respect to any procurements in which the NTTA participated pursuant to this CDA MOU, and TxDOT's rights under this Section 9 are in addition to TxDOT's rights under Section 11.

10. MUTUAL SUPPORT OF INTEROPERABILITY

TxDOT and the NTTA have been working with other governmental entities to assure that toll operations across the state are interoperable, and continue to agree that pursuit of this goal will provide the best value to Texans for toll road operations. To that end, TxDOT and the NTTA agree that they will both pursue interoperability and neither TxDOT nor the NTTA will take any action that would impair the interoperability of TxDOT

operations and the NTTA's operations with each other. TxDOT and NTTA acknowledge that other parties may operate and/or provide services on toll roads within their respective control, including in the NTTA Service Area, and hereby agree to take all actions reasonably necessary to ensure that any such third party systems shall also be interoperable.

11. TERMINATION OF THE MOU

(a) In addition to the provisions of Section 9, if the NTTA materially breaches any term or condition of this CDA MOU, TxDOT shall deliver written notice thereof to the NTTA. The NTTA shall have ten (10) days in which to effect a full and complete cure of such breach. Should the NTTA be unwilling or unable to cure its breach within such ten (10) day period, TxDOT may terminate this CDA MOU, in which case, the NTTA shall be precluded from participation on any Project under this CDA MOU, or any new toll road Project to which this CDA MOU would have applied pursuant to Section 2 if this CDA MOU had not been terminated. The NTTA's preclusion from participating on any Project under this Section 11(a) shall survive the expiration and termination of this CDA MOU, until at least 12:00 a.m. on August 24, 2011, and thereafter until 12:00 a.m. on the date following the last day of any extension of the term of the Protocol that may be agreed upon by TxDOT and the NTTA.

(b) If TxDOT materially breaches any term or condition of this CDA MOU, the NTTA shall deliver written notice thereof to TxDOT. TxDOT shall have ten (10) days in which to effect a full and complete cure of such breach. Should TxDOT be unwilling or unable to cure its breach within such ten (10) day period, the NTTA may terminate this CDA MOU.

12. AMENDMENTS

This CDA MOU may be amended only by a written instrument duly executed by the parties or their respective successors or assigns.

13. NOTICES AND COMMUNICATIONS

(a) Notices under this MOU shall be in writing and (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 telefacsimile or email communication followed by a hard copy and with receipt confirmed by telephone, to the following addresses (or to such other address as may from time to time be specified in writing by such person):

All correspondence with the NTTA shall be addressed to:

North Texas Tollway Authority
P.O. Box 260729
Plano, Texas 75026
Attn: Allan Rutter
Executive Director
Telephone: (214) 461-2000
Facsimile: (214) 528-4826
E-mail: arutter@ntta.org

With a copy to:

Locke Liddell & Sapp LLP
2200 Ross Avenue
Suite 2200
Dallas, Texas 75201-6776
Attn: Frank E. Stevenson, II
Telephone: (214) 740-8469
Facsimile: (214) 756-8469
E-mail: fstevenson@lockeliddell.com

All correspondence with TxDOT shall be addressed to:

Texas Department of Transportation
125 East 11th Street
Austin, Texas 78701
Attn: Phillip E. Russell, P.E.
Director, Texas Turnpike Authority Division
Telephone: (512) 936-0903
Facsimile: (512) 305-9518
E-mail: prussell@dot.state.tx.us

With a copy to:

Texas Department of Transportation
Office of General Counsel
125 East 11th Street
Austin, Texas 78701
Attn: John J. Ingram
Telephone: (512) 463-8630
Facsimile: (512) 475-3070
E-mail: jingram@dot.state.tx.us

In addition to the foregoing, with each Project, TxDOT intends to designate a Project manager. Upon notification of the same, the NTTA shall also include that Project

manager in all communications and correspondence under this CDA MOU relating to the applicable Project.

14. HEADINGS

The captions of the sections of this CDA MOU are for convenience only and shall not be deemed part of this CDA MOU or considered in construing this CDA MOU.

15. ENTIRE AGREEMENT

This CDA MOU contains the entire understanding of the parties with respect to the subject matter hereof and supersedes the Original MOU and all other prior agreements, understandings, statements, representations and negotiations between the parties with respect to its subject matter, except the Protocol and the Protocol MOU.

For the avoidance of doubt, as to the specific subject matter addressed by this CDA MOU, if there is any conflict between the provisions of the Protocol and this CDA MOU, this CDA MOU shall control to the extent of such conflict.

16. COUNTERPARTS

This instrument may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[End of Page]

IN WITNESS WHEREOF, the parties to this CDA MOU have executed this CDA MOU by their duly authorized representatives to be effective as of date first set forth above.



ATTEST:

Debra L. Smith
Debra L. Smith,
Secretary

NTTA:

NORTH TEXAS TOLLWAY AUTHORITY,
a regional tollway authority

By: Allan Rutter
Allan Rutter,
Executive Director

DATE: 10/20, 2006

APPROVED AS TO FORM:

Locke Liddell & Sapp LLP
General Counsel to the NTTA

By: Frank E. Stevenson, II
Frank E. Stevenson, II

TxDOT:

**TEXAS DEPARTMENT OF
TRANSPORTATION**

By: Michael W. Behrens
Michael W. Behrens, P.E.
Executive Director

DATE: October 25, 2006

EXHIBIT A

DESCRIPTION OF POTENTIAL NTTA SERVICES

Tolling-related services fall into three main categories:

Field Systems
 Front Office/Back Office
 Road Operations/Maintenance

LIST OF SERVICES	DESCRIPTION
I. Field Systems	
A. Design of Toll Systems	<ul style="list-style-type: none"> - Select field technologies based on performance requirements - Configure and locate field equipment - Select operation software - Design central hardware and software - Identify staffing and other operational requirements - Provide construction and/or construction management at toll collection areas
B. Implementation of Toll Systems	<ul style="list-style-type: none"> - Install and test field equipment - Customize and test operation software - Retain and train personnel - Commission toll system - Provide construction and/or construction management at toll collection areas
C. Related Systems	<ul style="list-style-type: none"> - Design, purchase, and installation of communication equipment, circuits, fibers, etc. - Maintenance related costs such as spare parts, upgrades, emergency maintenance, preventative maintenance, etc.
D. Software	<ul style="list-style-type: none"> - Provide software, software enhancements, and software upgrades for services listed in this Part 1

2. Front Office/Back Office	
A. Customer Service --	
A1. Tag User: Account Establishment	<ul style="list-style-type: none"> - Provide tags to users when an account is established - Maintain tag inventory - Accept payment from a variety of forms (e.g., mail, telephone, internet, in-person, pre-authorized payments) - Provide program to convert "violators" to "customers"
A2. Tag User: Account Management Services	<ul style="list-style-type: none"> - Manage tag replacement - Automatically replenish the account to a pre-determined level on an account reaches the minimum threshold or accept payment from a variety of forms to replenish accounts - Provide method to replenish account through cash - Manage customer contact – operate sales office, create and manage on-line customer service website, operate contact center, etc. - Provide reporting methods for informational contacts from current/potential account holders
A3. Tag User: Transaction and Payment Processing	<ul style="list-style-type: none"> - Identify NTTA tag transactions from transaction data delivered to NTTA from Developer's field systems - Post a transaction against tag user's account - Debit the account for the amount of the toll - Account for revenue - Implement appropriate reconciliation, audit and quality assurance processes

LIST OF SERVICES	DESCRIPTION
<i>A4. Tag User: Issue Statements</i>	<ul style="list-style-type: none"> - Consolidate and summarize transactions for the reporting period - Issue statements monthly for user accounts with itemization of facility usage, related toll charges and other surcharges
<i>A5. Video Tolling/Billing</i>	<ul style="list-style-type: none"> - Provide all or any portion of required hardware, software, staffing and services
<i>A6. Back Office Software</i>	<ul style="list-style-type: none"> - Provide software, software enhancements, and software upgrades for services listed in this Part 2A
B. Video Enforcement System – Violators	
<i>B1. Image Processing</i>	<ul style="list-style-type: none"> - Automatic image processing to verify if users have tags - Manual image processing when required. - Identify violators
<i>B2. Noticing</i>	<ul style="list-style-type: none"> - Issue a notice to violators with itemization of facility usage, toll charges and other fees - Provide printing, packaging and postage processing or alternative notification methods - Provide program to convert “violators” to “customers”
<i>B3. Payment Processing</i>	<ul style="list-style-type: none"> - Accept payment from a variety of forms (e.g., mail, telephone, internet, in-person) - Account for revenue - Clear violation transactions - Implement appropriate reconciliation, audit and quality assurance processes
<i>B4. Software</i>	<ul style="list-style-type: none"> - Provide software, software enhancements and software upgrades for services listed in this Part 2B
C. Enforcement	
<i>C1. Provide “Collection Agency” Services</i>	<ul style="list-style-type: none"> - Provide all or part of the standard or industry-specific collection agency services
<i>C2. Sworn Complaints (issuance of citations)</i>	<ul style="list-style-type: none"> - Issuance of sworn complaints - Preparation of court evidence packages - Provide expert testimony regarding the integrity of the back office system
D. Interoperability	
<i>D1. Interoperability Module</i>	<ul style="list-style-type: none"> - Design and develop an interface to the statewide interoperability module
<i>D2. Hardware and Software Deliverables</i>	<ul style="list-style-type: none"> - Design, procure, and/or install fiber optics, security systems and ITS, including hardware and software
<i>D3. Interoperable Transaction Processing</i>	<ul style="list-style-type: none"> - Transmit incremental and complete tag validation list updates at least once daily - For users that are not registered with the toll road operator conduct an interoperability check with other agencies through the tag validation list - Receive funds from Home Agency where Home Agency’s users have created a transaction on an NTTA operated facility - Accept interoperable transactions from Visited Agency where an NTTA customer created a transaction on the Visited Agency’s facility - Transfer funds to Visited Agency where an NTTA customer has created a transaction on Visited Agency’s facility - Reconcile accounts

LIST OF SERVICES	DESCRIPTION
E. Direct Expenses	
<i>E1. Marketing</i>	<ul style="list-style-type: none"> - Direct marketing to account holders (via email or mail) - Promotions - Community outreach
<i>E.2. Toll Collection Operations (Cash Lanes)</i>	<ul style="list-style-type: none"> - Provide staffing and collection service - Cash collection - Reconciliation - Manual collection and coin vault management as required

3. Road Operations & Maintenance	
A. Pavement Maintenance	
<i>A1. Preventive Pavement Maintenance</i>	<ul style="list-style-type: none"> - Cleaning and Sealing Joints and Cracks - Seal Coats and Overlays - Microsurfacing
<i>A2. Routine Pavement Maintenance</i>	<ul style="list-style-type: none"> - Planing and Texturing Pavement - Asphaltic Concrete Surface Rehabilitation - Full-Depth Repair of Concrete Pavement - Pothole Repair - Repair of Spalling in Concrete Pavements - Flexible Pavement Structure Repair
B. Roadside Maintenance	<ul style="list-style-type: none"> - Roadside Appurtenance Repair - Litter and Debris Removal - Cleaning and Sweeping - Cleaning and Reshaping Ditches - Graffiti Removal and Anti-Graffiti Coating
C. Landscape Maintenance	<ul style="list-style-type: none"> - Landscape Maintenance and Irrigation Repair - Roadside Mowing - Tree and Brush Removal
D. Bridge Repair	<ul style="list-style-type: none"> - Concrete Beam Repair - Steel Bridge Member Repair
E. Signage	<ul style="list-style-type: none"> - Plywood Signs - Aluminum Signs - Sign Supports and Assemblies - Overhead Sign Supports - Highway Sign Lighting Fixtures
F. Pavement Markings and Markers	<ul style="list-style-type: none"> - Reflective & Prefab Pavement Makings - Raised Pavement Markers
G. Traffic Signal Maintenance	<ul style="list-style-type: none"> - Highway Traffic Signal Maintenance - Temporary Traffic Signals - Vehicle and Pedestrian Signal Heads - Signal Pole Assemblies - Vehicle and Pedestrian Detectors
H. Roadway Illumination	<ul style="list-style-type: none"> - Roadway Illumination Assemblies - High Mast Illumination Poles and Assemblies - Temporary Roadway Illumination
I. Operational Services	<ul style="list-style-type: none"> - Provide Command Center, Traffic Management and/or Law Enforcement Patrol/Public Safety Dispatch - Provide Vehicle Removal/Wrecker Services - Courtesy Patrols; operate vehicles to assist users

EXHIBIT B

FORM OF PROJECT SERVICES SHEET

Tolling-related services fall into three main categories:

Field Systems
Front Office/Back Office
Road Operations/Maintenance

List of Services	Description	Capital Price ¹	Operations & Maintenance Price ¹
I. Field Systems			
A. Design of Toll Systems	<ul style="list-style-type: none"> - Select field technologies based on performance requirements - Configure and locate field equipment - Select operation software - Design central hardware and software - Identify staffing and other operational requirements - Provide construction and/or construction management at toll collection areas 	Per tolling point	Per tolling point
B. Implementation of Toll Systems	<ul style="list-style-type: none"> - Install and test field equipment - Customize and test operation software - Retain and train personnel - Commission toll system - Provide construction and/or construction management at toll collection areas 		
<i>B1. One Lane Open Road Tolling</i>	- Refer to description under B above	Per tolling point	Per tolling point
<i>B2. Two Lane Open Road Tolling</i>	- Refer to description under B above	Per tolling point	Per tolling point
<i>B3. Three Lane Open Road Tolling</i>	- Refer to description under B above	Per tolling point	Per tolling point
<i>B4. Four Lane Open Road Tolling</i>	- Refer to description under B above	Per tolling point	Per tolling point
<i>B5. Five Lane Open Road Tolling</i>	- Refer to description under B above	Per tolling point	Per tolling point
C. Related Systems	<ul style="list-style-type: none"> - Design, purchase, and installation of communication equipment, circuits, fibers, etc. - Maintenance related costs such as spare parts, upgrades, emergency maintenance, preventative maintenance, etc. 	Cost + xx%	Cost + xx%
D. Software	- Provide software, software enhancements, and software upgrades for services listed in this Part 1		

¹ Note that all of the prices provided below should include all overhead costs including any reporting, audit, reconciliation and quality assurance costs as well as the costs of any support services (human resources, information technology, finance, etc.)

2. Front Office/Back Office			
A. Customer Service – Tag User			
<i>A1. Account Establishment</i>	<ul style="list-style-type: none"> - Provide tags to users when an account is established - Maintain tag inventory - Accept payment from a variety of forms (e.g., mail, telephone, internet, in-person, pre-authorized payments) - Provide program to convert “violators” to “customers” 	N/A	Per Account
<i>A2. Account Management Services</i>	<ul style="list-style-type: none"> - Manage tag replacement - Automatically replenish the account to a pre-determined level on an account reaches the minimum threshold or accept payment from a variety of forms to replenish accounts - Manage customer contact – operate sales office, create and manage website, operate contact center - Provide reporting methods for informational contacts from current/potential account holders 	N/A	Per Account
<i>A3. Transaction and Payment Processing</i>	<ul style="list-style-type: none"> - Identify NTTA tag transactions from transaction data delivered to NTTA from Developer’s field systems - Post a transaction against tag user’s account - Debit the account for the amount of the toll - Account for revenue - Implement appropriate reconciliation, audit and quality assurance processes 	N/A	Per Transaction
<i>A4. Issue Statements</i>	<ul style="list-style-type: none"> - Consolidate and summarize transactions for the reporting period - Issue statements monthly to clear user accounts with itemization of facility usage, related toll charges and other fees 	N/A	Per Statement
<i>A5. Video Tolling/Billing</i>	<ul style="list-style-type: none"> - Provide all or any portion of required hardware, software, staffing and services 		
<i>A6. Back Office Software</i>	<ul style="list-style-type: none"> - Provide software, software enhancements, and software upgrades for services listed in this Part 2A 		
B. Video Enforcement System – Violators			
<i>B1. Image Processing</i>	<ul style="list-style-type: none"> - Automatic image processing to verify if users have tags - Manual image processing when required. - Identify violators 	N/A	Per Image
<i>B2. Noticing</i>	<ul style="list-style-type: none"> - Issue a notice to violators with itemization of facility usage, toll charges and other fees - Includes printing, packaging and postage - Provide program to convert “violators” to “customers” 	N/A	Per Notice Mailed
<i>B3. Payment Processing</i>	<ul style="list-style-type: none"> - Accept payment from a variety of forms (i.e., mail, telephone, internet, in-person) - Account for revenue - Clear violation transactions. - Implement appropriate reconciliation, audit and quality assurance processes 	N/A	Per Notice Mailed

<i>B4. Software</i>	- Provide software, software enhancements and software upgrades for services listed in this Part 2B		
C. Enforcement			
<i>C1. Provide "Collection Agency" Services</i>	- Provide all or part of the standard or industry-specific collection agency services.	N/A	Each
<i>C2. Sworn Complaints (issuance of citations)</i>	- Issuance of sworn complaints - Preparation of court evidence packages - Provide expert testimony regarding the integrity of the back office system	N/A	Each
D. Interoperability			
<i>D1. Interoperability Module</i>	- Design and develop an interface to the statewide interoperability module		
<i>D2. Hardware and Software Deliverables</i>	- Design, procure, and/or install fiber optics, security systems and ITS, including hardware and software		
<i>D3. Interoperable Transaction Processing</i>	- Transmit incremental and complete tag validation list updates at least once daily - For users that are not registered with the toll road operator conduct an interoperability check with other agencies through the tag validation list. - Receive funds from Home Agency where Home Agency's users have created a transaction on an NTTA operated facility - Accept interoperable transactions from Visited Agency where an NTTA customer created a transaction on the Visited Agency's facility - Transfer funds to Visited Agency where an NTTA customer has created a transaction on Visited Agency's facility - Reconcile accounts	N/A	Per Transaction
E. Direct Expenses			
<i>E1. Marketing</i>	- Direct marketing to account holders (via email or mail) - Promotions - Community outreach	Cost + xx%	Cost + xx%
<i>E2. Toll Collection Operations (Cash Lanes)</i>	- Provide staffing and collection service - Cash collection - Reconciliation - Manual collection and coin vault management as required	N/A	Cost + xx%

3. Road Operations & Maintenance			
A. Pavement Maintenance			
<i>A1. Preventive Pavement Maintenance</i>	<ul style="list-style-type: none"> - Cleaning and Sealing Joints and Cracks - Seal Coats and Overlays - Microsurfacing 	N/A	Per Lane Mile
<i>A2. Routine Pavement Maintenance</i>	<ul style="list-style-type: none"> - Planing and Texturing Pavement - Asphaltic Concrete Surface Rehabilitation - Full-Depth Repair of Concrete Pavement - Pothole Repair - Repair of Spalling in Concrete Pavements - Flexible Pavement Structure Repair 		
B. Roadside Maintenance	<ul style="list-style-type: none"> - Roadside Appurtenance Repair - Litter and Debris Removal - Cleaning and Sweeping - Cleaning and Reshaping Ditches - Graffiti Removal and Anti-Graffiti Coating 		
C. Landscape Maintenance	<ul style="list-style-type: none"> - Landscape Maintenance and Irrigation Repair - Roadside Mowing - Tree and Brush Removal 		
D. Bridge Repair	<ul style="list-style-type: none"> - Concrete Beam Repair - Steel Bridge Member Repair 		
E. Signage	<ul style="list-style-type: none"> - Plywood Signs - Aluminum Signs - Sign Supports and Assemblies - Overhead Sign Supports - Highway Sign Lighting Fixtures 		
F. Pavement Markings and Markers	<ul style="list-style-type: none"> - Reflective & Prefab Pavement Makings - Raised Pavement Markers 		
G. Traffic Signal Maintenance	<ul style="list-style-type: none"> - Highway Traffic Signal Maintenance - Temporary Traffic Signals - Vehicle and Pedestrian Signal Heads - Signal Pole Assemblies - Vehicle and Pedestrian Detectors 		
H. Roadway Illumination	<ul style="list-style-type: none"> - Roadway Illumination Assemblies - High Mast Illumination Poles and Assemblies - Temporary Roadway Illumination 		
I. Operational Services	<ul style="list-style-type: none"> - Provide Command Center, Traffic Management and/or Law Enforcement Patrol/Public Safety Dispatch - Provide Vehicle Removal/Wrecker Services - Courtesy Patrols; operate vehicles to assist users 		

EXHIBIT C

FORM OF NTTA CERTIFICATE

NTTA CERTIFICATE
(_____ PROJECT)

Reference is made to that certain Memorandum of Understanding (CDA Projects and Procurements) dated as of _____, 2006 (as amended, the "MOU"), by and between the Texas Department of Transportation an agency of the State of Texas ("TxDOT"), and North Texas Tollway Authority, a regional tollway authority authorized under Chapter 366 of the Texas Transportation Code ("NTTA").

Pursuant to Section 8(e) of the MOU, the NTTA hereby certifies, represents and warrants to TxDOT that it has complied in all material respects with all obligations and requirements under the MOU relating to the _____ project [Fill-in Project Name] (the "Project") and that no event or action has occurred that, irrespective of the giving of notice or passage of time, would render this certificate inaccurate or misleading.

The statements, representations, warranties and certification set forth herein shall survive the submittal of proposals on the Project and the execution of any comprehensive development agreement in connection therewith.

Executed as of _____, 200_.

NTTA:

ATTEST:

NORTH TEXAS TOLLWAY AUTHORITY,
a regional tollway authority

Secretary

By: _____
Alan Rutter,
Executive Director

DATE: _____, 200_

APPROVED AS TO FORM:
