

**FIRST AMENDMENT TO  
STATE HIGHWAY 360  
PROJECT AGREEMENT**

**THIS FIRST AMENDMENT** (this "Amendment") by and between the **TEXAS DEPARTMENT OF TRANSPORTATION**, an agency of the State of Texas, as authorized by the Texas Transportation Commission, hereinafter identified as "TxDOT," and the **NORTH TEXAS TOLLWAY AUTHORITY**, a regional tollway authority and a political subdivision of the State of Texas, acting by and through its Board of Directors, hereinafter identified as the "Authority," is to be effective as of 4-24-, 2015 (the "Effective Date"). Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Agreement (as hereinafter defined).

**RECITALS**

**WHEREAS**, TxDOT and the Authority entered into that certain Project Agreement for the State Highway 360 Project dated as of February 28, 2014 (the "Agreement");

**WHEREAS**, the State Highway 360 Project is a planned toll road project located in Tarrant, Ellis, and Johnson counties, extending generally from Green Oaks Boulevard to US 287, a total length of approximately 9.7 miles (the "Project");

**WHEREAS**, the Agreement provides for the design-build contractor to provide, integrate and test the roadside toll collection system (the "RTCS") to be used on the Project;

**WHEREAS**, the work to be designed and constructed under the design-build agreement to be entered into by TxDOT and the design-build contractor includes a base scope that corresponds to the Initial Project scope as defined in the Agreement and, at TxDOT's sole discretion, certain option work as defined in the design-build agreement;

**WHEREAS**, TxDOT and the Authority desire to amend the Agreement to (i) require the Authority to provide, integrate and test the RTCS on the Project, with the cost of the RTCS equipment reimbursed as an agency cost from funds of the Project, and the integration and testing of the RTCS performed by the Authority or its designee at the Authority's expense, and (ii) to provide that the Initial Project scope may include, to the extent funds are available, option work as defined in the design-build agreement; and

**WHEREAS**, TxDOT and the Authority have received all authorizations, consents and approvals, and have otherwise complied with all applicable law, required to enter into and perform under this Amendment.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of these premises and the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed as hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged, TxDOT and the Authority agree as follows:

1. **Amendment to Section 12 of the Agreement.**

Section 12 of the Agreement is deleted in its entirety and replaced with the following:

“12. **Project Schedule.** TxDOT shall use good faith efforts to construct and complete the Initial Project within forty-two (42) months after the notice to proceed with construction is delivered under the design-build agreement. TxDOT shall notify the Authority of the projected Substantial Completion Date not less than one hundred and eighty (180) days prior to such date, to allow the Systems Integrator to perform the installation, integration, testing and commissioning of the Project’s toll collection system to ensure that the work related thereto is complete and operational not less than fifteen (15) days prior to the Substantial Completion Date. Not less than ninety (90) days prior to the Substantial Completion Date, TxDOT will provide the structures and infrastructure to support the toll collection system, including but not limited to pavements, ETCS signing, equipment enclosures and buildings, foundations, gantries, and communication and electrical services, conduits and conductors, in sufficient condition for the Systems Integrator to perform the installation, integration, testing and commissioning of the Project’s toll collection system in an efficient, timely and reasonable manner. The Authority shall be reimbursed for the costs of the RTCS equipment installed by the Systems Integrator. The Authority shall provide TxDOT for its prior review and approval the proposed list of RTCS equipment to be installed by the Systems Integrator and the pricing for such equipment. The Authority will submit one or more invoices to TxDOT for payment and TxDOT will pay each invoice within thirty (30) days. The Authority shall provide to TxDOT all information reasonably required by TxDOT to evidence that the installed equipment has been accepted by the Authority, as well as all information related to the cost and pricing of such equipment. The installation, integration, testing, and commissioning of the toll collection system shall otherwise be performed at the Authority’s expense. TxDOT grants rights of entry, access, and use in and to the Project Right-of-Way as may be necessary for the Systems Integrator to undertake and complete the work related to the installation, integration, testing and commissioning of the Project’s toll collection system; provided that the Authority and its contractors provide reasonable advance notification to TxDOT and the design-build contractor prior to undertaking any work and that the Authority and its contractors work with the design-build contractor to coordinate each party’s activities so as to minimize disruptions to the design-build contractor’s work. TxDOT shall be entitled to require the Authority’s contract with the Systems Integrator to obligate the Systems Integrator to list the Authority, TxDOT, the Texas Transportation Commission, and their respective officers, directors, commissioners, employees, and consultants as “additional insureds” with respect to any insurance for which the Systems Integrator must obtain an “additional insured” rider or amendment. TxDOT, working through the design-build contractor prior to the Substantial Completion Date, will address any design or construction issues reasonably identified by the Authority as necessary to effectuate the purposes of this Section 12 and subsection 13(d). On or before the Substantial Completion Date, the Authority shall provide written notification to TxDOT that the ETCS meets the equipment specifications set forth in Exhibit F, is in good and working order and is accepted by the Authority, and thereafter TxDOT shall have no further responsibility or liability for the ETCS.”

2. **Amendment to Attachment 1 to the Agreement.**

Attachment 1 to the Agreement is hereby amended to add and define the following capitalized terms used in the Agreement:

**“Option Work** shall have the meaning set forth in the design-build agreement.

**Systems Integrator** shall mean the Authority or its designee, which shall be responsible for designing, constructing, supplying, installing, testing, and commissioning the ETCS for the Project.”

3. **Amendment to Exhibit A to the Agreement.**

Exhibit A to the Agreement is deleted in its entirety and replaced with the following:

“Description of the Project  
(Recitals)

The Project

The Project is generally described as the construction of SH 360 from generally Green Oaks Boulevard to US 287.

The Initial Project Scope

The “Initial Project” is anticipated to consist of the following:

- Construct 4 main lanes from Sublett Road/Camp Wisdom Road to Broad Street
- Construct 2 main lanes from Broad Street to US 287 with periodic passing lanes (Super 2 configuration)
- Construct Northbound frontage road from Heritage Parkway to US 287 including continuous NB and SB frontage road at UPRR.
- Repair and resurface existing frontage roads.
- Construct portions of the Option Work, to the extent funds allocated by TxDOT for the Initial Project are available after funding the remainder of the anticipated Initial Project scope.

Portions of the Initial Project scope will be included in the bid documents as options that may be exercised by TxDOT with the goal of maximizing the Initial Project scope within the budget for the design-build agreement. Any portions of the anticipated Initial Project scope that are deferred shall be included in the scope of the Capacity Improvements.

TxDOT shall be responsible for installing prior to the Substantial Completion Date the minimum landscaping that is necessary to prevent erosion in TxDOT's good faith determination. No additional landscaping shall be required for the Initial Project.

#### The Capacity Improvements Scope

The "Capacity Improvements," which will be constructed by the Authority and financed from Project Revenues when feasible, will consist of (i) the build out of any deferred portions of the anticipated Initial Project scope, (ii) the construction of the remaining main lanes as described in the environmental approvals, (iii) the construction of the US 287 interchange, and (iv) other Project improvements agreed by the Parties.

#### **4. Miscellaneous.**

(a) Entire Agreement. The Agreement, as amended by this Amendment, constitutes the entire agreement between the parties with respect to the subject matter hereof. There are no representations, understandings or agreements relative hereto which are not fully expressed in the Agreement, as amended hereby.

(b) Written Amendments. Any further change in the agreement, terms and/or responsibilities of the parties hereto must be enacted through a written amendment. No amendment to the Agreement shall be of any effect unless in writing and executed by TxDOT and the Authority.

(c) Sole Benefit. This Amendment is entered into for the sole benefit of TxDOT, the Authority and their respective successors, and nothing in this Amendment or in any approval subsequently provided by either party hereto shall be construed as giving any benefits, rights, remedies or claims to any other person or other entity, including, without, limitation, the public in general.

(d) 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. Each signatory on behalf of TxDOT and the Authority, as applicable, represents that he or she is fully authorized to bind that entity to the terms of this Agreement.

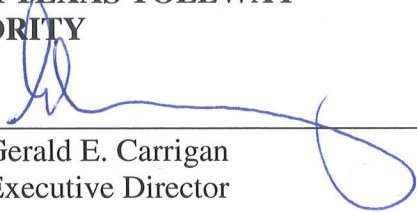
(e) Interpretation. No provision of this Amendment shall be construed against or interpreted to the disadvantage of any party by any court, other governmental or judicial authority, or arbitrator by reason of such party having or being deemed to have drafted, prepared, structured or dictated such provision.

(f) Counterparts. This Amendment may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one single agreement between the parties.

**[SIGNATURES FOLLOW]**

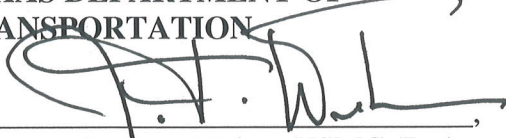
IN WITNESS WHEREOF, TxDOT and the Authority have executed this Amendment on the dates shown below, to be effective on the date listed above.

**NORTH TEXAS TOLLWAY  
AUTHORITY**

By:   
Gerald E. Carrigan  
Executive Director

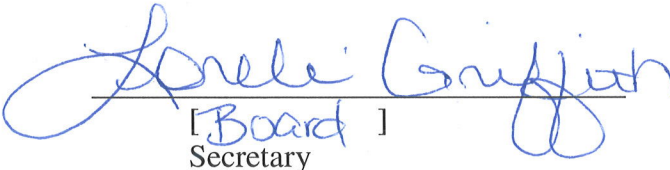
Date: March 25, 2015

**TEXAS DEPARTMENT OF  
TRANSPORTATION**

By:   
LtGen J.F. Weber, USMC (Ret)  
Executive Director

Date: 04 24 2015

ATTEST:

  
[ Board ]  
Secretary