

EXECUTION VERSION

**UNITED STATES
DEPARTMENT OF TRANSPORTATION**

**SECURED
LOAN AGREEMENT**

For Up to \$418,405,000

With

NORTH TEXAS TOLLWAY AUTHORITY

For the

**STATE HIGHWAY 161 PROJECT
(TIFIA – No. 2009-1001A)**

Dated as of April 1, 2011

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SECURED LOAN AGREEMENT

THIS SECURED LOAN AGREEMENT (as amended and/or supplemented from time to time, this “Secured Loan Agreement”), dated as of April 1, 2011, by and between the **NORTH TEXAS TOLLWAY AUTHORITY**, a political subdivision of the State of Texas and a body corporate and politic (the “Borrower”) created pursuant to Chapter 366 of the Texas Transportation Code (the “Statute”), and the **UNITED STATES DEPARTMENT OF TRANSPORTATION**, acting by and through the Federal Highway Administrator (the “Lender”).

PREAMBLE:

WHEREAS, the Congress of the United States of America has found that a well-developed system of transportation infrastructure is critical to the economic well-being, health and welfare of the people of the United States and, in furtherance thereof, has enacted the Transportation Infrastructure Finance and Innovation Act of 1998 (“TIFIA”), § 1501 *et seq.* of Public Law 105-178 (as amended by the TEA 21 Restoration Act, Public Law 105-206), (the “Act”), codified as 23 U.S.C. § 601, *et seq.*; and

WHEREAS, 23 U.S.C. § 603 authorizes the Lender to enter into agreements with one or more obligors to make secured loans and the Statute, Chapter 1371 of the Texas Government Code and Section 228.0111 of the Texas Transportation Code authorize the Borrower to issue bonds and to enter into this Secured Loan Agreement as a “credit agreement” as defined in the Act; and

WHEREAS, the Borrower has requested that the Lender make the Secured Loan (as defined herein) to be used to pay a portion of the Eligible Project Costs (as defined herein) related to the PGBT WE Project pursuant to an application for TIFIA credit assistance submitted in September 2009 (the “Application”); and

WHEREAS, a portion of the Eligible Project Costs related to the PGBT WE Project will be initially funded by the Lender with the proceeds of the Series 2011 BANs (as defined in the Trust Agreement (as defined herein)); and

WHEREAS, the proceeds of the Secured Loan may be disbursed by the Lender to the Borrower to reimburse the Borrower for Eligible Project Costs and such reimbursement may be used by the Borrower to repay the principal of and interest on the Series 2011 BANs issued by the Borrower to pay such Eligible Project Costs; and

WHEREAS, the Secured Loan shall be evidenced by the TIFIA Note (as defined herein) and shall be secured by the Trust Agreement; and

WHEREAS, the Borrower agrees to repay any amount due pursuant to this Secured Loan Agreement and the TIFIA Note in accordance with the terms and provisions hereof and thereof; and

WHEREAS, the Lender has entered into this Secured Loan Agreement in reliance upon, among other things, the Toll Equity Loan Agreement (as defined in the Trust Agreement),

the Traffic and Revenue Report (as defined herein) and the Financial Plan (as defined herein) delivered by the Borrower.

NOW, THEREFORE, the premises being as stated above, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged to be adequate, and intending to be legally bound hereby, it is hereby mutually agreed by and between the Borrower and the Lender as follows:

SECTION 1. Definitions. Capitalized terms used but not otherwise defined herein have the respective meanings set forth in the Trust Agreement. For purposes of this Secured Loan Agreement, unless the context otherwise requires, the following terms shall have the following meanings:

“Act” means the Act as defined in the preamble hereto.

“Administrator” means the Administrator of the Federal Highway Administration.

“Anticipated Secured Loan Disbursement Schedule” means the Anticipated Secured Loan Disbursement Schedule substantially in the form of **Exhibit B**.

“Application” means the Application as defined in the preamble hereto.

“Bankruptcy Related Event” means (a) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) if applicable, liquidation, receivership, reorganization or other relief in respect of the Borrower or any of its debts, or of a substantial part of the assets of the Borrower, under any Insolvency Law, or (ii) the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for the Borrower for a substantial part of the assets of the Borrower, and, in any case referred to in the foregoing subclauses (i) and (ii), such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered; or (b) the Borrower shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator, or similar official for the Borrower or for a substantial part of the assets of the Project or the Borrower, or (ii) become unable to pay its debts generally as they become due, or (iii) make a general assignment for the benefit of creditors, or (iv) be adjudicated a bankrupt or insolvent, or (v) commence a voluntary case under any Insolvency Law or file a voluntary petition seeking liquidation, reorganization, an arrangement with creditors or an order for relief or otherwise seeking to take advantage of any Insolvency Law or admit the material allegations of a petition filed against the Borrower in any proceeding referred to in the foregoing clauses of this definition, or (vi) take any action for the purpose of effecting any of the foregoing.

“BANs Escrow Account” means the escrow account created by the BANs Escrow Agreement.

“BANs Escrow Agreement” means the Escrow Agreement to be entered into by and among the Borrower, the Lender and Wells Fargo Bank, National Association, as escrow agent (or any successor thereto), in form and substance satisfactory to the Lender.

“Base Case Financial Model” means a financial model prepared by the Borrower forecasting the revenues and expenditures of the Project for time periods through the Final Maturity Date and based upon assumptions and projections with respect to the revenues, expenses and other financial aspects of the Project which shall reflect the prior experience and current status of the Project, and the expectations of management with respect to the Project, as of the most recent practicable date prior to the delivery of such model to the Lender, and based upon methodology provided by the Borrower to the Lender, in each case in form and substance acceptable to the Lender, which shall be provided to the Lender as a fully functional Microsoft Excel-based financial model.

“Base Case Financial Plan” shall have the meaning set forth in Section 21(c)(i).

“Borrower” means the Borrower as defined in the introductory paragraph hereto.

“Borrower’s Authorized Representative” means any Person who shall be designated as such pursuant to Section 25.

“Capitalized Interest Period” means the period beginning on Disbursement Date and ending on the day immediately prior to the Interest Payment Commencement Date.

“Civil Engineering Consultant” means the firm or corporation (other than the Consulting Engineers) selected by the Borrower from the panel of independent engineering firms or corporations submitted by the Borrower with the Financial Plan and approved by the Lender in its sole discretion, which approval with respect to each firm or corporation on such panel shall be deemed granted if the Lender does not object to such firm or corporation being included on such panel within 30 days of receiving written notice of the Borrower’s proposed panel with the Financial Plan.

“Closing” means the closing of the transactions contemplated under and pursuant to the terms of the Financing Documents for the issuance of the Initial Secured Project Indebtedness (other than the effectiveness of this Secured Loan Agreement and the TIFIA Note and the disbursement of the Secured Loan), including, without limitation, the issuance of the Series 2011 Bonds, the Toll Equity Note, and the Series 2011 BANs, the deposit by the Borrower of its equity contribution in the amount of \$72,471,088.80 into the CIF Construction Account in accordance with Section 402(a) of the Trust Agreement, the deposit of the net proceeds of the Series 2011 Bonds issuance in full in the Series 2011 Construction Account and the deposit of the net proceeds of the Series 2011 BANs issuance in full in the BANs Construction Fund.

“Closing Date” means the date the Series 2011 Bonds, the TIFIA Note and the Toll Equity Note are issued, authenticated and delivered.

“Construction Schedule” means the construction schedule for the PGBT WE Project attached hereto as **Exhibit G**.

“CPI” means the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, 1982-84=100 (not seasonally adjusted), or its successor, published by the Bureau of Labor Statistics, with, unless otherwise specified herein, August 2010 as the base period.

“Default” means any Event of Default or any event or condition that, with giving of notice or lapse of time, or both, would constitute an Event of Default.

“Default Rate” shall have the meaning set forth in Section 6.

“Design/Build Agreement” means the Design/Build Agreement (SH 161 Toll Project) dated as of September 1, 2009 between the Lender and Prairie Link Constructors JV, a Texas joint venture.

“Development Default” shall have the meaning set forth in Section 20(a)(iii).

“Development Oversight Agreement” means the Texas Division Office Stewardship/Oversight Agreement for Design and Construction by and between TxDOT and FHWA, dated as of October 13, 2006, including the Project Supplement thereto, attached hereto as **Exhibit F**.

“Disbursement Date” means the date on which the disbursement by the Lender of the Secured Loan shall have been made pursuant to the terms and conditions of this Secured Loan Agreement.

“Eligible Project Costs” means amounts in the Project Development Budget, substantially all of which are paid by or for the account of the Borrower in connection with the PGBT WE Project, including the cost of:

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the PGBT WE Project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

(C) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

“Event of Default” shall have the meaning set forth in Section 20.

“FHWA” means the Federal Highway Administration, United States Department of Transportation.

“Final Maturity Date” means September 1, 2047 or 35 years after the date of Substantial Completion, whichever is earlier, with respect to the TIFIA Note.

“Financial Plan” shall have the meaning set forth in Section 21(c).

“Financing Documents” means this Secured Loan Agreement, the Trust Agreement, the Toll Equity Loan Agreement, the Toll Revenue Agreement, the Direct

Agreement, the Master Custodial Account Agreement, the Toll Equity Note, the Development Oversight Agreement, the Series 2011 Bonds and the TIFIA Note.

“First Supplemental Agreement” means the First Supplemental Agreement as defined in the Trust Agreement pursuant to which the Series 2011 Bonds are issued.

“First Tier Debt Service Requirements” means, for any Fiscal Year, the aggregate amount of interest on and Principal of Outstanding First Tier Obligations that is due for such Fiscal Year, provided that:

(i) For any Fiscal Year, the aggregate amount of interest on and Principal of Outstanding First Tier Obligations which was paid or mandatorily redeemed or is scheduled to accrue and be paid or mandatorily redeemed on September 1 of such Fiscal Year shall be excluded from the calculation of debt service for such Fiscal Year, and the aggregate amount of interest on and Principal of Outstanding First Tier Obligations which was paid or mandatorily redeemed or is scheduled to accrue and be paid or mandatorily redeemed on the September 1 immediately following such Fiscal Year shall be included in the calculation of debt service for such Fiscal Year;

(ii) as to any future Fiscal Year such requirements shall be calculated solely on the basis of First Tier Obligations Outstanding as of the date of calculation plus any First Tier Obligations then proposed to be issued as Additional First Tier Obligations; and

(iii) all amounts which are deposited to the credit of the First Tier Capitalized Interest Account or the First Tier Interest Account (or a sub-account thereof) from original proceeds from the sale of any First Tier Debt Obligations or deposited or required to be deposited to the credit of the First Tier Capitalized Interest Account or the First Tier Interest Account (or a sub-account thereof) from any other lawfully available source (including direct subsidy payments to the Borrower relating to any Secured Project Indebtedness constituting Build America Bonds, if any, but excluding advances under the Toll Equity Loan Agreement and Revenues), and which are used or scheduled to be used to pay interest on such First Tier Obligations during any Fiscal Year, shall be deemed to reduce the First Tier Debt Service Requirements for any such Fiscal Year to the extent of such deposits; and the amount of such deposits shall be excluded from and shall not constitute First Tier Debt Service Requirements for any such Fiscal Year.

“First Tier Debt Service Coverage Ratio” means, for any Fiscal Year, the ratio of Gross Cash Flow for such Fiscal Year to First Tier Debt Service Requirements for such Fiscal Year.

“GAAP” means generally accepted accounting principles as in effect from time to time in the United States of America.

“Government” means the United States of America and its departments and agencies.

“Governmental Approval” means all authorizations, consents, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions and declarations of or with any governmental authority.

“Gross Cash Flows” means, with respect to any Fiscal Year, the aggregate Revenues derived (or with respect to a prospective Fiscal Year, estimated Revenues to be derived, as determined from (i) the most recent projections of the Toll Road Consultant of tolls, fees or charges for the use of the Project and (ii) reasonable estimates consistent with the assumptions in the most recent Financial Plan certified by the Chief Financial Officer of investment income from the funds and accounts established under the Trust Agreement and of fines and penalties and interest thereon collected as a result of the failure to pay any tolls, fees or charges for the use of the Project) from the ownership and operation of the Project in such Fiscal Year.

“Indemnitee” shall have the meaning set forth in Section 18.

“Initial Secured Project Indebtedness” means those Obligations (as defined in the Trust Agreement) issued on the PGBT WE Closing Date for the PGBT WE Project.

“Insolvency Laws” means the United States Bankruptcy Code, 11 U.S.C. §101 et seq., as from time to time amended and in effect, and any state bankruptcy, insolvency, receivership, liquidation, reorganization or similar law now or hereafter in effect.

“Interest Payment Commencement Date” means the earlier of (i) the fifth anniversary of Substantial Completion or, if such date does not fall on a Payment Date, then the first Payment Date next preceding the fifth anniversary of Substantial Completion, and (ii) March 1, 2018.

“Investment Grade Rating” means a rating category of BBB minus or Baa3, as applicable, or higher, assigned by a Rating Agency to the Series 2011 Bonds offered into the capital markets.

“Lender” means the Lender as defined in the introductory paragraph hereto.

“Lender’s Authorized Representative” means any Person who shall be designated as such pursuant to Section 26, including the Administrator.

“Loan Amortization Schedule” means the Loan Amortization Schedule attached as **Appendix Two** to the TIFIA Note delivered pursuant to Section 9, as adjusted from time to time in accordance with the provisions of this Secured Loan Agreement.

“Loan Life Coverage Ratio” means a ratio where (a) the numerator is equal to the sum of (i) the present value of projected Gross Cash Flow from the day after the date of calculation to and including the date upon which the final maturity of all First Tier Obligations and Second Tier Obligations occurs, (ii) all amounts on deposit in the Revenue Fund, the First Tier Debt Service Fund, the Second Tier Debt Service Fund, the Rate Stabilization Fund and the General Fund as of the date of calculation, and (iii) amounts on deposit in the Major Maintenance Reserve Fund to the extent they relate to deposits made for Major Maintenance Expenses projected to be incurred in any Fiscal

Year after the Fiscal Year in which the final maturity of all First Tier Obligations and Second Tier Obligations occurs and (b) the denominator is equal to the principal amount of all First Tier Obligations and Second Tier Obligations Outstanding as of the date of such calculation. The discount rate for the net present value calculation shall be equal to the weighted average interest rate for each First Tier Obligation and Second Tier Obligation.

“Major Maintenance/Capital Expenditures Report” shall have the meaning set forth in Section 16(s)(iii).

“Material Adverse Effect” means a material adverse effect on (a) the business, condition (financial or otherwise), operations, performance, assets, prospects or Revenues of the Project taken as a whole, (b) the authority or ability of the Borrower to perform or comply with any of its obligations under the Financing Documents to which it is a party or otherwise to construct, develop, maintain or operate the Project, (c) the legality, validity, enforceability, perfection or priority of the Liens on the Trust Estate in favor of the Trustee granted under the Trust Agreement, (d) the Trust Estate or the legality, validity or enforceability of any Financing Document, (e) the Lender’s rights and remedies available under any of the Financing Documents or (f) the consummation of the Closing or the transactions contemplated by the Financing Documents.

“Modification” shall have the meaning set forth in Section 16(k).

“Obligations” means, with respect to any Person, any payment, performance or other obligation of such Person of any kind, including, without limitation, any liability of such Person on any claim, whether or not the right of any creditor to payment in respect of such claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, disputed, undisputed, legal, equitable, secured or unsecured, and whether or not such claim is discharged, stayed or otherwise affected by any proceeding under any Insolvency Laws. Without limiting the generality of the foregoing, the Obligations of the Borrower under the Financing Documents include, to the extent provided in the Financing Documents, (a) the obligation to pay principal, interest, commissions, charges, expenses, fees, attorneys’ fees and disbursements, indemnities and other amounts payable thereunder including, without limitation, interest and fees that accrue after the commencement by or against the Borrower of any proceeding under any Insolvency Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding and (b) the obligation of the Borrower to reimburse any amount in respect of any of the foregoing that the Trustee or the Lender, in its sole discretion, may elect to pay or to advance on behalf of the Borrower.

“Other Material Indebtedness” shall have the meaning set forth in Section 20(a)(v).

“Outstanding Secured Loan Balance” means, as of any calculation date, the aggregate principal amount drawn by the Borrower and then outstanding with respect to the Secured Loan, together with any unpaid capitalized interest thereon, as determined in accordance with Section 7.

“Payment Date” means each scheduled interest and principal payment date as set forth in the Loan Amortization Schedule, which shall occur on March 1 and September 1 of each applicable year; provided, however, that in the event that such date falls on a weekend or holiday, the payment date is the immediately succeeding Business Day.

“Payment Default” shall have the meaning set forth in Section 20(a)(i).

“Payment Period” means the period from the end of the Capitalized Interest Period to the first Payment Date, and thereafter any period of six months that ends on a Payment Date.

“Person” means an individual, partnership, corporation (including a business trust), limited or unlimited liability company, joint stock company, trust, unincorporated association, joint venture or other entity, or a governmental authority.

“Principal Amortization Commencement Date” means March 1, 2023.

“Project Costs” means the: (i) costs paid or incurred or to be paid or incurred by the Borrower in connection with or incidental to the acquisition, design, construction and equipping of the Project, including legal, administrative, engineering, planning, design, insurance and financing costs, provided such costs were expended no earlier than three (3) years prior to the date of the Application; (ii) amounts, if any, required by the Trust Agreement to be paid into any fund or account upon the issuance of the Secured Project Indebtedness; (iii) payments when due (whether at the maturity of principal, the due date of interest, or upon optional or mandatory redemption) on any indebtedness of the Borrower (other than the Secured Loan) incurred for the Project; (iv) costs paid or incurred or to be paid or incurred for equipment and supplies and initial working capital and reserves required by the Borrower for the commencement of operation of the Project, but excluding general administrative expenses and overhead of the Borrower consistent with GAAP; and (v) the repayment of obligations incurred by the Borrower, the proceeds of which obligations were used to pay items (i) through (iv) of this definition.

“Project Development Budget” means the budget for the PGBT WE Project in the aggregate amount of \$1,267,908,984 attached to this Secured Loan Agreement as Schedule 1 showing a summary of Eligible Project Costs and the estimated sources and uses of funds for the development of the PGBT WE Project, as amended from time to time with the approval of the Lender.

“Project Documents” means the Project Agreement and the Design/Build Agreement.

“Rate Covenant” means the rate covenant set in Section 16(b).

“Rating Agency” means a bond rating agency identified by the Securities and Exchange Commission as a Nationally Recognized Statistical Rating Agency.

“Remedial Plan” shall have the meaning set forth in Section 20(a)(iii).

“Requisition” shall have the meaning set forth in Section 4.

“Reset Date” shall have the meaning set forth in Section 16(s)(iii).

“Second Supplemental Agreement” means the Second Supplemental Agreement as defined in the Trust Agreement pursuant to which the TIFIA Note is issued.

“Second Tier Debt Service Requirements” means, for any Fiscal Year, the aggregate amount of interest on and Principal of Outstanding Second Tier Obligations that is due for such Fiscal Year, provided that:

(i) For any Fiscal Year, the aggregate amount of interest on and Principal of Outstanding Second Tier Obligations which was paid or mandatorily redeemed or is scheduled to accrue and be paid or mandatorily redeemed on September 1 of such Fiscal Year shall be excluded from the calculation of debt service for such Fiscal Year, and the aggregate amount of interest on and Principal of Outstanding Second Tier Obligations which was paid or mandatorily redeemed or is scheduled to accrue and be paid or mandatorily redeemed on the September 1 immediately following such Fiscal Year shall be included in the calculation of debt service for such Fiscal Year;

(ii) as to any future Fiscal Year such requirements shall be calculated solely on the basis of Second Tier Obligations Outstanding as of the date of calculation plus any Second Tier Obligations then proposed to be issued as Additional Second Tier Obligations;

(iii) So long as the TIFIA Note is Outstanding, debt service on the TIFIA Note for any future period within a Fiscal Year and for any future Fiscal Year shall be the Principal and interest payments set forth in the loan amortization schedule in Appendix Two to the TIFIA Note (as the same may be revised from time to time in accordance with this Secured Loan Agreement); and

(iv) all amounts which are deposited to the credit of the Second Tier Interest Account (or a sub-account thereof) from original proceeds from the sale of any Second Tier Debt Obligations or deposited or required to be deposited to the credit of the Second Tier Interest Account (or a sub-account thereof) from any other lawfully available source (including direct subsidy payments to the Borrower relating to any Secured Project Indebtedness constituting Build America Bonds, if any, but excluding advances under the Toll Equity Loan Agreement and Revenues), and which are used or scheduled to be used to pay interest on such Second Tier Obligations during any Fiscal Year, shall be deemed to reduce the Second Tier Debt Service Requirements for any such Fiscal Year to the extent of such deposits; and the amount of such deposits shall be excluded from and shall not constitute Second Tier Debt Service Requirements for any such Fiscal Year.

“Secretary” means the United States Secretary of Transportation.

“Secured Loan” means the secured loan from the Lender to the Borrower hereunder, pursuant to the Act, in a principal amount not to exceed \$418,405,000 to be used to pay Eligible Project Costs.

“Secured Loan Agreement” means the Secured Loan Agreement as defined in the introductory paragraph hereto.

“Secured Project Indebtedness” shall have the same meaning as “Obligations” as such term is defined in the Trust Agreement.

“Servicer” means such entity or entities as the Lender shall designate from time to time to perform, or assist the Lender in performing, certain duties hereunder.

“State” means the State of Texas.

“Statute” means the Statute as defined in the introductory paragraph hereto.

“STIP” means the Texas Statewide Transportation Improvement Program required pursuant to 23 U.S.C. §135(f).

“Substantial Completion” means the date on which the requirements for the achievement of “Substantial Completion” as set forth in Section 20.1 of the Design/Build Agreement have been met and the entire PGBT WE Project opens to vehicular or passenger traffic (or such comparable event as determined by the Lender shall have taken place).

“Third Supplemental Agreement” means the Third Supplemental Agreement as defined in the Trust Agreement pursuant to which the Toll Equity Note is issued.

“TIFIA” means TIFIA as defined in the preamble hereto.

“TIFIA Note” means the TIFIA Note issued by the Borrower pursuant to the Trust Agreement and this Secured Loan Agreement in substantially the form of **Exhibit A** to evidence the Borrower’s Obligations under this Secured Loan Agreement.

“TIGER Grant Agreement” means the Compliance Agreement for Federal Funding made available under the Provision of the American Recovery and Reinvestment Act of 2009 Transportation Investments Generating Economic Recovery (TIGER) Discretionary Grant Program dated as of April 15, 2011, between the Borrower and the Lender, attached hereto as **Exhibit L**.

“Toll Revenue Agreement” means the agreement among TxDOT, FHWA and the Borrower for funding for the development, design and construction of the State Highway 161 Toll Project, dated as of July 30, 2009.

“Toll Road Consultant” means the Traffic Engineers, or another firm or firms of traffic and revenue consultants, in each case selected by the Borrower and approved by the Lender, which approval shall not be unreasonably withheld.

“Total Debt Service Coverage Ratio” means, for any Fiscal Year, the ratio of Gross Cash Flow for such Fiscal Year to the sum of (a) First Tier Debt Service Requirements for such Fiscal Year and (b) Second Tier Debt Service Requirements for such Fiscal Year.

“Traffic and Revenue Report” means the Traffic and Revenue Study, dated December 31, 2010, relating to the PGBT WE Project, prepared by the Toll Road Consultant, together with any supplements thereto.

“Transaction Documents” means the Financing Documents, the TIGER Grant Agreement and the Project Documents.

“Trust Agreement” means the Trust Agreement between the Borrower and the Trustee dated as of April 1, 2011, as supplemented by the First Supplemental Agreement dated as of April 1, 2011, the Second Supplemental Agreement dated as of April 1, 2011, and the Third Supplemental Agreement dated as of April 1, 2011, and further amended and supplemented in accordance with the terms thereof and this Secured Loan Agreement.

“Trustee” means Wells Fargo Bank, National Association, as Trustee under the Trust Agreement, or its successors.

“TxDOT” means the Texas Department of Transportation, an agency of the State.

“Uncontrollable Force” means any cause beyond the control of the Borrower, including but not limited to: (1) a tornado, hurricane, flood or similar occurrence, landslide, earthquake, fire or other casualty, strike or labor disturbance, freight embargo, act of a public enemy, explosion, war, blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, or sabotage; provided that the Borrower shall not be required to settle any strike or labor disturbance in which it may be involved; or (2) the order or judgment of any Federal, state or local court, administrative agency or governmental officer or body, if it is not also the result of willful or negligent action or a lack of reasonable diligence of the Borrower and the Borrower does not control the administrative agency or governmental officer or body; provided that the diligent contest in good faith of any such order or judgment shall not constitute or be construed as a willful or negligent action or a lack of reasonable diligence of the Borrower.

SECTION 2. Interpretation. Unless the context shall otherwise require, the words “hereto,” “herein,” “hereof” and other words of similar import refer to this Secured Loan Agreement as a whole. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders and *vice versa*. Words importing the singular number shall include the plural number and *vice versa* unless the context shall otherwise require. Unless the context shall otherwise require, references to sections, subsections and provisions are to the applicable sections, subsections and provisions of this Secured Loan Agreement. The headings or titles of this Secured Loan Agreement and its sections, schedules or exhibits, as well as any table of contents, are for convenience of reference only and shall not define or limit its provisions. Unless the context shall otherwise require, all references to any resolution, contract, agreement or other document shall be deemed to include any appendices, exhibits, annexes or schedules thereto and any amendments to, or modifications or restatements of, such documents that are approved in accordance with the terms thereof and hereof. Every request, order, demand, application, appointment, notice, statement, certificate, consent or similar communication or action hereunder by any party shall, unless otherwise specifically

provided, be delivered in writing in accordance with Section 36 and signed by a duly authorized representative of such party.

SECTION 3. Secured Loan Amount. The principal amount of the Secured Loan shall not exceed \$418,405,000. In no event shall the maximum principal amount of the Secured Loan, together with the amount of any other credit assistance provided under the Act, exceed thirty-three percent (33%) of reasonably anticipated Eligible Project Costs for the PGBT WE Project.

SECTION 4. Disbursement Conditions. The proceeds of the disbursement of the Secured Loan shall be available solely to pay or defease the Series 2011 BANs in full, provided that the proceeds of the Series 2011 BANs shall be used by the Borrower solely for the payment of, or reimbursement to the Borrower for, Eligible Project Costs incurred by the Borrower from time to time in connection with the PGBT WE Project. Such disbursement shall be made pursuant to a requisition made by the Borrower (a "Requisition") in the form set forth in Exhibit D, along with all documentation and other information required thereby, submitted by the Borrower to, and approved by, the Lender, all in accordance with the procedures of Exhibit D and subject to the conditions set forth therein and the additional conditions set forth below in this Section 4; provided, however, that the disbursement by the Lender of the Secured Loan for the purpose of paying or defeasing the Series 2011 BANs as set forth in the preceding sentence shall be made no later than the earlier of (i) one year after the date of Substantial Completion and (ii) September 30, 2016. Upon any such date occurring without a disbursement by the Lender of the Secured Loan, the Lender may, at its sole discretion, terminate this Secured Loan Agreement. The monies from the disbursement of the Secured Loan shall be disbursed to the escrow agent under the BANs Escrow Agreement for deposit into the BANs Escrow Account, in accordance with the terms of the BANs Escrow Agreement.

Copies of the Requisition shall be delivered to the Lender, the FHWA TIFIA Joint Program Office (HAFT-1) and, if applicable, the FHWA Texas Division Office on or before the first day of the month prior to which the disbursement is requested, or the next succeeding Business Day if such first day is not a Business Day. If the Lender shall expressly approve the Requisition or shall not expressly deny the Requisition, the disbursement of funds shall be made on the first day of the month for which the disbursement has been requested, or on the next succeeding Business Day if such first day is not a Business Day, or such later date in such month as requested by the Borrower in the Requisition.

The Borrower anticipates that it will draw down all of the proceeds of the Secured Loan to reimburse Eligible Project Costs for the purpose of paying or defeasing the Series 2011 BANs. The Borrower shall deliver to the Lender on or before the tenth day of the month immediately succeeding the first month in which proceeds of the Series 2011 BANs are used for the payment of, or reimbursement to the Borrower for, Eligible Project Costs and on or before the tenth day of each month thereafter, or if any such date is not a Business Day, on the next succeeding Business Day, a statement which shall include the following:

- (1) The amount of Eligible Project Costs financed from the proceeds of the Series 2011 BANs for the preceding month;
- (2) Supporting documentation to verify that such proceeds were expended for Eligible Project Costs;

- (3) Certificate from the Borrower's Authorized Representative that:
 - (a) The proceeds were expended for Eligible Project Costs; and
 - (b) There does not currently exist a Default or, if there does currently exist a Default, the Certificate shall specify all the actions that the Borrower is taking to remedy such Default.

This statement is intended to document Eligible Project Costs in connection with the reimbursement of Eligible Project Costs for the purpose of paying or defeasing, in whole or part, the Series 2011 BANs.

The Lender shall review each such statement for compliance with TIFIA disbursement requirements. Within 14 days of receipt of each such statement, the Lender shall deliver a notice to the Borrower, confirming the Eligible Project Costs approved in the applicable statement and the cumulative amount of Eligible Project Costs approved as of the notice date. The approved amounts of Eligible Project Costs will be disbursed, in whole or in part, at such time as the Borrower submits a requisition for disbursement of Secured Loan Proceeds in accordance with the procedures of **Exhibit D** and upon satisfaction of the conditions precedent to disbursement.

The Borrower may amend the Anticipated Secured Loan Disbursement Schedule by submitting a revised schedule to the Lender no later than thirty days prior to the proposed effective date thereof, together with a detailed explanation of the reasons for such revisions. Such revised schedule shall become effective upon the Lender's approval thereof, which approval shall not be unreasonably withheld.

SECTION 5. Term. The term of the Secured Loan for the TIFIA Note shall extend from the Disbursement Date to the Final Maturity Date or to such earlier or later date as all amounts due or to become due to the Lender hereunder have been paid.

SECTION 6. Interest Rate The interest rate with respect to the Secured Loan shall be 4.51% per annum. Interest (including interest at the Default Rate, if applicable) will be computed on the Outstanding Secured Loan Balance and on the TIFIA Note (as well as on any past due interest to the extent authorized by applicable law) from time to time on the basis of a 365- or 366-day year, as appropriate, for the actual number of days elapsed and will be compounded semi-annually; provided, however, if the Borrower fails to pay when due interest on or principal of the Secured Loan in accordance with the provisions of Section 9 hereof, the Borrower shall pay interest on such overdue amount from its due date to the date of actual payment at an interest rate of 6.51% per annum (the "Default Rate") on demand (but subject to the priorities of payment set forth in the Trust Agreement); provided further, that upon the occurrence of a Development Default, the interest rate on the Outstanding Secured Loan Balance and on the TIFIA Note shall be the Default Rate as of the date of the Development Default, and shall continue to bear interest at the Default Rate until the Development Default has been cured.

SECTION 7. Outstanding Secured Loan Balance. The Outstanding Secured Loan Balance for the TIFIA Note will be: (i) increased on each occasion on which the Lender shall disburse Secured Loan proceeds pursuant to Section 4, by the amount of such disbursement; (ii) increased on each occasion on which interest on the Secured Loan is

capitalized pursuant to the provisions of Section 9, by the amount of interest so capitalized; and (iii) decreased upon each payment or prepayment of the principal amount of the Secured Loan, by the amount of principal so paid. In connection with each change in the Outstanding Secured Loan Balance, the Lender shall give written notice to the Borrower and the Trustee of the amount of the Outstanding Secured Loan Balance as of the date of such change, and its determination of such amount in any such notice shall be deemed conclusive absent manifest error. In connection with any change of the Outstanding Secured Loan Balance or in the date of any Payment Date, the Lender shall make applicable revisions to the Loan Amortization Schedule pursuant to Section 9 and in such event shall provide the Borrower and the Trustee with a copy of such Loan Amortization Schedule as revised, but no failure to provide or delay in providing the Borrower with such copy shall affect any of the Obligations of the Borrower under this Secured Loan Agreement. The Loan Amortization Schedule, as of the date hereof, has been determined based on the Anticipated Secured Loan Disbursement Schedule in effect on the Closing Date and the provisions of Section 9.

SECTION 8. Security and Priority. Pursuant to the Trust Agreement, the Borrower has pledged and assigned to the Trustee the Trust Estate, subject to the pledge of the Trust Estate for the security and payment of the First Tier Obligations, for the equal and proportionate benefit of all Second Tier Obligations, except as otherwise permitted by or provided for in the Trust Agreement. Section 215 of the Trust Agreement describes the circumstances under which the Secured Loan will be deemed to be and will automatically become a First Tier Obligation under and subject to the terms of the Trust Agreement. Pursuant to Section 403 of the Trust Agreement, the Borrower and the Trustee have established a required flow of funds for the transfer and the order of priority in which Revenues shall be transferred from the Revenue Fund to the other funds and accounts created by the Trust Agreement.

(a) The Borrower reaffirms its pledge of the Trust Estate made under the Trust Agreement for the security and payment of the Second Tier Obligations, subject to the pledge of the Trust Estate for the security and payment of the First Tier Obligations, pursuant to the terms of the Trust Agreement. The pledge of the Trust Estate to secure the Secured Loan shall be valid and binding from and after the Closing Date, and the funds and accounts set forth in such pledge shall immediately become subject to the lien of such pledge without any physical delivery thereof or further act and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Borrower irrespective of whether such parties have notice thereof.

(b) The Borrower shall not use the Trust Estate to make any payments or satisfy any obligations other than in accordance with the provisions of this Section 8 and the Trust Agreement and shall not apply any portion of the Trust Estate in contravention of the Trust Agreement.

(c) On any date on which interest on or principal of the Secured Loan is due and payable, or any other Obligation pursuant to this Secured Loan Agreement is due and payable, such amounts shall be paid from the Second Tier Debt Service Fund. If the total of the moneys held to the credit of the Second Tier Debt Service Fund shall not be sufficient to pay such interest or principal or other Obligation, the Borrower shall cause the Trustee to withdraw any amounts then on deposit to the credit of the funds and accounts identified in, and in the order of priority established by, the Trust Agreement and deposit the same to the Second Tier Debt

Service Fund in an amount necessary to cure such insufficiency; provided, however, that if the entire balance of amounts on deposit in such funds and accounts will be less than such required amount, then in accordance with the Trust Agreement, the Borrower shall cause the Trustee to obtain advances under the Toll Equity Loan Agreement in such required amount and the proceeds thereof shall be deposited to the Second Tier Debt Service Fund in accordance with the Trust Agreement for payment to the Lender on the date on which such amounts are due and payable hereunder.

(d) The Borrower hereby authorizes and irrevocably directs the Trustee to take the actions required by this Secured Loan Agreement.

SECTION 9. Payment of Principal and Interest

(a) Capitalized Interest Period. No payment of the principal of or interest on the Outstanding Secured Loan Balance is required to be made during the Capitalized Interest Period. On each March 1 and September 1 occurring during the Capitalized Interest Period, interest accrued on the Secured Loan in the six month period ending immediately prior to such date shall be capitalized and added to the Outstanding Secured Loan Balance. Within 30 days after the end of the Capitalized Interest Period, the Lender shall give written notice to the Borrower stating the Outstanding Secured Loan Balance as of the close of business on the last day of the Capitalized Interest Period, which statement thereof shall be deemed conclusive absent manifest error; provided, however, that no failure to give or delay in giving such notice shall affect any of the Obligations of the Borrower hereunder or under any of the Financing Documents.

(b) Payment of Interest. On the Interest Payment Commencement Date, the Borrower shall pay interest on the Outstanding Secured Loan Balance from but excluding the last day of the Capitalized Interest Period, at the rate set forth in Section 6, in the amount of \$1,000,000. On each Payment Date after the Interest Payment Commencement Date, the Borrower shall pay interest on the Outstanding Secured Loan Balance until such amount shall be paid in full, at the rate set forth in Section 6, payable for each Payment Period in arrears. The Borrower shall cause such payments to be made by the Trustee from the Second Tier Interest Account to the Lender on each Payment Date.

(c) Payment of Principal. On each Payment Date on or after the Principal Amortization Commencement Date, the Borrower shall repay a principal amount of the Outstanding Secured Loan Balance as set forth in the Loan Amortization Schedule (as the same may be revised from time to time pursuant to Section 7) for such Payment Date. The Borrower shall cause such payments to be made by the Trustee from the Second Tier Principal Account to the Lender on each Payment Date.

(d) Manner of Payment. Payments and prepayments under this Secured Loan Agreement and the TIFIA Note shall be made by wire transfer on or before each Payment Date in immediately available funds in accordance with payment instructions provided by a Lender's Authorized Representative pursuant to Section 36, as modified in writing from time to time by a Lender's Authorized Representative.

(e) TIFIA Note; Adjustments to Loan Amortization Schedule. As evidence of the Borrower's obligation to repay the Secured Loan, the Borrower shall issue and deliver to the Lender, on the Closing Date, a TIFIA Note substantially in the form of **Exhibit A** having a

maximum principal amount of \$418,405,000 and bearing interest at the rate set forth in Section 6. The Lender is hereby authorized to enter on the grid attached to the TIFIA Note as **Appendix One** the amount of the disbursement made under this Secured Loan Agreement, the amount of interest capitalized and added to the Outstanding Secured Loan Balance and each repayment or prepayment made by the Borrower pursuant to this Secured Loan Agreement and to amend the Loan Amortization Schedule from time to time to comply with the terms of repayment established in this Secured Loan Agreement. It is understood that the failure by the Lender to make any such endorsement or notation shall not affect the Obligations of the Borrower under this Secured Loan Agreement or the TIFIA Note. Absent manifest error, the Lender's determination and notation of such matters as set forth on **Appendix One** to the TIFIA Note and the Loan Amortization Schedule shall be conclusive evidence thereof. Upon the discharge of all of the Obligations of the Borrower under this Secured Loan Agreement and the TIFIA Note, the Lender shall cancel and return the TIFIA Note to the Borrower or its authorized representative at the principal office of the Lender.

(f) Notice. On or before the 30th day prior to each Payment Date, the Lender shall provide, or shall cause the Servicer to provide notice to the Borrower and the Trustee of the amount of interest and/or principal due on the Secured Loan on such Payment Date.

SECTION 10. Prepayment. Voluntary Prepayment. The Borrower may prepay the Outstanding Secured Loan Balance in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid shall be determined by the Borrower; provided, however, that such prepayments shall be in the minimum principal amount of \$1,000,000), at any time or from time to time, without penalty or premium, by paying the Lender such principal amount of the Outstanding Secured Loan Balance to be prepaid, together with the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment. Each prepayment of the Outstanding Secured Loan Balance shall be made on such date and in such principal amount as shall be specified by the Borrower in a written notice delivered to the Trustee and the Lender. In the case of any prepayment, such written notice shall be delivered to the Lender not less than 30 days prior to the date set for prepayment.

(b) Mandatory Prepayment. The Borrower shall prepay the Outstanding Secured Loan Balance on the first Business Day following the transfer of any amount from the General Fund to the TIFIA Prepayment Account pursuant to Section 417 of the Trust Agreement in an aggregate amount equal to the amount so transferred, together with the unpaid interest accrued on the amount of principal so prepaid to the date of such prepayment. The Borrower shall cause such prepayments to be made by the Trustee from the TIFIA Prepayment Account to the Lender on each such date.

(c) Prepayments Generally. With respect to any prepayment made pursuant to paragraphs (a) or (b) of this Section 10, the amount of such prepayment shall be applied first to accrued interest and then to principal, and the Lender shall, and is hereby authorized by the Borrower to, make the appropriate notations to Appendix One to the TIFIA Note and the appropriate revisions to the Loan Amortization Schedule with respect to such prepayment or, if all of the Obligations of the Borrower under this Secured Loan Agreement and the TIFIA Note are to be discharged in connection with such prepayment, cancel and return the TIFIA Note, in each case pursuant to Section 9(e). All such partial prepayments of principal shall be applied to future installments due on the TIFIA Note. If said moneys shall not have been so paid on the

prepayment date, such principal amount of the Secured Loan shall continue to bear interest until payment thereof at the rate provided for in Section 6.

SECTION 11. Deferred Payment

(a) If the Project is unable to generate sufficient revenues to pay the scheduled payments of principal of and interest on the Outstanding Secured Loan Balance, the Secretary may, subject to the Borrower providing reasonable assurances of repayment, and upon other criteria as may be established by the Secretary, allow the Borrower to defer all or any portion of any scheduled payment of principal of and interest on the Outstanding Secured Loan Balance.

(b) Any payment deferred under this Section 11 shall (i) accrue or continue to accrue interest in accordance with this Secured Loan Agreement until fully repaid and (ii) be scheduled to be amortized within 35 years of Substantial Completion.

(c) Nothing in this Section 11 shall be construed to mean that the Secretary is granting in advance to the Borrower an approval to defer any scheduled payment of principal of and interest on the Secured Loan.

SECTION 12. Compliance with Laws. The Borrower agrees and shall require its contractors and subcontractors to abide by all applicable Federal and state laws. The list of Federal laws attached as **Exhibit E** is illustrative of the type of requirements generally applicable to transportation projects. It is not intended to be exhaustive. The FHWA Division Office has oversight responsibility for ensuring compliance with all applicable provisions of Federal law. Pursuant to 23 U.S.C. § 106(c), the Development Oversight Agreement and the Project Documents, TxDOT will be responsible for certain PGBT WE Project oversight activities. The Borrower agrees to cooperate with TxDOT and the FHWA Division Office in carrying out their duties under these agreements. The Borrower agrees that there will be no irreversible or irretrievable commitment of resources, including but not limited to physical construction, before all state and/or Federal environmental permits are finalized and approved by the appropriate resource agencies. In the unlikely event that an unknown environmental permit is required after construction has begun, the Borrower shall take immediate steps to acquire that state and/or Federal permit. The PGBT WE Project has been included in the approved transportation plan and program of TxDOT and the metropolitan transportation plan developed by the North Central Texas Council of Governments, and has received the express written approval of the Texas Transportation Commission.

SECTION 13. Conditions Precedent. Notwithstanding anything in this Secured Loan Agreement to the contrary, the Lender shall have no obligation to make the disbursement pursuant to the terms of this Secured Loan Agreement until each of the following conditions precedent shall have been satisfied or waived in writing by the Lender in its sole discretion:

(a) The Borrower shall have duly executed and delivered to the Lender the TIFIA Note in accordance with this Secured Loan Agreement and in form and substance satisfactory to the Lender.

(b) Counsel to the Borrower shall have rendered to the Lender an opinion as to the enforceability of the Borrower's Obligations under certain of the Financing Documents and other matters in substantially the form attached hereto as **Exhibit H** and special counsel to

TxDOT and the general counsel to the Texas Transportation Commission on behalf of TxDOT shall have rendered to the Lender opinions as to the enforceability of TxDOT's obligations under the Toll Equity Loan Agreement and Direct Agreement and other matters, in substantially the forms attached hereto as **Exhibit I** and **Exhibit J**, respectively.

(c) Bond Counsel to the Borrower shall have rendered to the Lender certificates and legal opinions in substantially the form attached hereto as **Exhibit K**.

(d) The Texas Attorney General shall have rendered an approving opinion with respect to the Series 2011 Bonds and the Secured Loan Agreement in form and substance satisfactory to the Lender.

(e) The Borrower shall have certified as to the absence of debarment or suspension or voluntary exclusion from participation in Government contracts, procurement and other matters and shall have provided to the Lender a certificate to that effect in the form attached hereto as **Exhibit C**.

(f) The Borrower shall have delivered to the Lender satisfactory evidence of compliance for the Project with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 *et seq.*).

(g) The Borrower shall have provided to the Lender's satisfaction evidence that the PGBT WE Project has been included in the approved transportation plan and program of TxDOT and the metropolitan transportation plan developed by the North Central Texas Council of Governments, and has received the express written approval of the Texas Transportation Commission.

(h) The Borrower shall have provided to the Lender's satisfaction, not later than 14 days prior to the Closing Date, evidence of an Investment Grade Rating from a Rating Agency for the Series 2011 Bonds and a Rating Agency assessment of the default risk on the Secured Loan.

(i) The Borrower shall have delivered to the Lender a certificate designating the Borrower's Authorized Representative and such Person's position and incumbency and a certificate of the Borrower to the effect that the insurance requirements of Section 16(h) have been satisfied as of the Closing Date in form and substance satisfactory to the Lender.

(j) The Borrower shall have delivered to the Lender the Traffic and Revenue Report in form and substance acceptable to the Lender.

(k) The Borrower shall have delivered to the Lender financial schedules consistent in all respects with the Secured Project Indebtedness and the Series 2011 BANs in form and substance acceptable to the Lender.

(l) The Borrower shall have delivered to the Lender an executed copy of the Design/Build Agreement and, if any, all other development contracts or general construction contracts to which the Borrower is a party that have been executed as of the date of delivery of the TIFIA Note for all components of the PGBT WE Project being financed by the TIFIA Note.

(m) The Borrower shall have delivered to the Lender a certified copy of the BAN Resolution and of each executed Transaction Document. The BAN Resolution shall have been duly adopted, and each other Transaction Document shall have been duly executed and delivered by each of the parties thereto, each in form and substance satisfactory to the Lender, and all conditions contained in such documents to the effectiveness thereof shall have been fulfilled or effectively waived.

(n) The Borrower shall have demonstrated to the Lender's satisfaction that it has all Governmental Approvals necessary to commence construction.

(o) The Borrower shall have delivered to the Lender satisfactory evidence of the perfected security interest of the Trustee in the Trust Estate for the benefit and security of all present and future owners of the Secured Project Indebtedness.

(p) The Borrower shall have paid, or shall have made arrangements satisfactory to the Lender to pay to the Lender the fees and expenses of the Lender's counsel and financial advisor and any auditors or other consultants employed by the Lender for the purposes hereof.

(q) The Borrower shall have delivered to the Lender's satisfaction the Base Case Financial Model, the Base Case Financial Plan, the most recent Financial Plan and a certificate demonstrating that the projected Revenues shall be sufficient to meet the Loan Amortization Schedule and to meet the Rate Covenant.

(r) The Borrower shall have issued the Series 2011 BANs, duly adopted the BAN Resolution and duly executed and delivered the BANs Escrow Agreement and any other agreements or documentation that may be necessary for the consummation of the refunding or defeasance of the Series 2011 BANs for which the disbursement of the Secured Loan may be made in accordance with the Secured Loan Agreement. Each such instrument, resolution, agreement or other documentation shall be in form and substance satisfactory to the Lender.

(s) The Borrower shall also have delivered such other agreements, documents, instruments, opinions and other items required by the Lender, all in form and substance satisfactory to the Lender, including, but not limited to, evidence that required reserves have been funded and evidence that all other PGBT WE Project funding requirements have been met (including evidence of the achievement and consummation of the Closing and any other related transactions required to close prior to execution or effectiveness of this Secured Loan Agreement).

This Secured Loan Agreement is being executed and made effective as of the date first written above with the expectation by the Lender that the Closing Date will occur, and that the condition precedent in Section 13(m) will be satisfied, by May 15, 2011. If the Closing Date has not occurred, or if the condition precedent in Section 13(m) has not been satisfied, by May 15, 2011, the Lender may, at its sole discretion, terminate this Secured Loan Agreement.

SECTION 14. Representations and Warranties of Borrower. The Borrower hereby represents and warrants that as of the Closing Date and as to each of the representations and warranties below, other than those contained in clauses (b), (i), (k) and (l) of this Section 14, as of the Disbursement Date (as a condition precedent to the disbursement contemplated for such date):

(a) The Borrower is duly organized and in good standing under the laws of the State, has full legal right, power and authority to enter into this Secured Loan Agreement and each of the other Transaction Documents to which it is a party, to issue the TIFIA Note and to carry out and consummate all transactions contemplated by this Secured Loan Agreement and each of the other Transaction Documents and has duly authorized the execution, delivery and performance of this Secured Loan Agreement and each of the other Transaction Documents to which it is a party.

(b) As of the Closing Date, the officers of the Borrower executing this Secured Loan Agreement and each of the other Transaction Documents to which it is a party are duly and properly in office and fully authorized to execute the same on behalf of the Borrower.

(c) This Secured Loan Agreement and each of the other Transaction Documents to which it is a party have been duly authorized, executed and delivered by the Borrower, are in full force and effect and constitute the legal, valid and binding agreements of the Borrower enforceable in accordance with their terms.

(d) The execution and delivery of this Secured Loan Agreement and each of the other Transaction Documents, the consummation of the transactions herein and therein described and the fulfillment of or compliance with the terms and conditions hereof and thereof, will not, in any material respect, conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) by the Borrower of any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower.

(e) No consent or approval of any trustee, holder of any indebtedness of the Borrower or any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental entity is necessary in connection with the execution and delivery of this Secured Loan Agreement and each of the Transaction Documents, the consummation of any transaction herein or therein described, or the fulfillment of or compliance with the terms and conditions hereof or thereof, except as have been obtained or made and as are in full force and effect.

(f) There is no action, suit, proceeding, inquiry or investigation, before or by any court or Federal, state, municipal or other governmental authority, pending, or to the knowledge of the Borrower after reasonable inquiry and investigation, threatened against or affecting the Borrower or the assets, properties or operations of the Borrower which are likely to be determined adversely to the Borrower or its interests, and which if so determined could reasonably be expected to have a Material Adverse Effect. The Borrower is not in default (and no event has occurred and is continuing which with the giving of notice or the passage of time or both could constitute a default) with respect to any order or decree of any court or any order, regulation or demand of any Federal, state, municipal or other governmental authority, which default could reasonably be expected to have a Material Adverse Effect.

(g) The Trust Agreement establishes the valid pledge of and perfected lien on the Trust Estate which it purports to create, in favor of the Trustee for the benefit and security of the

Lender and all other present and future owners of the Obligations (as defined in the Trust Agreement) of the Borrower in respect of the Secured Project Indebtedness; such pledge and lien are in full force and effect and, except as expressly provided in the Trust Agreement, are not subordinate or junior to any other liens in respect of the Trust Estate; and the Borrower is not in breach of any covenants set forth in the Trust Agreement or in this Secured Loan Agreement, including, without limitation, Sections 8 and 16.

(h) The Borrower is not debarred or suspended or voluntarily excluded from participation in Government contracts or procurement matters or delinquent on a Government debt as more fully set forth in the certificate delivered in substantially the form of **Exhibit C**.

(i) As of the Closing Date, representations, warranties and certifications of the Borrower set forth in each of the other Transaction Documents to which the Borrower is a party and all written information provided by the Borrower to the Lender in the Application, when taken as a whole and after giving effect to any updates provided to the Lender in writing, remain true and accurate in all material respects.

(j) The Borrower has complied, with respect to the Project, with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 *et seq.*).

(k) As of the Closing Date, the PGBT WE Project has been included in the approved transportation plan and program of TxDOT and the metropolitan transportation plan developed by the North Central Texas Council of Governments, and has received the express written approval of the Texas Transportation Commission.

(l) As of the Closing Date, the Series 2011 Bonds have received an Investment Grade Rating from at least one Rating Agency, all to the extent provided in written evidence of such ratings provided to the Lender pursuant to Section 13(h), and no such rating has been reduced, withdrawn or suspended as of such date.

(m) The PGBT WE Project is included in the approved STIP as required under 23 U.S.C. § 134.

(n) Upon execution and delivery of this Secured Loan Agreement and each of the other Transaction Documents to which the Borrower is a party, the Borrower is not in default in any material respect under the terms hereof or thereof and, to the knowledge of the Borrower, no other party to any of such agreements is in default thereunder in any material respect.

(o) All authorizations, consents, licenses, permits, approvals, and reviews required as of such date for the undertaking and completion by the Borrower of the PGBT WE Project have been obtained or effected and are in full force and effect, and there is no basis for the revocation of any such authorizations, consents, licenses, permits, approvals, or reviews.

(p) The Trust Estate pledged in the Trust Agreement is free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto, other than the pledge of the Trust Estate created by the Trust Agreement, and all corporate action on the part of the Borrower to that end has been duly and validly taken.

(q) All right-of-way and other unencumbered property rights required for the acquisition, construction, operation or control of the PGBT WE Project have been obtained, other than those upon which the failure to obtain would not have a Material Adverse Effect.

(r) No Default has occurred and is continuing.

SECTION 15. Representations and Warranties of the Lender. The Lender represents and warrants that:

(a) The Lender has all requisite power and authority to make the Secured Loan and to perform all transactions contemplated by this Secured Loan Agreement.

(b) This Secured Loan Agreement has been duly authorized, executed and delivered by Lender, and is a legally valid and binding agreement of the Lender, enforceable in accordance with its terms.

(c) The officer of the Lender executing this Secured Loan Agreement is duly and properly in office and fully authorized to execute the same on behalf of the Lender.

SECTION 16. Borrower Covenants. The Borrower hereby covenants and agrees that:

(a) (1) The Borrower shall not issue any indebtedness that is payable from or secured by a lien on all or any portion of the Trust Estate, whether on a parity with or prior or junior or subordinate to the lien securing the Secured Loan, other than the Initial Secured Project Indebtedness, without the Lender's prior written approval, in its sole discretion.

With respect to the issuance of any Additional Obligations for financing the Project Capacity Improvements or the acquisition, development, design, construction, equipping, operation or maintenance of all or any portion of the SWP/CT Project, or the refinancing or refunding of any Outstanding First Tier Obligations and Second Tier Obligations, the Lender may, in its sole discretion, require any or all of the following as conditions of its approval of the Borrower's issuance of any Additional Obligations, and upon satisfaction of such conditions, the Lender's approval shall not be unreasonably withheld (and for the avoidance of doubt, the Lender's refusal to consent in the event of the Borrower's failure to satisfy any one of such conditions shall not be considered in any event to be an unreasonable withholding of its consent):

(i) Satisfaction of the conditions set forth in Sections 208, 209 or 211 of the Trust Agreement, as applicable;

(ii) Written confirmation from each Rating Agency then maintaining a rating on the First Tier Obligations and the Second Tier Obligations to the effect that the issuance of such Additional Obligations will not in and of itself cause such Rating Agency to reduce or withdraw the then current rating on the First Tier Obligations and the Second Tier Obligations;

(iii) A certificate or report of the Toll Road Consultant setting forth its opinion as to the aggregate estimated amount of revenues which the Borrower will derive from the operation and ownership of the Project (which revenues shall

be deemed to include all investment income from the funds and accounts established under the Trust Agreement, and all fines and penalties and interest thereon collected as a result of the failure to pay any tolls, fees or charges for the use of the Project, consistent with the assumptions set forth in the most recent Financial Plan, all as reasonably estimated and certified to by the Chief Financial Officer) under the Toll Rate Schedule referred to, set forth in, or attached to, said certificate, for each of the Fiscal Years through the repayment of the Additional Obligations then proposed to be issued and all First Tier Obligations and the Second Tier Obligations to be Outstanding after the delivery of such Additional Obligations;

(iv) A certificate or report of an independent certified public accountant of recognized standing and ability (dated not earlier than ninety days prior to the date the Additional Obligations are delivered) stating the annual debt service requirements for the Additional Obligations then proposed to be issued and all First Tier Obligations and the Second Tier Obligations to be Outstanding after the delivery of such Additional Obligations;

(v) A certificate of the Chief Financial Officer that (based on the certificates or reports of the Toll Road Consultant and the independent certified public accountant delivered pursuant to clauses (iii) and (iv) above) after the issuance of the Additional Obligations, for the current and each Fiscal Year after the date of said certificate:

(A) the Total Debt Service Coverage Ratio commencing with the Fiscal Year ending August 31, 2014 is equal to or greater than 1.10;

(B) the First Tier Debt Service Coverage Ratio commencing with the Fiscal Year ending August 31, 2014 is equal to or greater than 1.25; and

(C) the Loan Life Coverage Ratio commencing with the Fiscal Year ending August 31, 2014 is equal to or greater than 1.25;

(vi) Each of the Project Capacity Improvements and the SWP/CT Project, as the case may be, adheres to and is compliant with all applicable federal eligibility and selection criteria pursuant to Title 23 of the United States Code; and

(vii) All terms and conditions of any proposed Modifications of the Transaction Documents in connection with the Additional Obligations shall have been delivered in writing to the Lender and shall be in form and substance satisfactory to the Lender.

(2) Additionally, with respect to Additional Obligations issued for the purpose of financing the acquisition, development, design, construction, equipping, operation or maintenance of all or any portion of SWP/CT Project:

(i) The Borrower will have on deposit, or has duly provided for deposit, in the Construction Fund an amount as is necessary, based on the report prepared by the Consulting Engineer, to pay for Costs for the construction of the SWP/CT Project; and

(ii) There shall have been filed with the Trustee the following:

(A) A final traffic and revenue report of the Toll Road Consultant relating to the SWP/CT Project;

(B) A final report of the Consulting Engineer relating to the SWP/CT Project concluding that the SWP/CT Project remains on budget and on schedule to be completed (i) within six months after the guaranteed substantial completion date for the SWP/CT Project as set forth in the construction schedule for the SWP/CT Project provided to the Lender, if as of the date of the final report the SWP/CT Project has achieved less than 50% completion, or (ii) within 12 months after the guaranteed substantial completion date for the SWP/CT Project as set forth in the construction schedule for the SWP/CT Project provided to the Lender, if as of the date of the final report the SWP/CT Project has achieved at least 50% completion, which final report may be subject to such conditions that are customary for such reports; and

(C) A final report of the Consulting Engineer relating to the SWP/CT Project concluding that the budget for Costs of the construction of the SWP/CT Project and the time frame to achieve substantial completion for the SWP/CT Project (which the report shall indicate will fall not later than 90 days after the guaranteed substantial completion date for the SWP/CT Project as set forth in the construction schedule for the SWP/CT Project provided to the Lender) are reasonable, subject to such conditions that are customary for such reports.

Notwithstanding the foregoing, (x) the provisions of clauses (a)(1) and (2) above, other than clause (a)(1)(i), shall not be conditions for approval for the Borrower's issuance of Additional Obligations for the purpose of fully refunding the Series 2011 BANs on or before their respective maturity dates in accordance with Section 210 of the Trust Agreement if at the time of such issuance, the Disbursement Date has not occurred, provided, however, that if such Additional Obligations are issued, no disbursement of the Secured Loan shall be made and this Secured Loan Agreement shall immediately be terminated and (y) the Lender's approval shall not be required for the issuance of indebtedness immediately after which the TIFIA Note and the Obligations under the Secured Loan Agreement are fully and indefeasibly paid or the Secured Loan Agreement is terminated in accordance with the preceding clause (x). The Borrower shall notify the Lender in writing of its intent to issue Additional Obligations for the purpose of fully refunding the Series 2011 BANs at least 30 days in advance.

(b) (i) The Borrower covenants that, in and after the Fiscal Year in which the first disbursement is made to the Borrower pursuant to this Secured Loan Agreement, (A) the Total Debt Service Coverage Ratio for each Fiscal Year commencing with the Fiscal Year ending August 31, 2014 shall not be less than 1.10, (B) the First Tier Debt

Service Coverage Ratio for each Fiscal Year commencing with the Fiscal Year ending August 31, 2014 shall not be less than 1.25, and (C) the Loan Life Coverage Ratio for each Fiscal Year commencing with the Fiscal Year ending August 31, 2014 shall not be less than 1.25.

(ii) If the covenants set forth in Section 16(b)(i) shall not be met for such Fiscal Year, the Borrower will promptly engage the Toll Road Consultant to make and file its recommendations with the Borrower and the Trustee before the 15th day of March of the following Fiscal Year as to a revision in the Toll Rate Schedule then in effect, in order to cause the raising and production of Revenues in a manner which will enable the Borrower to produce at the earliest feasible time Gross Cash Flows in at least the amounts contemplated above for the current Fiscal Year. Copies of such request and of the recommendations of Toll Road Consultant, if any, shall be filed by the Borrower with the Lender. The Borrower covenants that it will promptly and carefully consider such recommendations, and that it will, within sixty days after receipt of such recommendations, either (A) place into effect any Toll Rate Schedule as so recommended by the Toll Road Consultant, or (B) place into effect any alternative Toll Rate Schedule which, in the opinion of the Board, will enable it to comply with its covenants in this Section 16(b). The Borrower and the Toll Road Consultant shall advise the Lender of the actions taken by the Borrower with respect to the recommendations of the Toll Road Consultant.

(iii) Anything in this Secured Loan Agreement to the contrary notwithstanding, if the Borrower shall comply with all recommendations of the Toll Road Consultant (or such independent engineer or engineering firm or corporation as hereinafter provided for in this Section 16) with respect to Toll Rate Schedules, it shall not constitute an Event of Default under the provisions of Section 20, if there shall be a deficiency in any Fiscal Year or years between the Gross Cash Flows for such Fiscal Year or years and the amount required to be produced for such Fiscal Year or years; provided, however, that in the event of any such deficiency, and regardless of any recommendations of the Toll Road Consultant or others, or compliance therewith by the Borrower, the Lender may institute and prosecute in a court of competent jurisdiction an appropriate action to compel the Borrower to comply with its covenant herein to adopt and keep in effect a Toll Rate Schedule that will raise and produce during the current Fiscal Year an amount of Gross Cash Flows as required above for such Fiscal Year. The Borrower covenants that it will comply with any final order, decree, or judgment entered in any such proceeding, or any modification thereof.

(iv) If the Borrower requests that the Toll Road Consultant provide its recommendations as required herein, and the Toll Road Consultant, after such request by the Borrower, fails to file with the Borrower such recommendations in writing within 120 days after such request, the Lender shall forthwith designate and appoint an independent engineer or engineering firm or corporation having a nationwide and favorable reputation for skill and experience in such work, in lieu of the Toll Road Consultant, to make the necessary survey and study and to make the required recommendations as to the aforesaid revision, which recommendations shall be reported in writing to the Borrower and to the Lender on or before the 1st day of October of said year. Such recommendations shall for

all purposes be considered to be the equivalent of and a substitute for the recommendations of the Toll Road Consultant hereinabove mentioned.

(c) The Borrower shall at any and all times, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning, securing and confirming all the rights in and to the Trust Estate and other moneys, securities, funds and accounts, if any, pledged or assigned, or intended so to be pledged or assigned, or which the Borrower may become bound to pledge or assign, in each case pursuant to the Trust Agreement or any other Financing Document purporting to do the same, and the Trust Estate and such other moneys, securities, funds and accounts, if any, so pledged are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto, other than as permitted by such documents, and all corporate action on the part of the Borrower to that end has been duly and validly taken or will be duly and validly taken when required. This Secured Loan Agreement and the other Financing Documents to which the Borrower is a party are and will be valid and legally enforceable obligations of the Borrower in accordance with their terms. The Borrower shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Trust Estate and other moneys, securities, funds and accounts, if any, pledged under the Trust Agreement or any other Financing Document for the benefit and security of all present and future owners of the Secured Project Indebtedness against all claims and demands of all Persons whomsoever.

(d) The Borrower shall furnish to the Lender a copy of any Official Statement or other offering document and cash flow projections prepared in connection with the issuance of the Series 2011 Bonds and the Series 2011 BANs prior to the issuance of any such obligations, as well as copies of any continuing disclosure documents filed in connection with Rule 15c2-12 of the Securities and Exchange Commission relating to the Series 2011 Bonds and the Series 2011 BANs.

(e) The Borrower shall use the proceeds of the Secured Loan only to pay, or to reimburse the Borrower for, Eligible Project Costs.

(f) The Borrower shall diligently prosecute the work relating to the PGBT WE Project and complete the PGBT WE Project in accordance with the Construction Schedule (as the same may be amended from time to time with the prior written consent of the Lender).

(g) The Borrower shall operate and maintain the Project in a reasonable and prudent manner and shall maintain the Project in good repair, working order and condition and shall from time to time make or cause to be made all necessary and proper replacements, repairs, renewals and improvements so that the Project shall not be materially impaired. The Borrower shall at all times do or cause to be done all things necessary to obtain, preserve, renew, extend and keep in full force and effect the rights, licenses, permits, franchises and authorizations material to the conduct of its business as it relates to the Project, and comply in all material respects with all applicable laws, rules, regulations, orders, decrees, judgments or administrative decisions, whether now in effect or hereafter enacted, of any governmental authority having jurisdiction over the Borrower or its assets or operations (including, without limitation, the National Environmental Policy Act of 1969 (42 U.S.C. §4321 et seq.) and all other federal, state and local laws, rules, regulations, orders, decrees, judgments and administrative decisions

relating to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any hazardous material or to health and safety matters), in each case in connection with the Project or the construction, operation or maintenance thereof.

(h) The Borrower shall maintain, or cause to be maintained, with responsible insurers, all such insurance on the Project as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to such works or properties as provided in the Transaction Documents, including property, casualty and business interruption insurance.

(i) The Borrower shall, within 5 Business Days after the Borrower learns of the occurrence, give the Lender notice of any of the following events, setting forth details of such event:

- (1) Events of Defaults - any Event of Default or any event which, given notice or the passage of time or both, would constitute or could reasonably be expected to become an Event of Default by the Borrower;
- (2) Litigation - the filing of any actual litigation, suit or action, or the delivery to the Borrower of any written claim, which could reasonably be expected to have a Material Adverse Effect; and
- (3) Other Adverse Events - the occurrence of any other event or condition which could reasonably be expected to have a Material Adverse Effect.
- (4) Default under Master Custodial Account Agreement - the occurrence of any default or breach under the Master Custodial Account Agreement.

(j) Within 30 days after an event specified in Section 16(i), the Borrower shall provide a statement of an Authorized Borrower's Representative setting forth the actions the Borrower proposes to take with respect thereto.

(k) The Borrower shall not, without the prior written consent of the Lender, (i) release or extinguish the liens on any part of the Trust Estate, except as expressly provided under the Trust Agreement, or (ii) terminate, cancel, assign, amend, supplement or modify, or waive any term of, or consent to or accept any termination, cancellation, assignment, amendment, supplementation or modification, or waiver of any term (any such action, a "Modification") of any Financing Document or the BAN Resolution in a manner that would adversely affect the Lender in connection with the Secured Loan or impair the security for the Secured Loan. Prior to any such proposed Modification, the Borrower will provide the Lender with at least 45 days prior written notice, along with the proposed terms and conditions of such Modifications in full.

(l) The covenants of the Borrower set forth in the Trust Agreement shall inure to the benefit of the Lender with the same force and effect as if set forth in this Secured Loan Agreement.

(m) The Borrower shall maintain its existence and shall not consolidate with, privatize or merge into any other Person or entity or convey, assign, transfer or lease all or substantially all of the Project or its other assets to any other Person or entity, other than the pledge and assignment of the Trust Estate to the Trustee for the benefit of the holders of the Secured Project Indebtedness.

(n) The Borrower shall provide to the Lender, promptly after the sending or receipt thereof, copies of (i) all reports, certificates, notices or other materials or written communications provided to the Trustee pursuant to the Financing Documents and (ii) all notices and other written communications received by the Borrower from the Trustee.

(o) The Borrower shall certify to the Lender in its annual Financial Plan each year that it is in compliance with the Rate Covenant or, if the Borrower is not in compliance with the Rate Covenant, the steps the Borrower is taking to remedy such noncompliance.

(p) The Borrower shall annually, commencing in 2012, no later than 120 days following the end of the Fiscal Year for the Project, provide, at no cost to the Lender, a letter from a Rating Agency confirming the rating on the outstanding Series 2011 Bonds, any Additional Obligations and the Secured Loan.

(q) The Borrower agrees to provide the Lender with a transcript of its bond financing as soon as possible after the closing for its Series 2011 Bonds and the Series 2011 BANs.

(r) The Borrower shall provide the Lender with a copy of any amendments or supplements to the Traffic and Revenue Report. The Borrower will not permit the methodology used in any such amendment or supplement to materially vary from the methodology used in the Traffic and Revenue Report without the prior written consent of the Lender.

(s) The Borrower shall operate the Project substantially in accordance with the Annual Operating Budget, which shall be established pursuant to the following provisions:

(i) The Borrower shall, not less than sixty (60) days before the commencement of each Fiscal Year (commencing with the Fiscal Year in which Substantial Completion is projected to occur), submit to the Lender for its review an Annual Operating Budget for such upcoming Fiscal Year which shall include an operating plan and a budget, pro forma income and cash flow statements for the Project. Each Annual Operating Budget shall specify in reasonable detail all projected Revenues, Capital Expenditures, Operating Expenses and Major Maintenance Expenses, on a monthly basis together with such projections and other information as the Lender may reasonably request.

(ii) If the total amount of Operating Expenses in such Annual Operating Budget exceed by more than 10% the total amount of Operating Expenses in the then-current Annual Operating Budget as approved pursuant to this Section 16(s), the Borrower shall provide the Lender a brief narrative explanation of the reasons for such increase together with the written recommendations of the Consulting Engineers as to the amount of Operating Expenses necessary to operate and maintain the Project in accordance with the

Project Agreement Standards. If (A) the recommended amount of Operating Expenses from the Consulting Engineers is less than the Operating Expenses in the Annual Operating Budget submitted by the Borrower, and (B) the Borrower does not reduce the Operating Expenses in such Annual Operating Budget to the amount of Operating Expenses recommended by the Consulting Engineers, the Borrower agrees not to use Revenues or amounts on deposit in any funds in the Trust Estate during the Fiscal Year applicable to such Annual Operating Budget to pay for Operating Expenses to the extent they exceed the amount of Operating Expenses recommended by the Consulting Engineers for such Annual Operating Budget but may draw from other funds lawfully available to the Authority for such purpose that are not part of the Trust Estate.

The Lender may, in its sole discretion, within thirty (30) days of receipt of the recommendations of the Consulting Engineers pursuant to this clause (ii), request that such recommendations be reviewed by the Civil Engineering Consultant. Within ten (10) days of such request, the Borrower shall select the Civil Engineering Consultant, who shall make the required recommendations as to the necessary Operating Expenses within thirty (30) days of such selection, which recommendations shall be reported in writing to the Borrower and to the Lender. Such recommendations shall for all purposes be considered to be the equivalent of and a substitute for the recommendations of the Consulting Engineers hereinabove mentioned for all purposes of this clause (ii).

(iii) If the total amount of Major Maintenance Expenses or Capital Expenditures expended and projected to be expended in the proposed Annual Operating Budget from the later of (A) date of this Secured Loan Agreement and (B) the most recent Reset Date through the end of the Fiscal Year relating to such Annual Operating Budget exceed by more than 10% the total amount of Major Maintenance Expenses or Capital Expenditures, respectively, in the Project Budget for such time period, the Borrower shall provide the Lender a brief narrative explanation of the reasons for such increase together with the written recommendations of the Consulting Engineers as to the amount of Major Maintenance Expenses or Capital Expenditures, respectively, necessary to repair and maintain the Project in accordance with the Project Agreement Standards during the Fiscal Year applicable to such Annual Operating Budget and for each Fiscal Year thereafter through the Final Maturity Date (a “Major Maintenance/Capital Expenditures Report”). If (1) the recommended amount of Major Maintenance Expenses or Capital Expenditures from the Consulting Engineers for such Fiscal Year is less than the Major Maintenance Expenses or Capital Expenditures, respectively, in the Annual Operating Budget submitted by the Borrower, and (2) the Borrower does not reduce the Major Maintenance Expenses or Capital Expenditures in such Annual Operating Budget to the amount of Major Maintenance Expenses or Capital Expenditures, respectively, recommended by the Consulting Engineers for such Fiscal Year, the Borrower agrees not to use Revenues or amounts on deposit in any funds in the Trust Estate during the Fiscal Year applicable to such Annual Operating Budget to pay for Major Maintenance Expenses or Capital Expenditures to the extent they exceed the amount of Major Maintenance Expenses or Capital Expenditures,

respectively, recommended by the Consulting Engineers for such Annual Operating Budget but may draw from other funds lawfully available to the Authority for such purpose that are not part of the Trust Estate. The term “Reset Date” shall mean the first day of the Fiscal Year applicable to an Annual Operating Budget for which the Consulting Engineers have filed a Major Maintenance/Capital Expenditures Report. For purposes of this Section 16(s), upon the filing with the Lender of a Major Maintenance/Capital Expenditures Report, the Major Maintenance Expenses or Capital Expenditures recommended by the Consulting Engineers for each future Fiscal Year shall be deemed the Major Maintenance Expenses or Capital Expenditures, respectively, in the Project Budget for each such Fiscal Year.

The Lender may, in its sole discretion, within thirty (30) days of receipt of the recommendations of the Consulting Engineers pursuant to this clause (iii), request that such recommendations be reviewed by the Civil Engineering Consultant. Within ten (10) days of such request, the Borrower shall select the Civil Engineering Consultant, who shall make the required recommendations as to the necessary Major Maintenance Expenses or Capital Expenditures, as applicable, within thirty (30) days of such selection, which recommendations shall be reported in writing to the Borrower and to the Lender. Such recommendations shall for all purposes be considered to be the equivalent of and a substitute for the recommendations of the Consulting Engineers hereinabove mentioned for all purposes of this clause (iii).

(iv) In the event the Authority proposes to amend or supplement the then current Annual Operating Budget at any time during the then current Fiscal Year, the Borrower shall not implement such proposed amendment or supplement to the then current Annual Operating Budget (the “Proposed Budget Amendment”) unless (x) it shall have first submitted, not less than thirty (30) days before the proposed date for the implementation of the Proposed Budget Amendment, to the Lender for its review the Proposed Budget Amendment which shall include an updated operating plan, budget and pro forma income and cash flow statements for the Project and which shall specify in reasonable detail all updated projected Revenues, Capital Expenditures, Operating Expenses and Major Maintenance Expenses, on a monthly basis together with such projections and other information as the Lender may reasonably request and (y) such Proposed Budget Amendment shall have been treated in the same manner as the Annual Operating Budget for the then current Fiscal Year delivered to the Lender pursuant to Section 16(s)(i) as set forth in Sections 16(s)(ii) and (iii).

(v) Nothing herein shall prevent the Authority from paying for Operating Expenses, Major Maintenance Expenses and Capital Expenditures that exceed the amounts provided for in the then current Annual Operating Budget from funds of the Authority outside the Trust Estate that are lawfully available to the Authority for such purposes, provided that such expenditures that exceed any Annual Operating Budget approved pursuant to the provisions of this Section 16(s) shall not be counted as part of the then current Annual Operating Budget for

calculating the increased amounts set forth herein for any subsequent Annual Operating Budget.

(t) The Borrower shall not, without the prior written consent of the Lender, enter into or consent to any Modification of any of the following provisions of the PGBT WE Project Agreement: (i) Section 8(e) of the PGBT WE Project Agreement, Exhibit D of the PGBT WE Project Agreement or any other Modification that would change the Project Capacity Improvements from those proposed in the PGBT WE Project Agreement on the PGBT WE Closing Date; (ii) Sections 8(f) and 13(c) of the PGBT WE Project Agreement, Exhibit G of the PGBT WE Project Agreement or any other Modification that would change the Project Agreement Standards from those proposed in the PGBT WE Project Agreement on the PGBT WE Closing Date; or (iii) Section 19 of the PGBT WE Project Agreement or any other Modification in a manner that would provide for any revenue sharing payments to be paid to TxDOT prior to July 30, 2061 or allow any conversion of the revenue sharing amount to a percentage of gross revenue instead of “Net Revenue” as defined in the PGBT WE Project Agreement on the PGBT WE Closing Date.

SECTION 17. Disclosure. The Lender shall be entitled to receive all primary and secondary market disclosure provided by the Borrower to the holders of the Series 2011 Bonds and Series 2011 BANs including the Preliminary Official Statement, the Official Statement and any supplements thereto, and pursuant to any continuing disclosure agreement. The Borrower agrees that the Lender shall not be responsible for the completeness or accuracy of any disclosure provided by the Borrower to the holders of the Series 2011 Bonds or Series 2011 BANs. The Secured Loan should not be deemed by the Borrower to be a federal guaranty of the Series 2011 BANs and should not be described as a federal guaranty of the Series 2011 BANs in any disclosure provided by the Borrower.

SECTION 18. Indemnification. **To the extent authorized and permitted by applicable law, the Borrower shall indemnify the Lender and any official, employee, agent or representative of the Lender (each such Person being herein referred to as an “Indemnitee”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities, fines, penalties, costs and expenses (including, without limitation, the fees, charges and disbursements of any counsel for any Indemnitee and the costs of environmental remediation), whether known, unknown, contingent or otherwise, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution, delivery and performance of this Secured Loan Agreement or any other Transaction Document, (ii) the Secured Loan or the use of the proceeds thereof, or (iii) the violation of any law, rule, regulation, order, decree, judgment or administrative decision relating to the environment, the preservation or reclamation of natural resources, the management, release or threatened release of any hazardous material or to health and safety matters; in each case arising out of or in direct relation to the Project; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities, fines, penalties, costs or expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the negligence or willful misconduct of such Indemnitee. In case any action or proceeding is brought against an Indemnitee by reason of any claim with respect to which such**

Indemnitee is entitled to indemnification hereunder, the Borrower upon notice from such Indemnitee shall defend the same and such Indemnitee shall cooperate with the Borrower at the expense of the Borrower in connection therewith. Nothing herein shall be construed as a waiver of any legal immunity that may be available to any Indemnitee. To the extent permitted by applicable law, the Borrower shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages arising out of, in connection with, or as a result of, this Secured Loan Agreement, any of the other Transaction Documents, the Secured Loan and the other transactions contemplated hereby and thereby, or the use of the proceeds thereof. All amounts due to any Indemnitee under this Section 18 shall be payable promptly upon demand therefor. The obligations of the Borrower under this Section 18 shall survive the payment or prepayment in full or transfer of the TIFIA Note, the enforcement of any provision of this Secured Loan Agreement or the other Financing Documents, any amendments, waivers (other than amendments or waivers in writing with respect to this Section) or consents in respect hereof or thereof, any Event of Default, and any workout, restructuring or similar arrangement of the obligations of the Borrower hereunder or thereunder.

SECTION 19. Sale of Secured Loan The Lender may sell the Secured Loan to another entity or offer the Secured Loan into the capital markets as soon as practicable after Substantial Completion of the PGBT WE Project. In making such sale or offering of the Secured Loan the Lender shall not change the original terms and conditions of the Secured Loan without the prior written consent of the Borrower; provided, however, the Borrower shall not unreasonably withhold or delay its consent to any change that does not adversely affect the Borrower. The Lender shall provide at least sixty (60) days notice to the Borrower of any intention to sell or offer the Secured Loan and shall furnish the Borrower with all disclosure material prepared in connection with any such proposed sale or offer.

Nothing in this Section 19 shall prevent the Lender from transferring the Secured Loan to another Federal agency, government sponsored enterprise or government corporation if such transfer is necessary or desirable under Federal law.

Unless otherwise consented to in writing by the Borrower, any sale or assignment of the Secured Loan pursuant to this Section shall be a sale or assignment of all (and not a portion) of the Lender's rights and obligations under this Secured Loan Agreement (including the TIFIA Note). From and after the effective date of such sale, the buyer or assignee shall be a party hereto and shall have the rights and obligations of Lender hereunder and under the TIFIA Note and the seller shall relinquish its rights (other than its rights under Section 21(e) and under Sections 18 and 28 to the extent any claim thereunder relates to an event arising prior to such assignment) and be released from its obligations under this Secured Loan Agreement and shall cease to be a party hereto.

The Lender and the Borrower agree that for so long as any First Tier Obligations remain outstanding under the Trust Agreement, the provisions of Section 215 of the Trust Agreement that provide that the Secured Loan will be deemed to be and will automatically become a First Tier Obligation upon a Bankruptcy Related Event shall be of no force or effect to the extent of the sale of the Secured Loan to any Person or entity other than to another Federal agency, government-sponsored enterprise or government corporation.

In the event that the Secured Loan is sold to any Person or entity other than to another Federal agency, government-sponsored enterprise or government corporation, the Lender shall, at least thirty (30) days prior to the effective date of such sale, confirm in writing to the Borrower and the Trustee the Outstanding Secured Loan Balance and the Loan Amortization Schedule.

SECTION 20. Events of Default and Remedies.

(a) An Event of Default shall exist under this Secured Loan Agreement if:

(i) Payment Default. The Borrower shall fail to pay any of the principal amount of or interest on the Secured Loan or any other Obligation under this Secured Loan Agreement or the TIFIA Note, when and as the payment thereof shall be due under this Secured Loan Agreement or the TIFIA Note (each a “Payment Default”); or

(ii) Covenant Default. The Borrower shall fail to observe or perform any covenant, agreement or Obligation of the Borrower under this Secured Loan Agreement or the TIFIA Note (other than in the case of any Payment Default), and such failure shall not be cured within 30 days after receipt by the Borrower from the Lender of written notice thereof; provided, however, that if such failure is capable of cure but cannot be cured within such 30-day period, then no Event of Default shall be deemed to have occurred or be continuing under this clause (ii) if and so long as within such 30-day period the Borrower shall commence actions reasonably designed to cure such failure and shall diligently pursue such actions until such failure is cured, provided such failure is cured within 180 days; or

(iii) Development Default. If (1) the Borrower fails to reasonably prosecute the work relating to the PGBT WE Project or (2) the Borrower fails to complete the PGBT WE Project by the later of (A) October 11, 2013, or (B) the completion date set forth in the Construction Schedule (as the same may be amended from time to time with concurrence of the Lender) provided to the Lender, and after receipt of written notice to that effect from the Lender, in all such cases the Borrower fails to demonstrate to the Lender’s reasonable satisfaction that it is proceeding with the construction of the PGBT WE Project with due diligence toward Substantial Completion by the date specified in the Construction Schedule (as may be amended from time to time) (a “Development Default”), then the Lender after the delivery of written notice of a Development Default may (i) suspend the disbursement of Secured Loan proceeds under this Secured Loan Agreement, and (ii) pursue such other remedies as provided in this Section 20. If so requested in connection with a Development Default, the Borrower shall immediately repay any unexpended Secured Loan proceeds previously disbursed to the Borrower. Notwithstanding the foregoing, if any such Development Default is primarily the result of Uncontrollable Force and the Borrower both (i) presents to the Lender an amended Construction Schedule within thirty (30) days after written notice of such default which Construction Schedule if followed would correct the Development Default as soon as reasonably possible and (ii) proceeds with due diligence to correct the condition resulting in such a default in accordance with the amended Construction Schedule, then such Development Default shall be deemed to have been cured within such thirty (30) days for all purposes of Section 16(f) and Section 20. For the purposes of this Section 20(a)(iii), the Borrower shall have the right to amend the Construction Schedule to extend the date

for Substantial Completion for a period of up to 180 days (unless a longer extension is required due to the occurrence of an Uncontrollable Force) within thirty (30) days of receipt of notice of an alleged Development Default; provided that the Borrower provide the Lender with (1) a remedial plan with respect to the construction of the PGBT WE Project (a “Remedial Plan”) reviewed by the Consulting Engineers and (2) a certificate from the Consulting Engineers concluding that Substantial Completion is likely to occur by the date specified in the Remedial Plan, and the Lender approves the Remedial Plan (such approval not to be unreasonably withheld); or

(iv) Misrepresentation Default. Any of the representations, warranties or certifications of the Borrower made in or delivered pursuant to this Secured Loan Agreement or the TIFIA Note shall prove to have been false or misleading in any material respect when made; or

(v) Acceleration of or Failure to Pay Other Material Indebtedness. Any acceleration shall occur of any indebtedness of the Borrower in an aggregate principal amount equal to or greater than \$5,000,000 (inflated annually by CPI) (“Other Material Indebtedness”), or any such Other Material Indebtedness shall not be paid in full upon the final maturity thereof; or

(vi) Cross Default. With respect to any Financing Document (other than this Secured Loan Agreement or the TIFIA Note) or the TIGER Grant Agreement, the Borrower shall default in the timely performance of any covenant, agreement or Obligation under any such document (except with respect to defaults that are the subject of clause (vii) below of this Section 20) or any such document shall be terminated prior to its scheduled expiration or any of the representations, warranties or certifications of the Borrower made in or delivered pursuant to any such document shall prove to be false or misleading in any material respect, (and, with respect to Master Custodial Account Agreement and the obligations of the Borrower under the Toll Equity Loan Agreement and the Toll Equity Note, such default, termination or breach could reasonably be expected to have a Material Adverse Effect) and the Borrower shall have failed to cure such default or to obtain an effective written waiver thereof, or to obtain an effective revocation of such termination (as the case may be), within 30 days after receipt of written notice thereof from the Lender or the Trustee (whichever is earlier); provided, however, that if such cure or waiver or revocation (as the case may be) cannot be obtained within such 30-day period, then no Event of Default shall be deemed to have occurred or be continuing under this clause if and so long as within such 30-day period the Borrower shall commence actions reasonably designed to obtain a cure or waiver of such default or a revocation of such termination (as the case may be) and shall diligently pursue such actions until such cure or waiver or revocation is obtained, provided such failure is cured or effectively waived, or such effective revocation has been obtained (as the case may be) within 180 days; or

(vii) Payment Cross-Default: Any failure by the Borrower to pay (whether at scheduled maturity or otherwise) any of its Obligations under the Financing Documents, other than a Payment Default, within five (5) days after receiving written notice that the same shall have become due and payable.

(viii) Judgments. One or more judgments for the payment of money in an aggregate amount in excess of \$10,000,000 (inflated annually by CPI) shall be rendered against the Borrower and the same shall remain undischarged for a period of 30 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrower to enforce any such judgment; or

(ix) Non-Monetary Judgment. Any non-monetary judgment or order shall be rendered against the Borrower or any of its respective assets that could reasonably be expected to have a Material Adverse Effect, and there shall have elapsed a period of 60 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(x) Repudiation and Invalidity. Any material provision of any Financing Document to which the Borrower is a party after delivery thereof shall be expressly repudiated by the Borrower or any other party thereto or cease to be valid and binding on or enforceable against the Borrower or any other party thereto (other than upon full performance or in connection with the expiration thereof in accordance with its terms); or

(xi) Failure to Maintain Existence. The Borrower shall fail to maintain its existence as a body corporate and politic and public instrumentality under the laws of the State; or

(xii) Non-Appropriation Event. A Non-Appropriation Event shall have occurred; provided, however, that no Event of Default shall be deemed to have occurred and be continuing under this clause if each of the following conditions are met on or before the 90th day from which the Lender shall have notified the Borrower as to the existence of a Non-Appropriation Event: (A) the Borrower shall have proposed a course of action to address such event that is in all respects satisfactory to the Lender in its sole discretion and that provides the Lender satisfactory assurances in its sole discretion that the Borrower will be able to continue to satisfy its Obligations under this Secured Loan Agreement, and the Borrower shall enter into all agreements or instruments as the Lender may require to carry out such course of action and assurances, (B) the Borrower shall have continued to satisfy all of its Obligations under this Secured Loan Agreement and (C) no other Default or Event of Default shall have occurred and be continuing; or

(xiii) Occurrence of A Bankruptcy Related Event. A Bankruptcy Related Event shall have occurred; or

(xiv) Project Abandonment. The Borrower shall abandon the Project; or

(xv) TxDOT Default. TxDOT shall fail to observe or perform any covenant, agreement or Obligation of TxDOT under the Direct Agreement or fail to make an advance of any funds as requested pursuant to the terms of the Toll Equity Loan Agreement as supplemented by the Direct Agreement for any reason or otherwise fail to observe or perform its covenants or obligations under Section 7.02 of the Toll Equity Loan Agreement, provided, however, that if a failure of TxDOT to make an advance as requested by the Trustee in a Draw Request is due solely to the occurrence and continuance of a Non-Appropriation Event, no Event of Default shall be deemed to have

occurred and be continuing under this clause if the agreements and instruments set forth in clause (A) of the proviso to Section 20(a)(xii) remain in full force and effect and the other conditions set forth in such proviso are satisfied at such time (without applying the 90-day period after notice by the Lender therein); or

(xvi) Cessation of Operations. Operation of the Project shall cease for a continuous period of not less than 180 days unless such cessation of operations shall occur by reason of an Uncontrollable Force.

(b) Whenever any Default shall have occurred and be continuing, the Lender may suspend all of its obligations under this Secured Loan Agreement with respect to the disbursements of any undisbursed amounts of the Secured Loan in its sole discretion. Whenever any Event of Default shall have occurred and be continuing, the Lender may suspend or continue to suspend all of its obligations under this Secured Loan Agreement with respect to the disbursement of any undisbursed amounts of the Secured Loan in its sole discretion; provided, however, that the Lender shall have the right to terminate all of its obligations under this Secured Loan Agreement with respect to the disbursement of any undisbursed amounts of the Secured Loan in its sole discretion upon providing the Borrower with thirty (30) days' advance written notice of its intention to so terminate if Borrower fails to cure such Event of Default within such 30-day period, it being understood that such notice may be given in the notice provided by the Lender notifying the Borrower of such Event of Default and such 30-day period shall run concurrently with any applicable cure period for such Event of Default; provided, further, that upon the occurrence of a Bankruptcy Related Event, all obligations of the Lender under this Secured Loan Agreement with respect to the disbursement of any undisbursed amounts of the Secured Loan shall immediately and automatically be deemed terminated.

(c) Whenever any Event of Default hereunder shall have occurred and be continuing, the Lender shall be entitled and empowered to institute any actions or proceedings at law or in equity for the collection of any sums due and unpaid hereunder or under the other Financing Documents, and may prosecute any such judgment or final decree against the Borrower and collect in the manner provided by law out of the property of the Borrower the moneys adjudged or decreed to be payable, and may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts payable by the Borrower under this Secured Loan Agreement or the other Financing Documents then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Secured Loan Agreement or the other Financing Documents, subject in each case to Section 40 hereof.

(d) Whenever any Event of Default hereunder shall have occurred and be continuing, the Lender may suspend or debar the Borrower from further participation in any Government program administered by the Lender and to notify other departments and agencies of such default.

(e) No action taken pursuant to this Section 20 shall relieve the Borrower from its obligations pursuant to this Secured Loan Agreement or the other Financing Documents, all of which shall survive any such action.

(f) Pursuant to Section 215 of the Trust Agreement, upon the occurrence of an Event of Default specified in Section 20(a)(xiii), the Secured Loan shall be deemed to be and

shall automatically become, as of the date of such Event of Default, subject to the provisions of Section 215 of the Trust Agreement, a First Tier Obligation for all purposes of the Trust Agreement, and the Lender will be deemed the secured owner of such First Tier Obligations.

SECTION 21. Accounting and Audit Procedures; Financial Plan; Reports and Records; Meetings with Borrower.

(a) The Borrower shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for all Project-related transactions (including collection of the Revenues and any other revenues attributable to the Project, and Secured Loan requisitions received and disbursements made with regard to the Project), so that audits may be performed to ensure compliance with and enforcement of this Secured Loan Agreement. The Borrower shall use accounting, audit and fiscal procedures conforming to GAAP as promulgated by the Governmental Accounting Standards Board, including, with respect to the Secured Loan, accounting of principal and interest payments, disbursements, prepayments and calculation of interest and principal amounts outstanding.

(b) The Lender shall have the right to conduct from time to time independent financial and compliance audits of the Borrower in accordance with the Single Audit Act of 1984, as amended, and Office of Management and Budget Circular A-133, "Audits of State and Local Governments," or as otherwise requested by the Lender. Upon reasonable notice, the Borrower shall cooperate fully in conducting audits and shall provide full access to any books, documents, papers or other records which are pertinent to the Project or the Secured Loan. In addition to any audits, which may be conducted pursuant to this Section 21(b), from time to time the Lender may conduct additional audits of the Borrower's records and accounts. The Borrower's records shall be made available to any designated representative of the Lender, or of the Government, including the Inspector General of the United States Department of Transportation, and the Comptroller General of the United States, or the designee thereof, for necessary project or programmatic audits pursuant to 23 U.S.C. § 609, 31 U.S.C. § 6503(h) and 31 U.S.C. § 7503(b).

(c) (i) The Borrower shall provide to the Lender, within thirty (30) days after the Closing Date, and annually thereafter not later than sixty (60) days after the beginning of the Fiscal Year, a financial plan as more fully described in this Section 21(c) (each, a "Financial Plan"). The initial Financial Plan submitted within thirty (30) days after the Closing Date (the "Base Case Financial Plan") shall be consistent in all respects with the projections, assumptions and other information contained or reflected in the Base Case Financial Model. The Financial Plan (1) shall be prepared in accordance with recognized financial reporting standards, such as those in the "Guide for Prospective Financial Information" of the American Institute of Certified Public Accountants, (2) shall include (A) a certificate signed by the Borrower's Authorized Representative that annual projected Revenues shall be sufficient to meet the Loan Amortization Schedule and the Rate Covenant, (B) an electronic copy of an updated Base Case Financial Model, (C) calculations of the Capital Expenditures Reserve Requirement, the Major Maintenance Reserve Requirement and the Rate Stabilization Fund Requirement and (D) the panel of independent engineering firms or corporations proposed by the Borrower from which the Borrower shall select the Civil Engineering Consultant, and any changes to such panel from the panel included with the prior Financial Plan and the rationale for any such changes and (3) shall be in form and substance satisfactory to the Lender.

(ii) At a minimum, the Financial Plan shall **for the period through Substantial Completion**: (1) provide the current estimate of the total cost of the Project and the remaining cost to complete the Project, identify any significant cost changes since the previous Financial Plan, discuss reasons for and implications of the cost changes, and include a summary table showing the history of Project Costs by major activity or category since the Base Case Financial Plan and the preceding Financial Plan; (2) provide the current schedule and implementation plan for completing the Project, including a date on which Substantial Completion is expected to occur, identify major milestones for each phase of the Project and compare current milestone dates with milestone dates in the Base Case Financial Plan and the preceding Financial Plan, and discuss reasons for changes in Project milestones; (3) provide current estimates of sources and uses of funds for the Project, identify any significant funding changes since the preceding Financial Plan, discuss reasons for and implications of the funding changes, and include a summary table showing the history of Project funding since the Base Case Financial Plan and the preceding Financial Plan; (4) provide an updated cash flow schedule showing annual cash needs versus available revenue and funding to meet those needs (including projected debt service and loan life coverage ratios for the Secured Project Indebtedness and the Series 2011 BANs) through the Final Maturity Date, identifying any potential revenue and funding shortfalls, and addressing contingency measures that will or may be taken to address any shortfalls; (5) provide cost containment strategies and risk mitigation plans that have been or may be implemented to address factors that are affecting or could affect the scheduled completion or financial viability of the Project; (6) provide the total value of approved changes and provide a listing of each individual change valued at \$2,500,000 or more, setting forth the rationale or need for the proposed change and describing the impact of such change on the Project; and (7) contain, in form and substance satisfactory to the Lender, a written narrative report on the progress of design, permitting, acquisition and construction of the Project since the Base Case Financial Plan and the preceding Financial Plan, describing in reasonable detail all significant activities concerning Project status including events affecting the operation, maintenance or management of the Project, and any material matters that may affect the future performance of the Borrower's Obligations under this Secured Loan Agreement and the causes thereof.

(iii) **Not later than ninety (90) days following the date of Substantial Completion**, the Borrower shall provide the Lender with a final written narrative report in substantially the form described in subsection (7) of the preceding paragraph.

(iv) At a minimum, the Financial Plan shall **for the period following Substantial Completion until repayment of the Secured Loan in full**: (1) provide an updated cash flow schedule showing annual cash inflows (the Revenues, interest and other income) and outflows (operating costs, capital costs, debt service, Secured Loan repayments, replenishment of reserves and other uses) with a narrative identifying any potential revenue or funding shortfall and discussing contingency measures that will or may be taken to address any shortfalls; (2) provide current and estimated amounts of the Revenues and other revenues received and the amounts deposited into each fund and account held under the Trust Agreement and the amount disbursed from such funds and accounts and the balance in each of the funds and accounts; (3) provide an updated schedule of actual Revenues and projected Revenues, showing actual and projected debt service and loan life coverage ratios for all Secured Project Indebtedness; (4) provide a schedule of current toll rates and planned increases; and (5) include a written narrative report explaining any variances in costs or revenues since the Base Case Financial Plan and the preceding Financial Plan and describing in reasonable detail any material matters that may affect

the future performance of the Borrower's Obligations under this Secured Loan Agreement and the causes thereof to include, without limitation, traffic and revenue reports, operational contracts, and third-party transactions.

(v) **For the period through Substantial Completion**, the Borrower shall provide the Lender with written notification and obtain its prior written consent before instituting any increase or decrease of the overall Project Costs in an amount equal to or greater than \$2,500,000 in the aggregate setting forth the nature of the proposed increase or decrease and estimating the impact of such increase or decrease on the capital costs, operating costs, and the Financial Plan. The Borrower's notice shall demonstrate that the proposed increase or decrease is consistent with the provisions of this Secured Loan Agreement, is necessary or beneficial to the Project and does not affect the Lender's security.

(d) The Borrower shall provide the Lender: (i) as soon as available, but no later than forty-five (45) days after the end of each quarterly period of each Fiscal Year, an unaudited income statement and balance sheet as of the end of such period and the related unaudited statements of operations and changes in capital and of cash flow of the Borrower relating to the Project for such period and for the portion of the Fiscal Year through the end of such period, setting forth in each case in comparative form the figures for the previous period, certified by the chief executive officer or chief financial officer of the Borrower as fairly stating in all material respects the financial condition of the Borrower relating to the Project as at the end of such period and the results of its operations and its cash flows for such period (subject to normal year-end audit adjustments), (ii) within 140 days following the end of each Fiscal Year, a copy of the Borrower's annual report for the Project and a copy of the annual audited financial statements and balance sheet of the Project as of the end of such Fiscal Year and the related audited statements of operations, changes in capital and of cash flow of the Project for such Fiscal Year, setting forth in each case in comparative form the figures for the previous Fiscal Year, together with a report thereon by a firm of independent certified public accountants, and (iii) as soon as available after the end of each fiscal year, a copy of the Borrower's annual report and the annual audited financial statements and balance sheet of the Borrower as of the end of such fiscal year and the related audited statements of operations, changes in capital and of cash flow of the Borrower, setting forth in each case in comparative form the figures for the previous fiscal year, together with a report thereon by a firm of independent certified public accountants.

All such financial statements with respect to the Borrower and the Project shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP applied consistently throughout the periods reflected therein (except for changes approved or required by the independent public accountants certifying such statements and disclosed therein).

(e) The Borrower shall maintain and retain all files relating to the Project and the Secured Loan until five years after the later of the date on which: (1) all rights and duties hereunder and under the TIFIA Note (including payments) have been fulfilled and necessary audits have been performed; and (2) any litigation relating to the Project, the Secured Loan or this Secured Loan Agreement is finally resolved. The Borrower shall provide the Lender in a timely manner with all records and documentation relating to the Project that the Lender may reasonably request from time to time.

(f) The Lender shall have: (1) the right, upon written request to the Borrower, to receive adequate notice of, and to attend, any meeting of the governing board of the Borrower or any committee thereof, and notice of any executive sessions of the governing board; and (2) the right to meet with the Borrower, including the chair and any other members of such board, and any other officers, employees, consultants or agents of the Borrower.

(g) The Borrower shall provide to the Lender copies of all reports or other written materials received from any Rating Agency that has provided, or is being requested to provide, a rating on any indebtedness of the Borrower.

(h) The Borrower shall provide promptly, upon request of the Lender, the reasonable estimates certified by the Chief Financial Officer described in clause (ii) of the definition of “Gross Cash Flows”.

SECTION 22. Project Monitoring.

(a) *Project Development, Design and Construction.* The Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) development, including but not limited to environmental compliance, design, right-of-way acquisition, and construction of the Project. Project development, environmental compliance, design, right-of-way acquisition, and construction monitoring shall be conducted pursuant to the Development Oversight Agreement, which may be amended from time to time upon mutual agreement of the Borrower and the Lender, or when so required by Federal statute or otherwise required by the United States Congress. The Borrower agrees to cooperate in good faith with the Lender in the conduct of such monitoring by promptly providing the Lender with such reports, documentation or other information as shall be requested by the Lender, or its agents, including any independent engineer reports, documentation or information, should an independent engineer be retained by or at the request of the Borrower or the Trustee.

(b) *Reporting.* The Borrower shall furnish to the Lender during the construction period the following:

- (1) **Construction Progress Report.** On or before the last Business Day of any calendar month during the construction period, a report executed by the Borrower’s Authorized Representative: (A) of the amount of Project Costs expended since the Closing Date as well as during the preceding calendar month and the amount of Project Costs estimated to be required to complete the Project; (B) providing an assessment of the overall construction progress of the Project since the date of the last report and since the Closing Date, together with an assessment of how such progress compares to the Construction Schedule; (C) specifying the projected completion date; (D) providing a detailed description of all material problems (including but not limited to actual and anticipated cost overruns, if any) encountered or anticipated in connection with the construction of the Project since the date of the last report, together with an assessment of how such problems may impact the Construction Schedule and the meeting of critical dates thereunder and a detailed description of the proposed solutions to any such

problems; (E) specifying the delivery status of major equipment and materials and the effect, if any, that the anticipated delivery dates of such equipment has on the overall Construction Schedule; (F) specifying any proposed or pending change orders; (G) specifying any material changes or deviations from the Borrower's right-of-way acquisition plans or schedule; and (H) a discussion or analysis of such other matters related to the Project as the Lender may reasonably request. The Borrower shall respond, and use commercially reasonable efforts to cause the construction contractors to respond to the Lender's inquiries regarding such report, the construction of the Project and such construction contractor's performance of its obligations under the construction agreement to which it is a party.

(2) Construction Contractor Reports. Promptly after receipt thereof, a copy of each report delivered to the Borrower pursuant to the Design/Build Agreement.

(3) Permits. Promptly after the receipt or filing thereof, as the case may be (but in no event later than thirty (30) days after such receipt or filing), a copy of (A) each Governmental Approval or other consent or approval obtained by the Borrower, or obtained by any construction contractor and delivered to the Borrower pursuant to any Project Document after the Closing Date, and (B) each filing made by the Borrower with any governmental authority with respect to a Governmental Approval, except such as are routine or ministerial in nature.

(c) *Project Operations.* The Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) Project operations at any time during the term of this Secured Loan Agreement and to require reporting on the operation and management of the Project and to obtain copies of any contracts relating to the operation, maintenance and safety services for the Project as may be required from time to time. The Borrower agrees to cooperate in good faith with the Lender in the conduct of such monitoring by promptly providing the Lender with such reports, documentation, or other information as shall be requested by the Lender. In the event that the Lender retains a financial oversight advisor under contract with the Lender, which decision shall be within the sole discretion of the Lender, to carry out the provisions of this Section 22, the full cost of such monitoring shall be borne by the Borrower. Any costs reasonably incurred by the Lender for such monitoring shall be promptly reimbursed by the Borrower upon demand therefor in the form of an invoice reasonably acceptable to the Borrower.

(d) *Traffic and Operating Report.* The Borrower shall provide the Lender as soon as available, but no later than sixty (60) days after the end of each quarterly period of each Fiscal Year, a traffic and operating report showing (1) the operating data for the Project for the previous quarterly period, including total Revenues received and total Operating Expenses, Major Maintenance Expenses and Capital Expenditures incurred, (2) the variances for such period between the Revenues actually received and the budgeted Revenues as shown in the Annual

Operating Budget, together with a brief narrative explanation of the reasons for any such variance of 10% or more, and (3) the variances for such period between the actual Operation Expenses, Major Maintenance Expenses and Capital Expenditures incurred and the budgeted Operating Expenses, Major Maintenance Expenses and Capital Expenditures as shown in the Annual Operating Budget, together with a brief narrative explanation of the reasons for any such variance of 10% or more.

SECTION 23. No Personal Recourse. No official, officer, director, employee or agent of the Lender or the Borrower or any Person executing this Secured Loan Agreement or any Financing Document to which the Lender may be a party shall be personally liable on such document by reason of the issuance, delivery or execution hereof or thereof, provided that nothing in this Section 23 shall be construed to relieve the Borrower from any liability it may incur under this Secured Loan Agreement or any Financing Document.

SECTION 24. No Third Party Rights. The parties hereby agree that this Secured Loan Agreement and the Trust Agreement create no third party rights against the United States or the Lender, solely by virtue of such Secured Loan, and the Borrower agrees to hold the above Federal parties harmless, to the extent permitted by law, from any lawsuit arising in law or equity solely by reason of such Secured Loan, and that no third party creditor or creditors of the Borrower shall have any right against the Lender with respect to the Secured Loan made pursuant to this Secured Loan Agreement and the Trust Agreement.

SECTION 25. Borrower's Authorized Representative. The Borrower shall at all times have appointed a Borrower's Authorized Representative by designating such Person or Persons from time to time to act on the Borrower's behalf pursuant to a written certificate furnished to the Lender and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the Borrower.

SECTION 26. Lender's Authorized Representative. The Lender shall at all times have appointed a Lender's Authorized Representative by designating such Person or Persons from time to time to act on the Lender's behalf pursuant to a written certificate furnished to the Borrower and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the Lender.

Pursuant to a Delegation of Authority dated July 24, 2003, the Administrator delegated the authority to enter into contracts and sign all contractual and funding documents (with the exception of the term sheets and credit agreements) necessary to implement the Transportation Infrastructure Finance and Innovation Act of 1998, including entering into technical amendments to, and restatements of, term sheets and credit agreements that do not materially impair the credit quality of the revenues pledged to repay the United States Department of Transportation. This authority was delegated to the Associate Administrator for Administration who in turn delegated such authority to the Director, Office of Innovative Program Delivery on June 15, 2009. Pursuant to these delegations the above named officers, any of whom alone may act, serve as the Lender's Authorized Representative under this Secured Loan Agreement, in addition to the Administrator for the purposes set forth herein.

On or prior to the Closing Date, the Lender shall deliver its initial Lender's Authorized Representative certificate.

SECTION 27. Servicer. The Lender may from time to time designate an entity or entities to perform, or assist the Lender in performing, the duties of the Servicer or specified duties of the Lender under this Secured Loan Agreement and the TIFIA Note. The Lender shall give the Borrower written notice of the appointment of any successor or additional Servicer and shall enumerate the duties or any change in duties to be performed by any Servicer. Any references in this Secured Loan Agreement to the Lender shall be deemed to be a reference to the Servicer with respect to any duties which the Lender shall have delegated to such Servicer. The Lender may at any time assume the duties of any Servicer under this Secured Loan Agreement and the TIFIA Note.

SECTION 28. Fees and Expenses.

(a) The Borrower shall pay or cause to be paid to the Lender an annual loan servicing fee in the initial amount of \$11,500, which amount may be increased annually thereafter by the Lender in an amount determined by the Lender to be reasonably necessary to compensate the Servicer for the performance of its duties hereunder. The initial loan servicing fee shall be paid on or before November 15, 2011 and thereafter payments shall be made on or before November 15 in each succeeding year. The Borrower shall cooperate and respond to any reasonable request of the Servicer for information, documentation or other items reasonably necessary for the performance by the Servicer of its duties hereunder.

(b) The Borrower agrees, to the extent permitted by law, whether or not the transactions hereby contemplated shall be consummated, to reimburse the Lender on demand from time to time on and after the date hereof for any and all fees, costs, charges and expenses incurred by it (including the reasonable fees, costs and expenses of counsel and other advisors) in connection with the negotiation, preparation, execution, delivery and performance of this Secured Loan Agreement and the other Financing Documents to which the Borrower is a party and the transactions hereby and thereby contemplated, including without limitation, reasonable attorneys', engineers' and planning fees and professional costs and all such fees, costs and expenses incurred as a result of or in connection with:

- (1) the enforcement of or attempt to enforce any provision of this Secured Loan Agreement or any of the other Financing Documents to which the Borrower is a party;
- (2) any amendment or requested amendment of, or waiver or consent or requested waiver or consent under or with respect to, this Secured Loan Agreement or any of the other Financing Documents, or advice in connection with the administration of this Secured Loan Agreement or any of the other Financing Documents to which the Borrower is a party or the rights of the Lender thereunder; and
- (3) any work-out, restructuring or similar arrangement of the Obligations of the Borrower under this Secured Loan Agreement or the other Financing Documents to which the Borrower is a party during the pendency of one or more Events of Default.

The obligations of the Borrower under this Section 28 shall survive the payment or prepayment in full or transfer of the Note, the enforcement of any provision of this Secured Loan Agreement

or the other Financing Documents, any such amendments, waivers or consents, any Event of Default, and any such workout, restructuring or similar arrangement.

SECTION 29. Amendments and Waivers. No amendment, modification, termination or waiver of any provision of this Secured Loan Agreement shall in any event be effective without the written consent of the parties hereto.

SECTION 30. Governing Law. This Secured Loan Agreement shall be governed by the Federal laws of the United States if and to the extent such Federal laws are applicable and the internal laws of the State if and to the extent such Federal laws are not applicable; provided, however, that the provisions of this Secured Loan Agreement shall not otherwise supersede any Texas state law applicable to the construction, financing or operation of the Project.

SECTION 31. Severability. In case any provision in or Obligation under this Secured Loan Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

SECTION 32. Successors and Assigns. This Secured Loan Agreement shall be binding upon the parties hereto and their respective successors and permitted assigns and shall inure to the benefit of the parties hereto and the successors and assigns of the Lender. Neither the Borrower's rights or obligations hereunder nor any interest therein may be assigned or delegated by Borrower without the prior written consent of the Lender.

SECTION 33. Remedies Not Exclusive. No remedy conferred herein or reserved to the Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

SECTION 34. Delay or Omission Not Waiver. No delay or omission of the Lender to exercise any right or remedy provided hereunder upon a default of the Borrower (except a delay or omission pursuant to a written waiver) shall impair any such right or remedy or constitute a waiver of any such default or acquiescence therein. Every right and remedy given by this Secured Loan Agreement or by law to the Lender may be exercised from time to time, and as often as may be deemed expedient by the Lender.

SECTION 35. Counterparts. This Secured Loan Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

SECTION 36. Notices; Payment Instructions. Notices hereunder shall be effective upon receipt and shall be given by certified mail, return receipt requested, or by other delivery service providing evidence of receipt to:

If to Lender: TIFIA Joint Program Office (HITJ)
Federal Highway Administration
Room E64-301
1200 New Jersey Avenue, SE
Washington, D.C. 20590
Telephone: 202-366-9644
Facsimile: 202-366-2908
Email: TIFIACredit@dot.gov

with a copy to: Federal Highway Administration
Texas Division Office
300 8th Street, Room 826
Austin, Texas, 78701
Attention: Division Administrator
Telephone: 512-536-5900
Facsimile: 512-536-5990
Email: texas.fhwa@dot.gov

If to Borrower: North Texas Tollway Authority
5900 West Plano Parkway, Suite 100
Plano, Texas, 75093
Attention: Executive Director
Telephone: 214-461-2022
Facsimile: 972-930-2622
Email: aclemson@ntta.org

with a copy to: North Texas Tollway Authority
5900 West Plano Parkway, Suite 100
Plano, Texas 75093
Attention: Bob Schell, Assistant Director of General
Counsel
Telephone: (214) 461-2043
Facsimile: (972) 930-2643
Email: bschell@ntta.org

If to the Trustee: Wells Fargo Bank, National Association
1445 Ross Ave. 2nd Floor, MAC:T5303-022
Dallas, Texas, 75202
Attention: Corporate Trust and Escrow Services
Facsimile: 214-777-4086
Email: Sandra.Y.Jones@wellsfargo.com

Notices required to be provided herein shall be provided to such different addresses or to such further parties as may be designated from time to time by a Borrower's Authorized

Representative with respect to notices to the Borrower or to the Trustee or by a Lender's Authorized Representative with respect to notices to the Lender or the Servicer or by an authorized officer of the Trustee with respect to notices to it. The Borrower and the Trustee shall make any payments hereunder or under the TIFIA Note in accordance with the payment instructions hereafter provided by a Lender's Authorized Representative, as modified from time to time by a Lender's Authorized Representative.

SECTION 37. Effectiveness. This Secured Loan Agreement shall be effective as of the date first written above.

SECTION 38. Termination. Other than as otherwise expressly provided in this Secured Loan Agreement, this Secured Loan Agreement shall terminate upon payment in full by the Borrower of the TIFIA Note, provided, however, that the indemnification requirements of Section 18 and the reporting and record keeping requirements of Section 21(e) shall survive the termination of this Secured Loan Agreement as provided in such sections. Notwithstanding anything to the contrary in this Secured Loan Agreement, the Lender may, in its sole discretion, terminate this Secured Loan Agreement in the event that the Disbursement Date does not occur on or before the earlier of (a) the date that is one year after the date of Substantial Completion and (b) September 30, 2016.

SECTION 39. Further Assurances. The Borrower will, at its sole cost and expense, do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered all such further acts, documents, assignments, and assurances as the Lender shall from time to time reasonably require or deem advisable to carry into effect the purposes of this Secured Loan Agreement and the Project and for the better assuring and confirming of all of the Lender's rights, powers and remedies hereunder.

SECTION 40. Limited Recourse. The obligations and liabilities of the Borrower under the Secured Loan, the TIFIA Note and this Secured Loan Agreement shall be limited to the Trust Estate. No official, officer, director, employee or agent of the Borrower shall be personally liable or obligated for such liabilities and obligations of the Borrower.

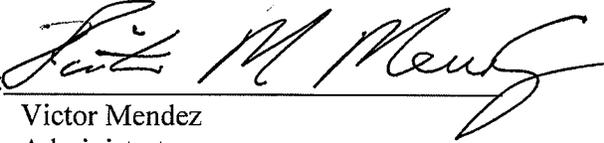
SECTION 41. No Other Credit Assistance. Nothing in this Secured Loan Agreement or in any other Financing Document may be construed as a commitment, approval or consent by USDOT to provide TIFIA credit assistance for the SWP/CT Project or any expansion of the PGBT WE Project.

IN WITNESS WHEREOF, the parties hereto have caused this Secured Loan Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

NORTH TEXAS TOLLWAY AUTHORITY

By: 
Janice Davis
Chief Financial Officer

**UNITED STATES DEPARTMENT OF
TRANSPORTATION**, acting by and through the
Federal Highway Administrator

By: 
Victor Mendez
Administrator

SCHEDULE 1

PROJECT DEVELOPMENT BUDGET

[see attached]

SOURCES AND USES OF PROJECT FUNDS

Sources of Funds

First Tier Bonds ¹	\$ 674,313,704
Bond Anticipation Notes ¹	418,405,000
NTTA Equity	72,471,089
RTC Contribution	12,000,000
TxDOT Contribution ²	83,500,000
Revenue	7,219,191
Total Sources	\$ 1,267,908,984

Uses of Funds³

Construction and Development by NTTA	\$ 546,598,381
Construction and Development by TxDOT ²	83,500,000
Upfront Payment	458,000,000
Upfront Payment Interest	11,074,676
Capitalized Interest on First Tier Bonds	63,177,659
Capitalized Interest on Bond Anticipation Notes	23,533,665
Rate Stabilization Fund	65,376,911
Major Maintenance Reserve Fund	4,002,391
Financing Fees and Costs	12,645,301
Total Uses	\$ 1,267,908,984

PGBT-WE Final Pricing TIFIA Loan Rate Set (April 15, 2011).

¹Proceeds are net of any premium or discount.

²Includes funds spent by TxDOT on Phases 1, 2 and 3 that will not be reimbursed by NTTA through the upfront payment. Based on total gross expenditures by TxDOT of \$541,500,000.

³All uses are Eligible Project Costs.

CALCULATION OF MAXIMUM TIFIA LOAN SIZE

Eligible Project Costs	1,267,908,984
Statutory Size Limit	33.00%
Maximum TIFIA Loan Size	418,409,965

FORM OF TIFIA NOTE

**THIS NOTE IS SUBJECT TO RESTRICTIONS ON TRANSFER
AND MAY BE TRANSFERRED ONLY AS PROVIDED HEREIN
AND IN THE HEREIN DESCRIBED SECOND SUPPLEMENTAL AGREEMENT**

No. R-____

UNITED STATES OF AMERICA
STATE OF TEXAS
NORTH TEXAS TOLLWAY AUTHORITY
SPECIAL PROJECTS SYSTEM
SECOND TIER REVENUE NOTE,
SERIES 2011
(TIFIA - No. 2009-1001A)

Maximum Principal Amount Effective Date Due
\$ _____ _____ _____

Issuance Date: _____

Registered Owner: UNITED STATES DEPARTMENT OF TRANSPORTATION

NORTH TEXAS TOLLWAY AUTHORITY (the "*Authority*"), a political subdivision of the State of Texas and a body corporate and politic, for value received, hereby promises to pay to the order of the registered owner named above, or its registered assigns (the "*Owner*"), but solely from the sources hereinafter mentioned, the lesser of (x) the Maximum Principal Amount set forth above and (y) the aggregate unpaid principal amount of all disbursements (the "*Disbursements*") made by the TIFIA Lender, together with any interest that is capitalized and added to principal in accordance with the provisions of the TIFIA Loan Agreement referred to below, (such lesser amount being hereinafter referred to as the "*Outstanding Principal Sum*"), and the accrued and unpaid interest (including, if applicable, interest at the Default Rate (as defined in the TIFIA Loan Agreement)) on such Outstanding Principal Sum and all other fees, costs and other amounts payable in connection therewith, all as more fully described in the below-referenced TIFIA Loan Agreement. This Note shall bear interest at the interest rate and interest shall be payable at the rate and on the dates set forth in the applicable Loan Amortization Schedule in **Appendix Two** (or such other date as provided by the provisions of the TIFIA Loan Agreement (as defined below)) and compounding on the dates and to the extent provided in **Appendix Two**. Each Disbursement made by the TIFIA Lender to the Authority pursuant to the TIFIA Loan Agreement and each prepayment made on account of the Outstanding Principal Sum, shall be recorded by or on behalf of the Owner and endorsed on the grid attached hereto as **Appendix One** with a copy to the Authority and the Trustee in accordance with the terms of the TIFIA Loan Agreement, which is hereby made a part hereof.

The principal hereof shall be payable on the dates set forth in the applicable Loan Amortization Schedule in **Appendix Two** (or such other date as provided by the provisions of the TIFIA Loan Agreement) and on the final maturity date, in accordance with **Appendix Two**, as revised from time to time in accordance with the TIFIA Loan Agreement, until paid in full. Such **Appendix Two** shall be revised or completed by or on behalf of the Owner in accordance with the terms of the TIFIA Loan Agreement. Payments hereon are to be made in accordance with **Section 9** of the TIFIA Loan Agreement as the same become due. Principal of and interest on this Note shall be paid in funds available on or before the due date and in any lawful coin or currency of the United States of America which at the date of payment is legal tender for the payment of public and private debts.

THIS NOTE HAS BEEN EXECUTED under and pursuant to a Secured Loan Agreement dated as of April 1, 2011 between the TIFIA Lender and the Authority (the "*TIFIA Loan Agreement*") and a Trust Agreement dated as of April 1, 2011 (the "*Original Trust Agreement*") between the Authority and Wells Fargo Bank, National Association, as trustee (the "*Trustee*"), as supplemented pursuant to a First Supplemental Agreement, a Second Supplemental Agreement and a Third Supplemental Agreement, each dated as of April 1, 2011 and each between the Authority and the Trustee. The Original Trust Agreement as supplemented, is referred to herein as the "*Trust Agreement*". This Note is issued to evidence the obligation of the Authority under the TIFIA Loan Agreement to repay the principal of and interest on the loan made by the TIFIA Lender and any other payments of any kind required to be paid by the Authority under the TIFIA Loan Agreement. Reference is made to the TIFIA Loan Agreement and the Trust Agreement for all details relating to the Authority's obligations hereunder. All terms used herein and not defined shall have the meanings defined in the Trust Agreement and the TIFIA Loan Agreement.

THIS NOTE IS A SPECIAL LIMITED OBLIGATION of the Authority, payable from and secured by a lien on and pledge of the Trust Estate granted in the Trust Agreement, on a basis subordinate to that securing all First Tier Obligations issued under the Trust Agreement, and on an equal and ratable basis with any Second Tier Obligations issued in accordance with the provisions of the Trust Agreement, all subject to Section 215 of the Original Trust Agreement.

THIS NOTE AND THE INTEREST HEREON DO NOT CONSTITUTE A DEBT OF THE STATE OF TEXAS OR OF ANY OF THE COUNTIES OF THE AUTHORITY (CURRENTLY BEING THE COUNTIES OF COLLIN, DALLAS, DENTON, AND TARRANT) OR A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OF TEXAS OR ANY OF THE COUNTIES. NEITHER THE STATE OF TEXAS, THE AUTHORITY, NOR THE COUNTIES OF THE AUTHORITY ARE OBLIGATED TO PAY THIS NOTE OR THE INTEREST ON THIS NOTE FROM A SOURCE OTHER THAN THE AMOUNT PLEDGED TO PAY THE NOTE AND INTEREST ON THIS NOTE, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF TEXAS OR THE COUNTIES OF THE AUTHORITY ARE PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THIS NOTE. THIS NOTE IS PAYABLE ONLY FROM THE SOURCES AS PROVIDED IN THE TRUST AGREEMENT INCLUDING CERTAIN REVENUES OF THE PROJECT, AS PROVIDED IN THE TRUST AGREEMENT.

THIS NOTE SHALL AND MAY BE PREPAID in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid to be determined by the

Borrower in accordance with the TIFIA Loan Agreement and the Trust Agreement; *provided, however,* any prepayments made at the option of the Authority shall be in principal amounts of \$1,000,000 or any integral multiple thereof), at any time or from time to time, without penalty or premium, by paying to the Owner all or part of the principal amount of this Note in accordance with the TIFIA Loan Agreement.

THIS NOTE SHALL BE SUBJECT TO MANDATORY PREPAYMENT in accordance with the TIFIA Loan Agreement and the Trust Agreement.

ON EACH PAYMENT DUE DATE, payments hereon are to be made in the manner and at the place specified by the Owner.

THIS NOTE IS issued solely as a fully registered Note, without interest coupons. This Note may be assigned and shall be transferred only in the Registration Books of the Authority kept by the Trustee acting in the capacity of registrar for the Note, upon the terms and conditions set forth in the Second Supplemental Agreement. The Owner of this Note shall be deemed and treated by the Authority and the Trustee as the absolute owner hereof for all purposes, including payment and discharge of liability upon this Note to the extent of such payment, and the Authority and the Trustee shall not be affected by any notice to the contrary, but registration of the owner of this Note may be changed as provided in the Second Supplemental Agreement. This Note may be transferred, exchanged or replaced only upon the terms and conditions set forth in the Second Supplemental Agreement. Pursuant to the Second Supplemental Agreement and Section 19 of the TIFIA Loan Agreement, the Owner of the TIFIA Note shall at all times be the party to the TIFIA Loan Agreement having all rights and obligations of the "Lender" under the TIFIA Loan Agreement. The Trustee shall not register any transfer or exchange of this Note unless the Owner and the Owner's prospective transferee deliver to the Trustee a letter substantially in the form as set forth in Exhibit B attached to the Second Supplemental Agreement.

ANY DELAY ON THE PART OF THE TIFIA LENDER in exercising any right hereunder or under the TIFIA Loan Agreement shall not operate as a waiver of any such right, and any waiver granted with respect to one default shall not operate as a waiver in the event of any subsequent default. The Authority hereby waives presentment (other than presentation and surrender of this note at the corporate trust office of the Trustee for payment at final maturity or redemption in full prior to maturity), demand, protest and notice of any kind.

ALL ACTS, CONDITIONS AND THINGS REQUIRED by the Constitution and laws of the State of Texas to happen, exist, and to be performed precedent to and in the issuance of this Note have happened, exist and have been performed as so required. This Note is issued with the intent that the federal laws of the United States of America shall govern its construction to the extent such federal laws are applicable and the internal laws of the State of Texas shall govern its construction to the extent such federal laws are not applicable.

IT IS HEREBY CERTIFIED, RECITED AND REPRESENTED that the issuance of this Note is duly authorized by law; that all acts, conditions and things required to exist and necessary to be done or performed precedent to and in the issuance of this Note to render the same lawful, valid and binding have been properly done and performed and have happened in regular and due time, form and manner as required by law; that all acts, conditions and things

necessary to be done or performed by the Authority or to have happened precedent to and in the execution and delivery of the Trust Agreement have been done and performed and have happened in regular and due form as required by law; that due provision has been made for the payment of the principal of, premium, if any, and interest on this Note by irrevocably assigning the Trust Estate as provided in the Trust Agreement; that full and complete consideration for the Note has been received; and that the issuance of the Note does not contravene or violate any constitutional or statutory limitation.

IN WITNESS WHEREOF, the Authority has caused this Note to be executed with the manual or facsimile signature of the Chairman of the Authority and countersigned with the manual or facsimile signature of the [Secretary] [Assistant Secretary] of the Authority and has caused the official seal of the Authority to be impressed, lithographed or imprinted hereon, all as of the Effective Date set forth above.

Secretary
North Texas Tollway Authority

Chairman
North Texas Tollway Authority

(AUTHORITY SEAL)

ASSIGNMENT

The following abbreviations, when used in the inscription on the face of this Note, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -- as tenants in common	UNIF GIFT MIN ACT--
TEN ENT -- as tenants by the entireties	_____ Custodian _____
JT TEN -- as joint tenants with right of survivorship and not as tenants in common	(Cust) _____ (Minor)
	under Uniform Gifts to Minors Act _____
	(State)

Additional abbreviations may also be used though not in the above list.

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

Please insert Social Security or
Other Identification Number of Assignee

/ _____ /

(Name and Address of Assignee)

_____ the within Note and does hereby irrevocably constitutes and appoints _____ to transfer said Note on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

Signature Guaranteed: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Note in every particular, without alteration or enlargement or any change whatever; and

NOTICE: Signature(s) must be guaranteed by the Securities Transfer Association signature guarantee program.

FORM OF TRUSTEE'S AUTHENTICATION CERTIFICATE

TRUSTEE'S AUTHENTICATION CERTIFICATE

It is hereby certified that this Note has been issued under the provisions of the Trust Agreement described in this Note.

Trustee

Dated: _____

By: _____
Authorized Representative

Appendix Two Loan Amortization Schedule

Initial Principal Amount: \$ 418,405,000
Interest Rate: 4.51%

Closing Date: 4-15-11

Date	Beginning Balance	Disbursements	Loan Repayment	Interest Paid	Interest Accrued	Capitalized Interest	Principal Repayment	Ending Balance
9/1/13		418,405,000.00						418,405,000.00
3/1/14	418,405,000.00				9,357,484.54	9,357,484.54		427,762,484.54
9/1/14	427,762,484.54				9,725,326.58	9,725,326.58		437,487,811.12
3/1/15	437,487,811.12				9,784,265.07	9,784,265.07		447,272,076.19
9/1/15	447,272,076.19				10,168,883.83	10,168,883.83		457,440,960.01
3/1/16	457,440,960.01				10,258,925.92	10,258,925.92		467,699,885.94
9/1/16	467,699,885.94				10,604,264.30	10,604,264.30		478,304,150.24
3/1/17	478,304,150.24				10,697,108.52	10,697,108.52		489,001,258.75
9/1/17	489,001,258.75		1,000,000.00	1,000,000.00	11,117,611.08	10,117,611.08		499,118,869.84
3/1/18	499,118,869.84		11,162,622.59	11,162,622.59	11,162,622.59			499,118,869.84
9/1/18	499,118,869.84		11,347,638.44	11,347,638.44	11,347,638.44			499,118,869.84
3/1/19	499,118,869.84		11,162,622.59	11,162,622.59	11,162,622.59			499,118,869.84
9/1/19	499,118,869.84		11,347,638.44	11,347,638.44	11,347,638.44			499,118,869.84
3/1/20	499,118,869.84		11,193,627.07	11,193,627.07	11,193,627.07			499,118,869.84
9/1/20	499,118,869.84		11,316,633.96	11,316,633.96	11,316,633.96			499,118,869.84
3/1/21	499,118,869.84		11,162,622.59	11,162,622.59	11,162,622.59			499,118,869.84
9/1/21	499,118,869.84		11,347,638.44	11,347,638.44	11,347,638.44			499,118,869.84
3/1/22	499,118,869.84		11,162,622.59	11,162,622.59	11,162,622.59			499,118,869.84
9/1/22	499,118,869.84		11,347,638.44	11,347,638.44	11,347,638.44			499,118,869.84
3/1/23	499,118,869.84		11,662,622.59	11,162,622.59	11,162,622.59		500,000.00	498,618,869.84
9/1/23	498,618,869.84		11,836,270.77	11,336,270.77	11,336,270.77		500,000.00	498,118,869.84
3/1/24	498,118,869.84		11,671,200.29	11,171,200.29	11,171,200.29		500,000.00	497,618,869.84
9/1/24	497,618,869.84		11,782,624.12	11,282,624.12	11,282,624.12		500,000.00	497,118,869.84
3/1/25	497,118,869.84		11,617,893.28	11,117,893.28	11,117,893.28		500,000.00	496,618,869.84
9/1/25	496,618,869.84		11,790,800.08	11,290,800.08	11,290,800.08		500,000.00	496,118,869.84
3/1/26	496,118,869.84		11,595,528.62	11,095,528.62	11,095,528.62		500,000.00	495,618,869.84
9/1/26	495,618,869.84		11,768,064.74	11,268,064.74	11,268,064.74		500,000.00	495,118,869.84
3/1/27	495,118,869.84		11,573,163.96	11,073,163.96	11,073,163.96		500,000.00	494,618,869.84
9/1/27	494,618,869.84		11,745,329.40	11,245,329.40	11,245,329.40		500,000.00	494,118,869.84
3/1/28	494,118,869.84		11,581,493.19	11,081,493.19	11,081,493.19		500,000.00	493,618,869.84
9/1/28	493,618,869.84		11,691,931.23	11,191,931.23	11,191,931.23		500,000.00	493,118,869.84
3/1/29	493,118,869.84		11,528,434.65	11,028,434.65	11,028,434.65		500,000.00	492,618,869.84
9/1/29	492,618,869.84		11,699,858.71	11,199,858.71	11,199,858.71		500,000.00	492,118,869.84
3/1/30	492,118,869.84		11,506,069.99	11,006,069.99	11,006,069.99		500,000.00	491,618,869.84
9/1/30	491,618,869.84		11,677,123.37	11,177,123.37	11,177,123.37		500,000.00	491,118,869.84
3/1/31	491,118,869.84		11,483,705.33	10,983,705.33	10,983,705.33		500,000.00	490,618,869.84
9/1/31	490,618,869.84		11,654,388.03	11,154,388.03	11,154,388.03		500,000.00	490,118,869.84
3/1/32	490,118,869.84		11,491,786.09	10,991,786.09	10,991,786.09		500,000.00	489,618,869.84
9/1/32	489,618,869.84		11,601,238.33	11,101,238.33	11,101,238.33		500,000.00	489,118,869.84
3/1/33	489,118,869.84		11,438,976.02	10,938,976.02	10,938,976.02		500,000.00	488,618,869.84
9/1/33	488,618,869.84		11,608,917.34	11,108,917.34	11,108,917.34		500,000.00	488,118,869.84
3/1/34	488,118,869.84		11,416,611.36	10,916,611.36	10,916,611.36		500,000.00	487,618,869.84
9/1/34	487,618,869.84		11,586,182.00	11,086,182.00	11,086,182.00		500,000.00	487,118,869.84
3/1/35	487,118,869.84		11,394,246.70	10,894,246.70	10,894,246.70		500,000.00	486,618,869.84
9/1/35	486,618,869.84		11,563,446.66	11,063,446.66	11,063,446.66		500,000.00	486,118,869.84
3/1/36	486,118,869.84		11,402,078.98	10,902,078.98	10,902,078.98		500,000.00	485,618,869.84
9/1/36	485,618,869.84		11,510,545.44	11,010,545.44	11,010,545.44		500,000.00	485,118,869.84
3/1/37	485,118,869.84		11,349,517.39	10,849,517.39	10,849,517.39		500,000.00	484,618,869.84
9/1/37	484,618,869.84		11,517,975.97	11,017,975.97	11,017,975.97		500,000.00	484,118,869.85
3/1/38	484,118,869.85		11,327,152.73	10,827,152.73	10,827,152.73		500,000.00	483,618,869.85
9/1/38	483,618,869.85		11,495,240.63	10,995,240.63	10,995,240.63		500,000.00	483,118,869.85
3/1/39	483,118,869.85		11,304,788.07	10,804,788.07	10,804,788.07		500,000.00	482,618,869.85
9/1/39	482,618,869.85		11,472,505.29	10,972,505.29	10,972,505.29		500,000.00	482,118,869.85
3/1/40	482,118,869.85		11,312,371.88	10,812,371.88	10,812,371.88		500,000.00	481,618,869.85
9/1/40	481,618,869.85		11,419,852.54	10,919,852.54	10,919,852.54		500,000.00	481,118,869.85
3/1/41	481,118,869.85		11,260,058.76	10,760,058.76	10,760,058.76		500,000.00	480,618,869.85
9/1/41	480,618,869.85		11,427,034.60	10,927,034.60	10,927,034.60		500,000.00	480,118,869.85
3/1/42	480,118,869.85		11,237,694.10	10,737,694.10	10,737,694.10		500,000.00	479,618,869.85
9/1/42	479,618,869.85		11,404,299.26	10,904,299.26	10,904,299.26		500,000.00	479,118,869.85
3/1/43	479,118,869.85		11,215,329.44	10,715,329.44	10,715,329.44		500,000.00	478,618,869.85
9/1/43	478,618,869.85		11,381,563.92	10,881,563.92	10,881,563.92		500,000.00	478,118,869.85
3/1/44	478,118,869.85		11,222,664.77	10,722,664.77	10,722,664.77		500,000.00	477,618,869.85
9/1/44	477,618,869.85		11,329,159.64	10,829,159.64	10,829,159.64		500,000.00	477,118,869.85
3/1/45	477,118,869.85		60,304,753.97	10,670,600.13	10,670,600.13		49,634,153.84	427,484,716.01
9/1/45	427,484,716.01		59,349,968.46	9,719,011.42	9,719,011.42		49,630,957.04	377,853,758.97
3/1/46	377,853,758.97		101,712,154.38	8,450,569.92	8,450,569.92		93,261,584.46	284,592,174.51

9/1/46	284,592,174.51		99,731,885.01	6,470,300.55	6,470,300.55		93,261,584.46	191,330,590.06
3/1/47	191,330,590.06		99,944,338.15	4,279,043.12	4,279,043.12		95,665,295.03	95,665,295.03
9/1/47	95,665,295.03		97,840,278.27	2,174,983.24	2,174,983.24		95,665,295.03	
	\$ 418,405,000		\$1,138,992,423.63	\$639,873,553.79	\$720,587,423.61		\$ 80,713,869.84	\$ 499,118,869.84

Semiannual P&I

Semiannual Compounding

Interest calculated based upon actual days over actual days

EXHIBIT B

ANTICIPATED SECURED LOAN DISBURSEMENT SCHEDULE

Date:	Amount:
September 1, 2013	\$418,405,000

EXHIBIT C

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND OTHER RESPONSIBILITY MATTERS—
PRIMARY COVERED TRANSACTIONS**

The Borrower certifies, to the best of its knowledge and belief, that it and its Executive Director and Chief Financial Officer:

(a) Are in compliance with all applicable federal and state laws, including those listed in Exhibit E of the Secured Loan Agreement;

(b) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(c) Have not within a three-year period preceding the Closing Date been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(d) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(e) Have not within a three-year period preceding the Closing Date had one or more transactions with a governmental entity (Federal, State or local) terminated for cause or default of the Borrower.

Capitalized terms used in the certificate and not defined shall have the respective meanings ascribed to such terms in the Secured Loan Agreement, dated as of April 1, 2011, between the Lender and the Borrower, as the same may be amended from time to time.

Dated: _____

NORTH TEXAS TOLLWAY AUTHORITY

Name:

Title:

REQUISITION PROCEDURES

This Exhibit D sets out the procedures which the Borrower agrees to follow in submitting Requisitions for the disbursement of Secured Loan proceeds to pay directly for, or reimburse the Borrower for, Eligible Project Costs incurred in connection with the PGBT WE Project. Section 1 sets out the manner in which Requisitions are to be submitted and reviewed. Sections 2 through 4 set out the circumstances in which the Lender may reject or correct Requisitions submitted by the Borrower or withhold a disbursement. The Borrower expressly agrees to the terms hereof, and further agrees that (i) the rights of the Lender contained herein are in addition to (and not in lieu of) any other rights or remedies available to the Lender under the Secured Loan Agreement, and (ii) nothing contained herein shall be construed to limit the rights of the Lender to take actions including, but not limited to, administrative enforcement action and actions for breach of contract against the Borrower if it fails to carry out its obligations under the Secured Loan Agreement during the term thereof.

Section 1. General Requirements. All requests by the Borrower for the disbursement of Secured Loan proceeds shall be made by electronic mail or overnight delivery service by submission to the Lender, in accordance with Section 36 of the Secured Loan Agreement, of a Requisition, in form and substance satisfactory to the Lender and completed and executed by a duly authorized representative of the Borrower. The form of Requisition is attached as Appendix One to this Exhibit D.

The Lender agrees to promptly send to the Borrower in accordance with Section 36 of the Secured Loan Agreement, an acknowledgement of receipt of each Requisition in the form attached as Appendix Two to this Exhibit D setting forth the date of receipt by the Lender of such Requisition and setting forth the Business Day on which disbursement will be made absent denial by the Lender. All disbursement requests must be received by the Lender at or before 5:00 P.M. (EST) on the first Business Day of the calendar month prior to which disbursement is requested in order to obtain disbursement by the first day of the following calendar month or, if either such day is not a Business Day, the next succeeding Business Day, or such later date in such month as requested by the Borrower in the Requisition. If a Requisition is approved by the Lender, the Lender will notify the Borrower of such approval and of the amount so approved.

Section 2. Rejection. A Requisition may be rejected by the Lender if it is:

- (a) submitted without signature;
- (b) submitted under signature of a Person other than a Borrower's Authorized Representative;
- (c) submitted after prior disbursement of all proceeds of the Secured Loan; or
- (d) submitted without adequate documentation of Eligible Project Costs incurred or paid. Such documentation shall include invoices for costs incurred or paid.

The Lender will notify the Borrower of any Requisition so rejected, and the reasons therefor. Any Requisition rejected for the reasons specified in (a) or (b) above must be resubmitted in proper form in order to be reconsidered. If a Requisition exceeds the balance of the Secured Loan proceeds remaining to be disbursed, the request will be treated as if submitted in the amount of the balance so remaining, and the Lender will so notify the Borrower.

Section 3. Correction. A Requisition containing an apparent mathematical error will be corrected by the Lender, after telephonic notification to the Borrower, and will thereafter be treated as if submitted in the corrected amount. The Lender will confirm correction of the error, to the Borrower, in writing.

Section 4. Withholding. The Lender shall be entitled to withhold approval of any pending or subsequent requests for the disbursement of Secured Loan proceeds if:

(a) a Default under the Secured Loan Agreement shall have occurred and be continuing;

(b) the representations and warranties contained in Section 14 of the Secured Loan Agreement (other than those representations and warranties contained in clauses (b), (i), (k) and (l) of Section 14 thereof) are not true and correct on and as of the date of disbursement; or

(c) the Borrower:

(i) fails to pay any principal or interest on the Secured Loan when the same is due and payable;

(ii) applies Secured Loan proceeds for purposes other than payment of, or reimbursement for, Eligible Project Costs which have been the subject of an approved disbursement request hereunder;

(iii) knowingly takes any action, or omits to take any action, amounting to fraud or violation of any applicable federal or local criminal law, in connection with the transactions contemplated hereby;

(iv) fails to construct the Project in a manner consistent with plans, specifications, engineering reports or facilities plans previously submitted and approved by the Lender, or with good engineering practices, where such failure prevents or materially impairs the Project from fulfilling its intended purpose, or prevents or materially impairs the ability of the Lender to monitor compliance by the Borrower with applicable federal or local law pertaining to the Project, or with the terms and conditions of the Secured Loan Agreement;

(v) fails to observe or comply with any applicable federal or local law, or any term or condition of the Secured Loan Agreement; or

(vi) fails to deliver documentation evidencing Eligible Project Costs claimed for disbursement at the times and in the manner specified by the Secured Loan Agreement and such failure continues for a period of more than thirty (30) days following written notice from the Lender to the Borrower; in such instance, the Lender shall be entitled to withhold, from any Requisition received after such thirty (30) day period has expired, and until such failure is cured or corrected, an amount determined by the Lender (in its sole discretion) to be adequate for the cure or correction of such failure, which amount shall be stated in such notice; provided, that if the nature of the failure is such that it cannot reasonably be cured or corrected within such thirty (30) day period, the Lender shall not withhold any disbursement by reason of such failure if the Borrower commences cure or correction within such thirty (30) day period and thereafter diligently completes such cure or correction within a further reasonable time period.

The foregoing notwithstanding, if, as of the date of such notice from the Lender, the balance of the Secured Loan proceeds remaining to be disbursed is less than the amount determined by the Lender to be adequate for the cure or correction of such failure, the Lender may immediately withhold all further disbursement of Secured Loan proceeds until such failure is cured or corrected within the time period specified by the preceding paragraph.

APPENDIX ONE TO EXHIBIT D

FORM OF REQUISITION FOR DISBURSEMENT OF SECURED LOAN

United States Department of Transportation
c/o [TIFIA Joint Program Office (HITJ)
Federal Highway Administration
Room E64-301
1200 New Jersey Avenue, SE
Washington, D.C. 20590]

[Federal Highway Administration
Texas Division Office
300 8th Street, Room 826
Austin, Texas, 78701
Attention: Division Administrator]

Re: STATE HIGHWAY 161 PROJECT (TIFIA # 2009-1001A)

Ladies and Gentlemen:

Pursuant to Section 4 of the Secured Loan Agreement, dated as of April 1, 2011 (the "Secured Loan Agreement"), by and between the NORTH TEXAS TOLLWAY AUTHORITY (the "Borrower") and the UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Federal Highway Administrator (the "Lender"), we hereby request disbursement in the amount of \$_____ for Eligible Project Costs. Capitalized terms used but not defined herein have the meaning set forth in the Secured Loan Agreement. In connection with this Requisition the undersigned does hereby represent and certify the following:

1. This Requisition is Requisition number _____.
2. The requested date of disbursement is [_____, ____].
3. The aggregate principal amounts previously disbursed under the Secured Loan Agreement equal \$_____.
4. The amounts hereby requisitioned have been incurred by or on behalf of the Borrower for Eligible Project Costs, and such amounts, together with the amounts set forth in paragraph 3 above, will not exceed as of the requested disbursement date 33% of reasonably anticipated Eligible Project Costs.
5. The amount of this Requisition, together with all prior Requisitions, does not exceed the amount of the Secured Loan, and the amount of this Requisition together with the sum of all disbursements of Secured Loan proceeds made and to be made for the current year

will not exceed the cumulative disbursements through the end of the current year as set forth in the Anticipated Secured Loan Disbursement Schedule.

6. All amounts requisitioned hereunder are for Eligible Project Costs which have not been paid for or reimbursed by any previous disbursement from Secured Loan proceeds.
7. All documentation evidencing the Eligible Project Costs to be paid for or reimbursed by the disbursement has been delivered by the Borrower at the times and in the manner specified by the Secured Loan Agreement.
8. The representations and warranties contained in Section 14 of the Secured Loan Agreement (other than those representations and warranties contained in clauses (b), (i), (k) and (l) of Section 14 thereof) are true and correct on and as of the date hereof.
9. The Borrower is in compliance with all of the terms and conditions of the Secured Loan Agreement and there does not currently exist a Default under the Secured Loan Agreement.
10. The undersigned acknowledges that if the Borrower makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Government in connection with the Project, the Government reserves the right to impose on the Borrower the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n)(1), to the extent the Government deems appropriate.
11. A copy of this requisition has been delivered to each of the above named addressees.
12. The undersigned is duly authorized to execute and deliver this requisition on behalf of the Borrower.
13. [Add wire instructions.]

**NORTH TEXAS TOLLWAY
AUTHORITY**

Date: _____

Name:
Title:

APPENDIX TWO TO EXHIBIT D

FORM OF ACKNOWLEDGMENT OF RECEIPT OF

REQUISITION FOR DISBURSEMENT OF SECURED LOAN PROCEEDS

[Borrower name and address]

Re: Receipt of Requisition for Disbursement of Secured Loan Proceeds

Ladies and Gentlemen:

Pursuant to Section 4 of the Secured Loan Agreement, dated as of April 1, 2011, by and between NORTH TEXAS TOLLWAY AUTHORITY (the "Borrower") and the UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Federal Highway Administrator (the "Lender"), the undersigned authorized representative of the Lender hereby acknowledges receipt of the attached Requisition for Disbursement of Secured Loan Proceeds (the "Requisition") from the Borrower. In connection therewith, we hereby represent and certify the following:

1. The date of receipt of the Requisition is _____.
2. Unless this Requisition is denied, disbursement shall be made on or before _____.

Date:

**UNITED STATES DEPARTMENT OF
TRANSPORTATION**, acting by and through the
Federal Highway Administrator

Name:

Title:

APPENDIX THREE TO EXHIBIT D
[APPROVAL/DISAPPROVAL] OF THE LENDER

(To be delivered to the Borrower)

Requisition Number _____ is [approved] [approved in part]¹ [not approved]² by the Lender (as defined herein) pursuant to Section 4 of the Secured Loan Agreement, dated as of [Dated Date], by and between NORTH TEXAS TOLLWAY AUTHORITY (the "Borrower") and the UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Federal Highway Administrator (the "Lender").

Any determination, action or failure to act by the Lender with respect to the Requisition set forth above, including but not limited to the withholding of a disbursement, shall be at the Lender's sole discretion, and in no event shall the Lender be responsible for or liable to the Borrower for any and/or all consequence(s) which are the result thereof.

Date:

**UNITED STATES DEPARTMENT OF
TRANSPORTATION**, acting by and through the
Federal Highway Administrator

Name:
Title:

¹ Those portions of the requisitions that are approved and those portions that are not approved are described in Schedule A attached hereto, with explanations for items not approved.

² Attached hereto as Exhibit A are reasons for denial of approval.

EXHIBIT E

UNITED STATES DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION

COMPLIANCE WITH LAWS

The Borrower agrees to abide by any and all applicable Federal and state laws. The following list of Federal laws is illustrative of the type of requirements generally applicable to transportation projects. It is not intended to be exhaustive. The Borrower shall require that its contractors and subcontractors comply with applicable laws:

- (i) The Americans With Disabilities Act of 1990 and implementing regulations (42 U.S.C. §§ 12101 et seq.; 28 C.F.R. § 35; 29 C.F.R. § 1630);
- (ii) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. §§ 2000d et seq.) and United States Department of Transportation regulation, 49 C.F.R. Part 21;
- (iii) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. §§ 4601 et seq.), with the understanding that the requirements of said Act are not applicable with respect to utility relocations except with respect to acquisitions by the Borrower of easements or other real property rights for the relocated facilities;
- (iv) Equal employment opportunity requirements under Executive Order 11246 dated September 24, 1965 (30 F.R. 12319), any Executive Order amending such order, and implementing regulations (29 C.F.R. §§ 1625-27, 1630; 28 C.F.R. § 35; 41 C.F.R. § 60; and 49 C.F.R. § 27);
- (v) Restrictions governing the use of Federal appropriated funds for lobbying (31 U.S.C. § 1352; 49 C.F.R. § 20);
- (vi) The Clean Air Act, as amended (42 U.S.C. §§ 1857 et seq., as amended by Pub. L. 91-604);
- (vii) The National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321 et seq.);
- (viii) The Federal Water Pollution Control Act, as amended (33 U.S.C. §§ 1251 et seq., as amended by Pub. L. 92-500);
- (ix) The environmental mitigation requirements and commitments made by the Borrower that result in the Lender's approval of the Final Environmental Impact Statement (issued pursuant to 42 U.S.C. § 4332(2)(C)) and issuance of the Record of Decision for the PGBT WE Project;

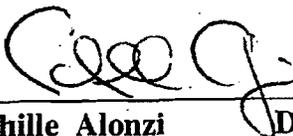
- (x) The Endangered Species Act, 16 U.S.C. §1531, et seq.;
- (xi) 23 U.S.C. §138 [49 U.S.C. §303];
- (xii) The health and safety requirements set forth in 23 C.F.R. § 635.108;
- (xiii) The prevailing wage requirements set forth in 42 U.S.C. § 276a, 23 U.S.C. § 113, as supplemented by 29 C.F.R. Part 5, 23 C.F.R. §§ 635.117(f), 635.118 and FHWA Form 1273 §§ IV and V for those contracts that involve construction of highway improvements;
- (xiv) The Buy America requirements set forth in Section 165 of the Surface Transportation Assistance Act of 1982 and implementing regulations (23 C.F.R. § 635.410);
- (xv) The requirements of 23 U.S.C. §§ 101 et seq. and 23 C.F.R.; and
- (xvi) The applicable requirements of 49 C.F.R. Part 26 relating to the Disadvantaged Business Enterprise program.

DEVELOPMENT OVERSIGHT AGREEMENT

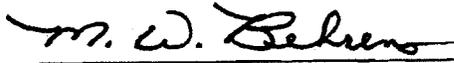
[see attached]

**U.S. Department of Transportation
Federal Highway Administration
and the
Texas Department of Transportation**

**Stewardship/Oversight Agreement
For
Design and Construction**

 10/4/2006

Achille Alonzi Date
Acting Division Administrator
Federal Highway Administration

 10-13-06

Michael W. Behrens Date
Executive Director
Texas Department of Transportation

GLOSSARY

Control Document – Applicable standards, manuals, policies, procedures, standard specifications, etc., that are acceptable to FHWA for application in the design and construction of highways.

Core Functions – Activities that make up the main elements of the Division's Federal-aid oversight responsibilities based on regulations and national policies. Core functions in the Division Office are Planning, Environment, Right-of-Way, Design, Construction, Finance, Operations, System Preservation, Safety, and Civil Rights. Core functions covered by this document include Design and Construction.

Delegated Projects – Projects that do not require FHWA to review and approve actions pertaining to design, plans, specifications, estimates, right-of-way certification statements, contract awards, inspections and final acceptance of Federal-aid projects on a project by project basis.

Full Oversight Projects – Projects that require FHWA to review and approve actions pertaining to design, plans, specifications, estimates, right-of-way certification statements, contract awards, inspections, and final acceptance of Federal-aid projects on a project by project basis.

Major Projects – Those projects receiving Federal financial assistance 1) with an estimated cost of \$500 million or more or 2) that has been identified by FHWA as being a Major Project as a result of special interest. Such other projects include: 1) those receiving Federal financial assistance, as designated by FHWA, that require a substantial amount of the State's program resources or have a high level of public or congressional attention and 2) those that have extraordinary implications for the national transportation system. Major Projects were previously called Mega Projects.

National Highway System (NHS) - The National Highway System, as defined in 23 CFR 470, includes the Interstate Highway System.

Oversight – The act of ensuring that the Federal highway program is delivered consistent with laws, regulations and policies

Risk Management – The systematic identification, assessment, planning, and management of threats and opportunities faced by FHWA projects and programs.

Stewardship – The efficient and effective management of the public funds that have been entrusted to the FHWA

Transportation Infrastructure Finance and Innovation Act (TIFIA) - Federal credit program under which the Department of Transportation may provide credit assistance for surface transportation projects of national or regional significance.

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**FEDERAL-AID HIGHWAY PROGRAM
STEWARDSHIP/OVERSIGHT AGREEMENT
For
DESIGN & CONSTRUCTION**

I. PURPOSE

- A. Stewardship efforts include oversight and approval actions routinely performed by the Federal Highway Administration, Texas Division (FHWA) and/or the Texas Department of Transportation (TxDOT) to ensure the Federal-aid Highway Program (FAHP) is administered in regulatory compliance and in ways that enhance the value of program funds authorized by Congress. The purpose of this Stewardship/Oversight Agreement (Agreement) is to formalize these delegated responsibilities and agreements to address how the FAHP will be administered in Texas relative to design and construction. It provides a roadmap to effectively and efficiently execute the FAHP relating to programs/project delivery to include financial integrity. Furthermore, it provides for the delegation of certain project actions to TxDOT with specified exceptions as noted further in this document.
- B. Congress has charged the FHWA with administering the FAHP under Title 23, and other associated laws. FHWA's responsibility for administering this Program has been clearly outlined in the following legislation.
- Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991
 - Transportation Equity Act for the 21st Century (TEA-21) of 1998
 - Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005.

These laws allow TxDOT to assume certain delegated responsibilities for FHWA in the design, construction, award and inspection of certain Federal-aid projects.

- C. On the broader program level, FHWA will continue to provide stewardship and oversight of the FAHP through a rigorous risk management process and through general actions and concurrences in its day-to-day activities, including improvements to program procedures, training, technical assistance, and developing and deploying new technologies, as well as routine program/project approval. Each of these activities contributes to the intent that the FAHP operates with integrity and for the public's maximum benefit. This Agreement acknowledges FHWA and TxDOT (including sub-recipients) are responsible for the effective and efficient use of Federal funds. Notwithstanding the Agreement, FHWA retains overall responsibility for all aspects of Federal-aid programs and an Agreement does not preclude FHWA's access to and review of a Federal-aid project at any time and does not replace the provisions of *Title 23, USC*.

II. STATE AND DIVISION OFFICE ROLES AND RESPONSIBILITIES

- A. The TxDOT Executive Director, through the Headquarters Divisions, Program Offices, and District Offices, is responsible for TxDOT's stewardship and oversight of projects that are not under FHWA direct review and approval as covered by this Agreement. Each District Office has the responsibility for design, construction, and maintenance of transportation projects in its respective area. The TxDOT Headquarters Divisions and Program Offices establish operating policies and procedures, review information from the Districts, and retain certain approval actions.
- B. TxDOT is delegated FHWA's responsibilities for all project approval and oversight for Federal-aid projects (including Emergency Relief projects), except those designated as Federal Oversight projects. Projects selected for FHWA Oversight will be by agreement between TxDOT and the Texas Division Office. The Texas Division Office and TxDOT went through a rigorous risk analysis to develop the oversight criteria contained within this Agreement. The following two basic premises serve as the foundation for the oversight criteria contained herein; 1) maintain a presence in each TxDOT District to retain oversight on a number of projects to verify the effective and efficient use of Federal funds, and 2) maintain FHWA oversight responsibilities on those projects representing the largest investment of Federal-aid funds. The agreement also provides for the flexibility to increase or decrease the level of FHWA oversight within a TxDOT District. The criteria for selection of these projects are outlined in Appendix A – Federal Oversight Project Thresholds. Projects may also be selected for Federal Oversight if the proposed project is particularly complex, highly controversial, or involves innovative or unique design, construction, or administrative features. Furthermore, certain types of Federal-aid projects shall be excluded from the established thresholds shown in Appendix A, and, therefore, remain State Oversight. These are shown in Appendix B - Federal Oversight Project Exclusions. Once established, oversight responsibility for a project can change only by a formally documented agreement between TxDOT and the Texas Division Office.
- C. TxDOT is responsible for compliance with all laws and regulations for State oversight projects, and will monitor the programs and projects by making periodic reviews. Following the obligation of Federal funds by FHWA, the appropriate TxDOT Divisions shall issue Letters of Authority for projects. TxDOT will make construction and final inspections, and will accept all State oversight projects in accordance with guidelines published by the Construction Division. Federal-aid reimbursement for work performed will be made using FHWA's Federal-aid current billing and payment system.
- D. Major Projects, Project Management Plans and Financial Plans:
1. In the early development of each major Federal-aid project on the NHS, TxDOT shall submit to FHWA an initial Project Management Plan (PMP). The ultimate purpose of the PMP is to clearly define the roles, responsibilities, processes, and activities, which will result in the Major Project being completed on time, within budget, with the highest degree of quality and safety, and in a manner in which the public trust, support and

confidence in the project is maintained. The preparation of an initial PMP prior to initiating the project's environmental study is critical to ensure the project is delivered in an efficient and effective manner. The initial PMP shall be prepared by TxDOT and submitted to the FHWA Division Office. The PMP is to be a living document in which revisions will be issued as the project progresses in order to add, modify, or delete provisions that will result in the most effectively managed project. These revisions and updates to the PMP will occur prior to issuing the environmental decision, prior to authorization of Federal-aid funds for right of way acquisition, and prior to authorization of Federal-aid funds for construction. During construction, TxDOT continues to update the PMP to reflect the current status of the major project. PMP guidance is posted on the FHWA Major Project Web site <http://www.fhwa.dot.gov/programadmin/mega/index.htm>

2. In addition to the PMP, every Major Project also requires the development and submittal of a Financial Plan. A Financial Plan is a comprehensive document that reflects the Project's cost estimate and revenue structure and provides a reasonable assurance that there will be sufficient financial resources available to implement and complete the project as planned. A Financial Plan provides a description of how a project will be implemented over time by identifying project costs and the financial resources to be utilized in meeting those costs. The plan should clearly explain the assumptions about both cost and revenue upon which the plan is based. Financial Plans for Major Projects shall be prepared by TxDOT and submitted to the Texas Division. The Initial Financial Plan should be prepared as early in the project development process as practical. In all cases, the Initial Financial Plan must be submitted and approved by FHWA before authorization of Federal-aid funding for project construction. On a Design-Build project the Initial Financial Plan must be approved prior to FHWA concurrence in the issuance of a Request for Proposal (RFP). The Initial Financial Plan will provide information on the immediate and longer-term financial implications resulting from project initiation. Financial Plans are to be updated annually. The annual updates of the Financial Plan should provide information on actual cost, expenditure, and revenue performance in comparison to initial estimates as well as updated estimates of future year's obligations and expenditures. Identified funding shortfalls should be highlighted along with proposed resource solutions. TxDOT will provide FHWA an independent validation of the cost estimate anytime the annual update shows a cost increase of more than 5 percent, schedule slippage of more than 6 months or significant scope change from the previous Finance Plan or PMP update. Financial Plan guidance is undergoing revision and will be posted on the FHWA Major Project web site upon completion. Details for developing cost estimates can be found at <http://www.fhwa.dot.gov/programadmin/mega/cefina.htm>
3. SAFETEA-LU also requires that Projects in the \$100-500 million range have Financial Plans and Annual Updates prepared by the project owner. The Financial Plan should address the same items as those for Major Projects. The initial Financial Plan may be developed and approved at the earliest feasible point in the Project development process but it needs to be completed by the Project Owner prior to construction contract authorization and obligation of Federal-aid funds under the design-bid-build process and

prior to RFP approval for design-build projects. The greatest difference between these Financial Plans and those of Major Project is FHWA will not approve these financial plans but they will be subject to review by FHWA as part of its ongoing stewardship and oversight responsibilities.

4. Transportation Infrastructure Finance and Innovation Act (TIFIA) Projects also require Financial Plans. Additional information on TIFIA can be found at the TIFIA website <http://tifa.fhwa.dot.gov/home.html> and at the Major Projects Web site noted above.
5. Value Engineering, as with any Federal-aid project with an estimated cost over \$25 million, is required for major projects. The Division Administrator may require more than one Value Engineering analysis.

E. Design-Build Projects.

1. As stated in Section 1503 of SAFETEA-LU, a State transportation department or local transportation agency can issue a request for proposal (RFP), proceed with awards of design-build contracts or issue notice to proceed prior to the completion of a NEPA process; however, the State or local agency shall receive concurrence from the Secretary before carrying out any of these activities. Section 1503 precludes the design-build contractor from proceeding with final design or construction of any permanent improvements prior to the completion of the NEPA. FHWA is currently revising its design-build regulations to accommodate the provisions of Section 1503 of the SAFETEA-LU.
2. SAFETEA-LU allows the States to use the design-build contracting method for any project they deem necessary. States are no longer required to submit Special Experimental Project Number 14 (SEP-14) request to use the design-build contracting method.
3. For Federal oversight projects, TxDOT must get FHWA approval (via formal request) prior to releasing the RFP document. FHWA approval of the RFP document carries the same significance as PS&E approval.

F. Public, Private Partnerships.

1. Public, Private Partnership (3P) Projects involving Federal-aid funds typically require preparation of an Oversight Agreement unique to the specific project. This 3P Oversight Agreement defines the relationship between the Federal Highway Administration and those other agencies involved in the project. The 3P Project may be a recipient of a Transportation Infrastructure Finance and Innovation Act (TIFIA) loan, State Infrastructure Bank (SIB) loan, SEP-15 Public-Private Partnership, or other combination of Federal, State, local, and private monies. The 3P Project may also include Design-Build contracting procedures as described in 23 CFR 636.

2. Many Federal actions may be involved with any particular 3P project including approval of a SEP-15 for the Public-Private Partnership, approval of Request for Proposals (RFP), approval of an Environmental Document through the National Environmental Policy Act (NEPA) process, review of design schematics, and the processing of a TIFIA or SIB loan, (if applicable). Public-Private Partnership agencies are reminded certain Title 23 requirements dealing with transportation planning, procurement of professional services, disadvantaged business enterprise, wage rates advertising and award of bids, convict produced materials, and Buy America provisions and all non-Title 23 requirements apply to all Federal-aid projects.
3. TxDOT and the FHWA Texas Division will monitor activities and exercise controls as necessary within their respective areas of responsibility to ensure that all Federal-aid projects are carried out in compliance with applicable laws, regulations and standards. TxDOT will develop and document a plan to monitor sub-recipient activities to assure compliance with applicable Federal requirements. Sub-recipient monitoring will cover each program, function, or activity, and will include an assessment of the sub-recipient's ability to manage Federal-aid projects. FHWA may at any time have access to and review project phases and records under this agreement.

III. METHODS OF OVERSIGHT

- A. FHWA will employ a risk management framework in consultation with TxDOT to evaluate program areas to balance risk with consideration of staffing resources, funding within FAHP, and highway needs within the state. TxDOT will work collaboratively with FHWA to identify risks and make practical resources available to address FHWA's risk assessment findings. The following table highlights some potential risks that may affect an individual project's risk profile.

Design / Construction Risks
<ul style="list-style-type: none"> • Permitting problems • Design Changes • Poor / Incomplete Design • Cost Overruns • Cash Flow Deficiencies • Technology Risks • Schedule Delays • Litigation

- B. TxDOT and FHWA will monitor activities and exercise controls as necessary within their respective areas of responsibility to ensure all Federal-aid projects are carried out in compliance with applicable laws, regulations and standards. The monitoring of these activities is intended to evaluate procedures and policies used in delivering the FAHP, along with identifying deficiencies and opportunities for improvement. Furthermore, the monitoring activity will be both on a program-wide and project level basis, as necessary, using key processes such as (but not necessarily limited to) project reviews, program reviews,

stewardship assessment reviews (SARs), peer reviews, partnering activities, and task force activities. Other methods of monitoring projects and programs include reviewing TxDOT reports, attending monthly meetings, and performing the normal day-to-day interactions with the various agencies. Reviews may encompass the total operation or be limited to one or more segments; i.e., the project development phase, the contracting phase, or the construction phase. Further discussion of the key processes is provided below.

- C. **Project Reviews.** Project reviews may focus on any aspect of the FAHP; however, project monitoring focuses on a goal that the project be completed on time, within budget, with highest degree of quality and safety. See section V.C.3b for discussions on Project Reviews.
- D. **Program Reviews.** Program reviews assist both TxDOT and FHWA with the implementation of the Federal-aid program. Program reviews establish or improve control processes and documents for functional areas of responsibility (environment, design, construction, etc.). In these activities, TxDOT often seeks the Texas Division's active participation. In many cases, industry, as well as other partners, may also be participants. We will take maximum advantage of these opportunities to enhance the overall efficiency of the program.
- E. **Stewardship Assessment Reviews (SARs)**
 - 1. The Texas Division utilizes an SAR Program to evaluate project development and construction activities. The primary purpose of the SAR program is to provide the FHWA Texas Division with a monitoring and control technique that documents procedures and processes and further assures FHWA that Federal-aid funds are being spent in accordance with Federal laws, regulations, and policies. In addition, SARs evaluate the effectiveness of the processes, procedures, and products developed by TxDOT in all phases of a project, as well as the internal operations of the FHWA Texas Division. Based in part on these reviews, assurances can be made that a program is being implemented as intended and is producing a product of expected quality. Stewardship Assessment Reviews can be conducted on a statewide, area-wide, or program basis. The SAR program coverage is applicable to Title 23 and non-Title 23 activities on all Federal-aid projects, regardless of route designation [i.e., National Highway System (NHS) or non-NHS] or Federal-aid funding category.
 - 2. SARs are generally selected as a result of the Risk Assessment Process conducted biannually. This Risk Process is a systematic process of consistent discovery and detection of potential risk events in all areas of the FAHP. SARs may also be initiated and conducted as necessary throughout the year if an emerging topic/issue is determined by the FHWA Division leadership team to be of significant risk to FHWA at the national, regional, statewide, or area-wide level. The FHWA Division Office staff will involve and discuss potential projects with their TxDOT counterparts prior to topic selection. With the limited number of resources (staff, budget, etc.) available to the FHWA Division Office, SARs will be conducted on an "as needed" basis. That is, there will not be a specified total number of SARs to be conducted per year in the FHWA Division Office, and accordingly, there will not be a specified number of SARs to be conducted in a

particular emphasis area (i.e., environment, design, construction, etc.) in a year.

3. The SAR topics should be strategically identified to achieve program goals, while balancing the associated risks, priorities, and available resources in the Division Office. The associated risks may include statutory requirements, evidence of non-compliance, lack of established procedures, quality and competencies of personnel, and the Division Office relationship with TxDOT. Benefits or payoffs should also be considered in the selection of SAR topics. Payoff issues include looking at the quality of the system, technical complexities, advancing innovative technologies, and cost-effective solutions.
 4. The SARs will be conducted using a joint Division Office/TxDOT team approach, typically with 3-4 members to a team. It is the goal of the Division Office to have TxDOT personnel as active members on each SAR team, recognizing that there may be times when, due to differing priorities or lack of available resources, this may not be possible. The TxDOT team member(s) should periodically brief TxDOT management of the status and findings of the SAR and encourage implementation of recommendations.
- F. Peer Reviews. The peer review is designed to have an outside team of invited qualified peer reviewers to meet with the host agency to discuss and review its management process. Information on the host agency and team members' policies and procedures are exchanged with the intent to improve the overall management process. The information gathered from the exchange is presented to agency management. This technique maintains the principles of voluntarism and confidentiality, and the selection of the team is normally performed by the host organization.
- G. Partnering Activities. Partnering is an effective management technique used to improve communications and enhance the resolution of conflicts during project development and construction. Active participation in partnering activities has resulted in high payoffs relative to improved communications and working relationships between FHWA, TxDOT, Resource Agencies, and industry.
- H. Task Force Activities. Texas Division staff may participate in numerous joint FHWA/TxDOT teams under the purview of value-added, re-engineering, or quality improvement. These activities, when used, have been shown to be an effective method of oversight, an opportunity to strengthen the FHWA/TxDOT partnership, and an effective means of adding value and effecting change to a program.
- I. Sub-recipient Activities. TxDOT will also monitor sub-recipient activities to assure compliance with applicable Federal requirements. Sub-recipient monitoring will cover each program, function, or activity, and will include an assessment of the sub-recipient's ability to manage Federal-aid projects.

IV. CONTROL DOCUMENTS

A. The TxDOT will comply with the policies and objectives of Title 23 through the enforcement of applicable laws, regulations, standards, and directives. Projects on the NHS System will be developed in accordance with federally approved standards. Projects implemented under this Agreement for the NHS will be developed in accordance with American Association of State Highway and Transportation Officials (AASHTO) Guidelines and the control documents listed below (latest versions), whose standards and procedures will apply to design and construction activities.

- TxDOT Roadway Design Manual
- TxDOT Project Development Process Manual
- TxDOT Project Development Policy Manual
- TxDOT Pavement Design Guide
- Texas Manual on Uniform Traffic Control Devices (MUTCD)
- TxDOT Traffic Engineering Standard Sheets (including Barricade & Construction (BC) sheets)
- TxDOT Standard Specifications
- TxDOT Special Provisions
- TxDOT Special Specifications
- TxDOT Departmental Material Specifications (DMS)
- TxDOT Construction Contract Administration Manual (CCAM)
- TxDOT Local Government Project Procedures (LGPP)
- TxDOT Alternate Procedures (consultant selection/utilities)
- TxDOT Bridge Design Manual
- TxDOT Quality Assurance Program for Construction
- TxDOT Manual of Testing Procedures
- TxDOT Hazard Elimination Program Manual (HSIP Program)

Modification to the above control documents or any other control documents related to construction or design requires FHWA Texas Division approval prior to implementation on NHS projects.

B. Non-NHS projects will be developed in accordance with applicable standards, guidelines, policies and procedures, as adopted by TxDOT.

V. DELEGATED PROGRAM AND PROJECT RESPONSIBILITIES

A. Notwithstanding this Agreement, FHWA retains overall responsibility for all aspects of Federal-aid programs. This Agreement does not preclude FHWA access to and review of a Federal-aid project at any time and does not replace the provisions of Title 23 of the U.S. Code (USC). Program and project responsibilities are discussed in the sections below.

B. TxDOT Responsibilities

1. TxDOT assuming FHWA review and approval authority does not alter the applicability of Federal laws on Federal-aid projects. It is agreed that Title 23 requirements pertaining to contract bid proposal contents (including Davis-Bacon and the Disadvantaged Business Enterprise program) and procurement procedures (competitive bidding) apply to projects where required by the implementing Federal regulation. Additionally, the provisions of this Agreement do not modify the FHWA's non-Title 23 program oversight and project approval responsibilities for activities such as required under the Clean Air Act, NEPA and other related environmental laws and statutes, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the Civil Rights Act of 1964 and related statutes, unless expressly permitted by SAFETEA-LU Section 6004 and 6005. By signing this Agreement, TxDOT accepts responsibility for FHWA review and approval actions to the extent such review and approval is required by Federal law and regulation.
2. Once delegated, TxDOT assumes responsibility for all Title 23 approval actions relative to project level design (including approval of design exceptions, PS&E approval, and concurrence in award), and construction (including construction inspection, change order approval, claims settlement, sampling and testing activities, project acceptance, preparation and submission of required project data, i.e. FHWA 45 and 47 forms) for State oversight projects. It is understood certain actions and responsibilities on State oversight projects cannot be or are not delegated to TxDOT. Those project level actions requiring FHWA approval are listed in Section V.C.1. below.
3. For delegated projects or programs that are developed and administered by local agencies/governments (including Transportation Enhancement Projects), TxDOT shall provide the necessary review and approval to assure compliance with Federal requirements. TxDOT will be responsible for determining that sub-recipients of Federal funds have adequate staffing, project delivery systems, and sufficient accounting control. Furthermore, TxDOT is ultimately accountable to FHWA for ensuring compliance with Federal-aid requirements on such projects.

C. FHWA Division Office Responsibilities

1. FHWA delegates to TxDOT project approvals for all State oversight of Federal-aid projects, as defined elsewhere in this Agreement (see Appendices A & B). However, as mentioned above, certain actions and responsibilities on State oversight projects cannot be or are not delegated to TxDOT. The FHWA retains authority for the following actions on Federal oversight projects in addition to those noted under Division Office Roles and Responsibilities:
 - All Federal responsibilities for planning and programming oversight specified in 23 USC 134 and 135 (Statewide Transportation Improvement Plan and amendments)
 - Federal air quality conformity determinations required by the Clean Air Act
 - Obligation of funds

- Waivers to Buy America requirements
- Civil Rights program approvals
- Environmental approvals except those specifically delegated under Sections 6004 and 6005 of SAFETEA-LU (National Environmental Policy Act actions)
- Addition and changes of access points on the Interstate Highway System
- Use of Interstate airspace for non-highway-related purposes
- Uniform Relocation Assistance Act (Hardship acquisition and protective buying)
- Modifications to project agreements
- Final vouchers
- Civil Rights actions
- Experimental features on National Highway System (NHS) projects
- Fund transfers to other agencies
- Advance Construction and conversion to Federal funding
- Approval of financial plans for Mega projects
- Participation in costs incurred before FHWA authorization
- Approval of innovative contracting techniques that require evaluation under the current Special Experimental Projects No. 14 (SEP-14) criteria (project specific, non-traditional contracting methods)
- Approval of innovative contracting techniques that require evaluation under the current Special Experimental Projects No. 15 (SEP-15) criteria (Public-Private Partnerships)
- Design exceptions on all Federal oversight projects and all projects on the Interstate Highway System regardless of funding source
- All schematics on the NHS with the exception of preventive maintenance, freeway safety and 3R type projects.

2. Design

- a) The Texas Division will use various techniques, as mentioned earlier in this Agreement, which may include project reviews, program reviews, SARs, telephone contacts, participation in value engineering activities, and participation in design concept conferences.
- b) Project reviews are conducted by FHWA Area Engineers, Major Project Engineers and Urban Programs Engineers (FHWA Engineers) on Federal Oversight projects as a tool in providing reasonable assurance that these projects are designed in accordance with applicable standards. FHWA Engineers will review design documents for Federal Oversight projects during routine visits to their TxDOT Districts of responsibility. This review of PS&E's, environmental documents, schematics, etc. early in the life of the project reduces the number of comments during the later stages of project development i.e. at preliminary and final PS&E. For State Oversight projects, the FHWA Texas Division's involvement will generally be directly related to environmental determinations and requests for technical assistance, and through SARs on selected functional areas.

- c) Project reviews can take many forms which include meetings with TxDOT design staff and consultants (where applicable) to identify standards and discuss issues, review draft or completed portions of plans, and through field reviews. For Federal oversight projects, reviews are conducted throughout project development so that expeditious approvals can be made by the Texas Division when the schematics and PS&Es are submitted by TxDOT. Review frequencies are not specified but are determined by the FHWA Engineers in consultation with their District Engineer. However, FHWA Engineers are expected to maintain a general knowledge of major proposed and active projects in their assigned geographic areas. FHWA Engineers are responsible for PS&E review and approval on Federal oversight projects. The engineering staff occasionally serves on multi-disciplined value engineering teams to improve project design, construction and cost effectiveness.
- d) Technical Assistance. A significant role of the FHWA Engineers and Technical Specialists is to provide technical assistance on design activities to TxDOT and other partners. Technical assistance includes, but is not limited to, current and emerging construction methods and techniques, interpretation of Federal contract administration requirements, funding eligibility issues, innovative design, and innovative contracting.
- e) Documentation. Reports are prepared for each project review. The format and content of the report is left to the discretion of the FHWA Engineers and FHWA District Engineers. However, as a minimum, the report should cover who participated in the review, when the review was conducted, items of significance noted during the reviews, decisions made, agreements reached and any other information needed for future reference. Texas Division reports should be prepared and distributed to the TxDOT Design and Environmental Divisions, the TxDOT District, and other affected parties, and sent to the project file. Additionally, design review data shall also be entered into the Division's Project Tracking System. Reports prepared by TxDOT or consultants (i.e. meeting minutes) may be used as part of our documentation if they are reviewed and validated.

3. Construction

- a) The Texas Division's stewardship program for construction uses various techniques, as mentioned earlier in this Agreement, including project reviews, program reviews, SARs, telephone contacts, and participation in partnering activities. For the purposes of this section on construction projects, the topic of Project Reviews is discussed in more detail below.
- b) Project Reviews (and/or Construction Project Inspections)
 - (1) Focus of Reviews.

- (a) Project reviews are designed to focus primarily on evaluating and improving current activities and following-up on unresolved issues from previous reviews. If possible, issues should be resolved at the time of the review. Each FHWA Area Engineer and FHWA Technical Specialist will devise a method of insuring proper follow-up.
 - (b) Project reviews also give the Texas Division a general understanding of individual TxDOT Districts' oversight. For example, in many cases project reviews feed the selection process for future SARs. The Texas Division may also use various other project review techniques, including participation in project related meetings, participation in value engineering teams, partnering activities, and telephone contacts.
- (2) Review Types. Specific types of project reviews include (but are not necessarily limited to) the following:
- Process Review/Product Evaluation
 - Inspections-in-Depth
 - Project Inspection
 - Final Inspection
 - Specialty Reviews

More detailed information on each type of review can be found in Section 3 of FHWA's Construction Program Management and Inspection Guide, August 2004 (<http://www.fhwa.dot.gov/construction/cpmi04tc.htm>).

- (3) Review Objectives. Some of the objectives of project reviews conducted on Federal oversight projects are listed below.
- Obtain assurance that the project has been completed in reasonably close conformity with approved plans, specifications, estimates, and authorized changes
 - Monitor the quality of construction
 - Identify and/or share best practices with other TxDOT Districts
 - Acquire information on problems and construction changes
 - Assess TxDOT's abilities and effectiveness in managing and controlling Federal-aid construction projects
 - Promote the development and implementation of quality management programs
 - Offer technical and procedural advice
 - Report on special or innovative construction materials, methods, procedures, new equipment, and other technological innovations
 - Professional development of FHWA and TxDOT review personnel
 - Establish contact and communications with project staff

- Become familiar with project
- Attend partnering workshops and project progress meetings
- Monitor and evaluate progress of work
- Provide support and encouragement for project personnel
- Focus Division resources on critical construction features and practices
- Follow up on previous inspection findings
- Discuss/document claims
- Lessons learned

- (4) Items for Review. According to the Construction Program Management and Inspection Guide referenced above,

“Many items can be reviewed during a construction inspection, and the list of possible concerns about each item reviewed is also extensive. The amount of detail to be covered depends on the scope of the inspection and the time available. All data gathering and analysis should relate to the objectives of the inspection.”

Some of the main items to be considered in conducting the reviews are listed in Section 4 of the Guide under the topic on Inspection and Review Activities (refer also to Appendices C and D of the guide). It is not necessary that all items be covered on every project review. The degree of project review activity, in general, is based on risk, comfort level, and resources to conduct reviews.

- (5) Review Frequency. Federal-oversight, construction projects shall be reviewed/inspected in the field by the appropriate Area Engineer during active operation(s) at a rate agreed upon by the FHWA Area Engineer and FHWA District Engineer.
- c) Technical Assistance. A significant role of the FHWA Area Engineers and Technical Specialists is to provide technical assistance on construction activities to TxDOT and other partners. Technical assistance includes, but is not limited to, current and emerging construction methods and techniques, interpretation of Federal contract administration requirements, funding eligibility issues, quality of workmanship, and highlighting best practices. Personnel from the FHWA Division Office, Technical Assistance Section, may perform project field reviews, as frequently as necessary. These reviews can be with or without the accompaniment of the appropriate FHWA Area Engineer.
- d) Project Review Reports.
- (1) The format and content of project review reports (and/or Construction Inspection Reports) is left to the discretion of the FHWA Area and District Engineers. However, a report form is provided in the FHWA Texas Division's Project Tracking System that should be used for uniformity.

- (2) The report should focus on items of significance noted during reviews, agreements reached with TxDOT on items such as change orders, best practices observed that could be shared, or other discussions that need to be documented. Details of routine review activities may be included at the Area Engineer's discretion. Purposes of the project review reports are further detailed in the list below.
- (a) Document Project History and Compliance
 - (i) Provide permanent file evidence (historical record) that inspections are being made as required by Federal regulations.
 - (ii) Provide a basis for acceptance of completed work
 - (iii) Document field conditions, contractor performance, and TxDOT's project management
 - (iv) Document FHWA's role, observations, findings, resolution of identified problems, claims, and any other topics of interest
 - (b) Convey Information to the Reader. The report should cover the following areas.
 - (i) Activities taking place on the project during the inspection
 - (ii) Observations and actions taken regarding quality and progress of work
 - (iii) Comments on the adequacy of the project administration by the contracting agency's representatives (staffing, supervision, documentation, measurement and payment of contract items, material issues, etc.)
 - (iv) Adequacy of addressing traffic control, safety, and environmental issues
 - (v) TxDOT's handling of change or extra work including proper justification for the work and adequacy of supporting documentation
 - (vi) Information on special or unusual technical topics
 - (vii) Followups from previous reports
- (3) Reports that only contain routine review activities do not, necessarily, need to be distributed outside of the Texas Division and can just be sent to the file. Reports of inspections containing significant findings should be prepared within two weeks of the inspection and transmitted to the TxDOT Construction Division and to the TxDOT District office. Each Area Engineer should determine whether additional distribution within FHWA and TxDOT is desired. Construction inspection data shall also be entered into the Division's Project Tracking System.
- (4) FHWA Area Engineers are encouraged to note new types of equipment, material usage or processing, new construction methods and devices, or unusual construction operations and to coordinate with the Research and Technology Transfer Engineer as appropriate. The Research and Technology Transfer Engineer and Area Engineers will work together to develop a special report outlining the operations, use, associated problems or advantages, cost factors, and performance.

VI. SUMMARY

By signing this agreement, TxDOT and the Texas Division document the delegation and acceptance of oversight options provided under current legislation, and identify policies and procedures that govern or are applicable to Federal-aid projects. Nothing in this agreement shall be construed to relieve the Texas Division from ultimate responsibility and accountability for compliance with Federal laws and regulations with respect to the expenditure of Federal-aid highway funds.

TxDOT and the Texas Division enter into this agreement and agree to carry out their respective responsibilities in a true spirit of cooperation. Nothing in this plan is intended to preclude TxDOT from requesting assistance with respect to any program or project regardless of the oversight status.

This agreement supersedes all previous oversight agreements on the subjects of Design and Construction and will become effective the date of signing by both parties. This agreement will remain in effect until FHWA and TxDOT agree to revise the agreement.

APPENDIX A

Federal Oversight Project Thresholds

Federal-aid projects on the National Highway System (NHS), meeting the values in the table below, shall be Federal oversight. The value will be established based on the estimated cost of the contract when TxDOT Districts develop their one-year letting schedules for approval. Oversight responsibility will not change on projects where the estimated cost goes above or below the established threshold subsequent to being placed on the one-year letting schedule. Further, combining several projects into one contract for letting purposes will not change established oversight responsibility. FHWA will continue to review and approve all schematics on the National Highway System regardless of project cost, with the exception of preventive maintenance, freeway safety and 3R type projects. FHWA will also review all design exception requests submitted with these schematics.

Federal Oversight Project Thresholds for Districts Shown		
≥ \$4 million	≥ \$10 million	≥ \$30 million
Abilene	Amarillo	Austin
Atlanta	Beaumont	Dallas
Brownwood	Bryan	Fort Worth
Childress	Corpus Christi	Houston
Lufkin	El Paso	Pharr
Odessa	Laredo	San Antonio
Paris	Lubbock	
San Angelo	Waco	
Tyler		
Wichita Falls		
Yoakum		

If the number of projects on the preliminary one-year letting schedule qualifying for Federal oversight (for any individual District) exceeds four, FHWA shall have the option to select which projects they will exercise oversight responsibilities on for that individual District. If the number is less than three, FHWA shall have the option to select additional projects in the affected District(s) for Federal oversight. This determination shall be made during FHWA's review of the one-year letting schedule. Prior to publishing the final schedule, TxDOT shall provide FHWA a draft list of projects and allow FHWA 10 work days for review of same. The review copy of the 12 Month Letting Schedule will be ready for distribution in June (approximately) for the coming year. Certain types of projects, as described in Appendix B, will generally be exempt from Federal oversight unless oversight is specifically retained as per the above described procedure.

APPENDIX B

Federal Oversight Project Exclusions

The following types of Federal-aid projects shall be excluded from the established \$ thresholds shown in Appendix A, and, therefore, remain State Oversight.

NHS Preventive Maintenance

This type project includes all NHS roadways, including Interstate Highways. Preventive Maintenance projects consist of work proposed to preserve, rather than improve, the structural integrity of the pavement and/or structure. Examples of preventive maintenance activities include ACP overlays (maximum 2" thick, excluding level-up); PFC; seal coats; cleaning and sealing joints and cracks; patching concrete pavement; shoulder repair; scour countermeasures; cleaning and painting steel members to include application of other coatings; steel beam repair, repair or replacement of slopes and/or riprap, restore drainage systems; cleaning and sealing bridge joints; microsurfacing; bridge deck protection; milling or bituminous level-up; clean, lubricate and reset bearings; clean rebar/strand and patch structural concrete and seal cracks.

NHS Freeways Safety Projects

This type project includes improvements to safety appurtenances on existing mainlanes and frontage roads of all freeways, including Interstate Highways. Work is limited to roadside safety, shoulder texturing, refurbishing existing signing and pavement markings, maintenance or replacement of existing impact attenuators, MBGF upgrade, installation, repair or replacement of longitudinal barrier. The roadway typical section is not changed. Design is in accordance with established department safety criteria and standards.

**Federal Highway Administration
Supplement to the Texas Division Office
Stewardship/Oversight Agreement for the
Oversight of the SH 161 Turnpike Project**

This oversight agreement serves as a supplement to the Texas Division Office Stewardship/Oversight Agreement for Design and Construction (effective October 13, 2006) with the Texas Department of Transportation (TxDOT). The stewardship and oversight agreement describes responsibilities for all phases of Federal-aid projects. The North Texas Tollway Authority (NTTA) turnpike project for the development, design, and construction of SH 161 has been identified as a full oversight project and has been assigned to a Federal Highway Administration (FHWA) Area Engineer and an Urban Programs Engineer.

This oversight agreement defines the relationship between the FHWA and TxDOT for the oversight of the SH 161 Turnpike Project. The SH 161 Turnpike Project will be developed using the Design-Build contracting procedures as described in 23 CFR 636, and will be the recipient of Federal and State monies. The NTTA has requested a \$436 million Transportation Infrastructure Finance and Innovation Act (TIFIA) loan for this project. The planned toll project is estimated to cost approximately \$1,427 million in total.

Federal actions to date for this project include a Record of Decision through the National Environmental Policy Act (NEPA) process, approval of the Reevaluation of the Environmental Impact Statement, review of preliminary design schematics, and the processing of the TIFIA letter of interest. See Attachment A for Federal oversight responsibilities that will require approvals and other actions.

FHWA Project Personnel and Resources for Oversight:

The FHWA Urban Programs and Area Engineers will provide oversight for this project. The Urban Programs Engineer will be responsible for all project actions and approvals related to the NEPA process and the procurement process. The Area Engineer will be responsible for all project actions and approvals for design and construction, with assistance from the Urban Programs Engineer. Division Office management and specialists will be consulted, per established Division Office procedures, for project reviews and technical assistance in order to provide expeditious reviews and approvals of project actions. Specialists include a pavement and material engineer, environmental specialists, financial specialists, bridge engineers, research and technology transfer engineer, and others as needed. Oversight will be conducted through project inspections and design reviews, task teams, and various other means.

Reporting Requirements:

The FHWA Area Engineer and the Urban Programs Engineer will be responsible for providing Division Office staff, the Headquarters TIFIA team, and the Headquarters Major Projects Team with periodic updates of the costs and schedules of the project. Briefings will also be provided to

assist various agencies with tracking information. TxDOT will ensure that monthly updates at a minimum are provided by NTTA (and other available information) with respect to project cost and scheduling to assist with this task.

Planning and Environment:

FHWA has ensured that the SH 161 Turnpike Project is included in a conforming Transportation Plan. FHWA has signed the Record of Decision for the Environmental Impact Statement, and has approved the Reevaluation of the Environmental Impact Statement. FHWA will continue to provide oversight of environmental responsibilities including possible reevaluations to the decision documents and implementation of mitigation plans in accordance with the Stewardship/Oversight Agreement, the FEIS, the Record of Decision, and provisions of the design-build contract. TxDOT will coordinate early in the process the need for reevaluations. Project mitigation and commitments will be closely monitored by TxDOT and FHWA.

Procurement:

FHWA has reviewed the Request for Qualifications (RFQ) issued for this project. The FHWA will review and approve the Request for Proposals (RFP) prior to it being issued for this project, and must concur in the award by the NTTA of a design-build contract. FHWA's prior concurrence with or approval of any subsequent major addenda to the RFP will be required. Concurrence in award will occur following the review of the design-build contract documents with all related submittals from the design-build team that is recommended. FHWA and TxDOT will review and if needed comment on proposer submittals. FHWA and TxDOT representatives will observe the procurement process.

Major Project and TIFIA Submittals:

SH 161 is considered a Major Project (as defined in section 1904(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub.L. 109-59, 119 Stat. 1144). Accordingly, prior to the execution of any proposed design-build contract, the NTTA and TxDOT shall obtain FHWA review and approval of the following elements (for further information see also: <http://www.fhwa.dot.gov/programadmin/mega/>):

- A Project Management Plan
- A Quality Management Plan, including the description of the QA/QC process proposed.
- A conceptual Financial Plan, recognizing that close of finance may occur post award.

Design:

FHWA will work with TxDOT and the NTTA in the implementation of the terms and conditions of the design-build contract. FHWA has reviewed the preliminary design schematic that went forward through public hearings and will continue to monitor, review, and approve all design schematics and Plans, Specifications, and Estimates as indicated in Attachment A in accordance with the design criteria established in the design-build contract and the Stewardship/Oversight

Agreement. Design exceptions shall require FHWA review, comment, and approval (if appropriate) prior to implementation.

Right of Way:

Right of Way activities will be accomplished in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, the Stewardship/Oversight Agreement and the requirements of the design-build contract. FHWA actions required are as described in Attachment A.

Construction:

FHWA will maintain, through our Area Engineer, on site construction oversight. This oversight will be by routine inspections throughout the life of the project, in accordance with the Stewardship/Oversight Agreement and the requirements of the design-build contract.

Laws and Standards:

Modification to technical requirements, documents, and provisions related to construction or design as a result of change orders, supplemental agreements, time extensions, claims, etc. shall be coordinated with FHWA by TxDOT and the NTTA prior to approval or final implementation.

Federal Requirements:

The requirements of Title 23, United States Code dealing with transportation planning, procurement of professional services, disadvantaged business enterprise, wage rates, advertising and award of bids, convict produced materials, Buy America provisions, and all other non procurement requirements of Title 23, United States Code apply to all Federal-aid projects. Deviations from these provisions will require a SEP 14.

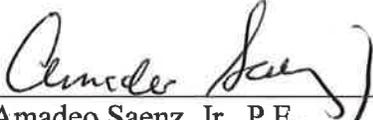
TxDOT District Responsibility:

The local TxDOT District will provide a full time TxDOT engineer who will be assigned to oversee the design and construction of the SH 161 Turnpike Project. The TxDOT engineer will accompany and assist FHWA in the exercise of reviews, inspections, work order administration and approval, and other contract administration functions. This will include any provisions in the design-build contract. TxDOT will approve designs, schematic, variances from the design-build contract, final acceptance of the project, and the Materials Certificate. TxDOT shall communicate to FHWA through monthly or quarterly reports summarizing activities/changes that have occurred in the project

TxDOT and the Texas Division enter into this agreement and agree to carry out their respective responsibilities in a true spirit of cooperation. Nothing in this plan is intended to preclude TxDOT from requesting assistance with respect to any portion of this project, regardless of the oversight status.

Approved by:

For TxDOT



Amadeo Saenz, Jr., P.E.
Executive Director, TxDOT

For FHWA



Janice W. Brown, P.E.
Division Administrator, FHWA

**Attachment A to the Supplement to the Texas Division Office
Stewardship/Oversight Agreement
For the Oversight of the SH 161 Turnpike Project**

Activities Requiring FHWA approval including, but not limited to:

- National Environmental Policy Act actions. Environmental Document review and approval, including re-evaluations and/or supplemental documents.
- The Request for Proposals document prior to its issuance, including any addenda that result in major changes to the Request for Proposals document.
- Concurrence in Award of the design-build contract.
- Variances to the executed design-build contract.
- Design and construction QC/QA Program and deviations there from.
- The Acceptance of Materials and Sampling and Testing Program.
- Design Schematics.
- Design Exceptions.
- Concurrence in Award for any additional contracts.
- Project Authorization for use of Federal funds for preliminary engineering and construction.
- Toll Agreement (Section 129(a))
- Construction Change Orders and Claims as per the CDA.
- Actions or approvals identified in the Texas Division Stewardship/Oversight Agreement not discussed herein.

FHWA will participate in the development of the processes and procedures for and will participate when possible in all:

- Reviews and evaluations of design-build contract proposals
- Informal over-the-shoulder reviews
- Design workshops
- Oversight visits
- Formal over-the-shoulder reviews
- Design & Construction QC/QA Program Reviews
- Corridor Structure Type Study and Report Submittals
- Preliminary Bridge Layouts
- Preliminary (30%) Design Submittals
- Intermediate (65%) Design Submittals
- Final (100%) Design Submittals
- Design Re-submittals
- “Accepted for Construction” Design Documents
- Proposed Design Changes

FHWA will attend the above meetings and complete the reviews listed above in accordance with the approved project schedules. In order to attend multiple, concurrent meetings and complete

multiple, concurrent design reviews, FHWA will allocate resources from the Division Office, Resource Center, or other means to assist the FHWA Area and Urban Programs Engineers. In the event that FHWA is not able to provide sufficient personnel resources to complete these tasks, then it is agreed that the Project will move forward with FHWA involvement in those activities to the extent practicable.

CONSTRUCTION SCHEDULE

Phase	Segment	Limits			Description	Number	Final Acceptance
1	1	IH20	to	SP303	Frontage Rds.	CSJ 2964-01-029	1/29/2009
1	2	SP303	to	N. of Dalworth	Frontage Rds.	CSJ 2964-01-030	5/13/2010
1	3	N. of Dalworth	to	Carrier Pkwy	Frontage Rds.	CSJ 1068-04-115	EST. June 2011
2/3	4	Carrier Pkwy	to	Conflans	Main Lanes and Frontage Rds.	CSJ 2964-01-031	9/23/2010
2	4	Carrier Pkwy	to	Conflans	Toll Gantry Steel Fabrication	02623-SH161-00-CN-PM	10/25/2009
2	4	Carrier Pkwy	to	Conflans	Toll Gantry Construction	02664-SH161-01-CN-PM	5/14/2010
3	4	Carrier Pkwy	to	Conflans	Toll Gantry Construction	02669-SH161-03-CN-PM	6/20/2011
4		IH20	to	Carrier Pkwy	Main Lanes & Direct Connectors	02622-SH161-00DB-PM	2/9/2013**
4					Railroad Crossings	02622-SH161-00DB-PM	2/9/2013

** The completion date for the low volume direct connectors at IH 30 for Phase 4 may be extended for a period of six months should NTTA and TxDOT agree to do so

Phases 1-3 of the Project have been completed.

Phase 4 of the Project is anticipated to be substantially complete by October 11, 2012 and finally complete by February 9, 2013.

EXHIBIT H

FORM OF OPINION OF COUNSEL TO THE BORROWER

[see attached]

April 28, 2011

Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

United States Department of Transportation
1200 New Jersey Avenue, SE
Washington DC, 20590

Ladies and Gentlemen:

We have represented the North Texas Tollway Authority (the "Authority") in connection with the execution and delivery of the Toll Equity Loan Agreement dated as of April 1, 2011 (the "Toll Equity Loan Agreement") between the Authority and the Texas Department of Transportation ("TxDOT") and the Secured Loan Agreement dated as of April 1, 2011 (the "TIFIA Loan Agreement") between the Authority and the United States Department of Transportation ("USDOT"). Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Trust Agreement (as defined below).

In connection with the foregoing, we have examined the following:

- a. Toll Equity Loan Agreement;
- b. Toll Equity Loan Note in the maximum principal amount of \$4,093,677,822.00 dated April 28, 2011 executed by the Authority and payable to TxDOT (the "Toll Equity Loan Note");
- c. TIFIA Loan Agreement;
- d. TIFIA Note in the maximum principal amount of \$_____ dated April 28, 2011 executed by the Authority and payable to USDOT (the "TIFIA Note");
- e. Direct Agreement dated as of April 1, 2011 among the Authority, TxDOT, USDOT and Wells Fargo Bank, National Association, as trustee under the Trust Agreement (as defined below);
- f. Compliance Agreement For Federal Funding Made Available Under The Provisions Of The American Recovery And Reinvestment Act Of 2009 Transportation Investments Generating Economic Recovery (Tiger) Discretionary Grant Program dated _____, 2011 between the Authority and USDOT;

- g. The Trust Agreement dated as of April 1, 2011 between the Authority and Wells Fargo Bank, N.A., as trustee, as supplemented by the First, Second and Third Supplements to Trust Agreement (collectively, the "Trust Agreement");
- h. Master Custodial Account Agreement dated as of April 1, 2011 between the Authority and Wells Fargo Bank, N.A., as custodian, as supplemented by a Joinder Agreement dated as of April 1, 2011;
- i. Design/Build Agreement (SH 161 Project) bearing contract No. 02622-SH161—00-DB-PM between the Authority and Prairie Link Constructors Joint Venture;
- j. Collateral Assignment of Design-Build Contract dated as of _____, 2011 made by the Authority in favor of TxDOT (the "Collateral Assignment");
- k. Resolution No. 10-36 of the Authority adopted on February 26, 2010 authorizing the execution and delivery of the Toll Equity Loan Agreement (the "TELA Resolution");
- l. Resolution No. 11-35A of the Authority, adopted on March 17, 2011 authorizing the execution and delivery of the Series 2011 BANs (the "BAN Resolution");
- m. Resolution No. 11-35B of the Authority, adopted on March 17, 2011 authorizing the execution and delivery of the Documents (as defined below) (together with the TELA Resolution and the BAN Resolution, the "Resolutions"); and
- n. Such other certificates, documents, instruments, papers and other matters as we have deemed necessary or appropriate as the basis for the opinions herein contained.

The documents listed in clauses a through j above are referred to collectively as the "Documents".

We have examined originals or copies, certified or otherwise identified to our satisfaction, of such documents, corporate records, certificates of public officials, and other instruments, and we have conducted such other investigation of fact and law as we have found necessary or advisable for the purpose of this opinion.

In rendering the opinions expressed below, we have assumed (a) the authenticity of all original documents and the conformity to original of all documents submitted to us as conformed copies or photocopies of original documents; (b) the genuineness of all signatures (other than the signatures of the officers of the Authority); (c) each person, other than the officers of the Authority, executing the Documents, whether individually or on behalf of an entity, is, or at the time of execution was, duly authorized to do so; (d) each natural person executing the Documents is, or at the time of execution was, legally competent and, other than the natural person executing the Documents on behalf of the Authority, has been validly authorized to do so; (e) each of the parties to the Documents, other than the Authority, has duly and validly

executed and delivered the Documents, and each of such other parties' obligations set forth in the Documents are its legal, valid and binding obligations, enforceable in accordance with their respective terms; (f) there has not been any mutual mistake of fact or misunderstanding, fraud, dishonesty, coercion, duress, undue influence or breach of fiduciary duty; and (g) that all the terms and conditions of, or relating to, the transactions contemplated by the Documents are completely embodied therein.

We have also made such further investigation of law and facts as we have deemed necessary or advisable for purposes of the opinions herein expressed.

Based upon the foregoing, and subject to the assumptions, exceptions, limitations and qualifications set forth herein, we are of the opinion that:

1. The Authority is a body corporate and politic and a political subdivision of the State of Texas operating under the general laws and Constitution of the State of Texas and has full power, right and authority to execute, deliver, and perform the Documents and to adopt the Resolutions.
2. The Resolutions have been duly adopted by the Board of Directors of the Authority (the "Board") and the execution, delivery, and performance of the Documents by the Authority have been duly authorized by all necessary action of the Authority.
3. Each of the Documents has been duly and properly executed and delivered by the Authority. Each of the Documents, other than the Toll Equity Loan Note and the TIFIA Note, is a valid and binding obligation of the Authority enforceable in accordance with its terms.
4. All authorizations, consents, approvals, licenses, permissions, and registrations, if any, of or with any person, including any governmental authority, required in connection with (a) the execution, delivery, and performance of the Documents by the Authority and (b) the adoption of the Resolutions by the Board have, in each case, been obtained.
5. To the best of our knowledge, the execution, delivery and performance of the Documents by the Authority will not result in a default under, a breach of, or the acceleration of (or entitle any party to accelerate) the maturity of any obligation of the Authority under, or result in or require the creation of any lien upon or security interest in any property of the Authority pursuant to the terms of (other than the liens and security interests granted under the Documents), any agreement or instrument binding upon the Authority.
6. There is no litigation or legal or administrative proceeding pending or, to the best of our knowledge, threatened against, or any outstanding judgment, order, writ, injunction, decree, or award affecting the Authority before any court, governmental authority, or arbitral body that (i) prohibits or affects, or if adversely determined might prohibit or affect, the ability or authority of the Authority to execute, deliver, or perform any of the Documents or (ii) challenges the legality, validity or enforceability of any Document.

7. To the best of our knowledge, the Authority is not in default with respect to any order, writ, injunction, or decree of any court or other governmental authority that would adversely affect the Authority's ability to execute, deliver, or perform any of the Documents.

Without limiting any other qualifications set forth herein, the opinions expressed herein are also subject to the following further qualifications: (a) the enforceability of the Documents is limited by, and the performance by the Authority of its obligations thereunder is subject to, (i) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or similar laws affecting creditors' rights or the collection of debtors' obligations generally; (ii) standards of commercial reasonableness and good faith; and (iii) principles of equity and judicial discretion (regardless of whether enforcement is considered at law or in equity); (b) the remedies of specific performance and injunctive relief are subject to certain equitable defenses and to the discretion of the court before which any proceedings may be brought; (c) rights to indemnification under the Documents may be limited under applicable laws and pursuant to public policy; (d) the Authority has not, pursuant to Section 1371.059(c), Texas Government Code, waived sovereign immunity to suit with respect to its obligations under the Documents; (e) certain of the remedial provisions in the Trust Agreement and Collateral Assignment may be further limited or rendered unenforceable by applicable law, but in our opinion such law does not make the remedies afforded by the Trust Agreement and the Collateral Assignment inadequate for the practical realization of the principal benefits intended to be provided; and (f) in connection with opinions expressed herein as being limited "to the best of our knowledge," "known to us" or similar terminology, such opinions are based on the current actual knowledge of the attorneys in this firm representing the Authority in connection with the Documents without any independent investigation beyond a review of (i) the representations by and certificates of the officers of the Authority made in the course of this transaction and attached hereto as Exhibit A, and (ii) the agreements, documents or instruments to which the Authority is a party or by which it is bound furnished to us.

We express no opinion with respect to the legality, validity, binding nature or enforceability of any provision of the Documents (i) purporting to release or exculpate any party from liability for the acts or omissions of such party proximately causing damages or injuries as the result of said party's negligence, gross negligence, recklessness or intentional or willful misconduct, or purporting to impose a duty upon any party to indemnify any other party when any claimed damages result from the negligence, gross negligence, recklessness or intentional or willful misconduct of the party seeking such indemnity or purporting to indemnify a party when such indemnification conflicts with considerations of public policy; (ii) purporting to establish choice of forum or evidentiary standards for suits or enforcement proceedings; (iii) relating to subrogation rights, delay or omission of enforcement of rights and remedies, or severability; (iv) purporting to give one party self-help remedies or rights of set off; (v) relating to waivers of rights or precluding any party from asserting claims or defenses or from obtaining certain rights or remedies; (vi) relating to appointment of receivers, attorneys-in-fact or other agents; (vii) purporting to provide that rights and remedies are not exclusive, that every right or remedy is cumulative and may be exercised in addition to any other right or remedy and that the election of a particular remedy does not preclude recourse to one or more others; (viii) purporting to create a power of attorney, proxy or agency relationship; (ix) relating to waivers of trial by jury or the statute of limitations; (x) purporting to establish what constitutes reasonable notice;

(xi) purporting to create a negotiable instrument when the statutory requirements therefore have not been satisfied; or (xii) prohibiting oral amendments to or waivers of the provisions of the Documents or limiting the effect of a course of dealing between the parties thereto.

We are licensed to practice in the State of Texas and the opinions set forth herein are limited to the laws of the State of Texas and applicable federal law.

We express no opinion as to the financial condition of the Authority.

We have assumed that each of TxDOT and USDOT will comply at all times with the terms and provisions of the Documents to which it is a party, including the provisions purporting to limit interest contracted for, charged, or received to a maximum amount.

The opinions expressed herein are as of the date hereof, and we do not assume or undertake any responsibility or obligation to supplement such opinions to reflect any facts or circumstances that may hereafter come to our attention or to reflect any changes in the law that may occur after the date hereof.

This opinion is being delivered solely for the benefit of the addressees and may not be relied on by any person other than such addressees, or used for any purpose unrelated to the transactions contemplated by the Documents without our prior written consent. This opinion is limited to the matters stated herein and no opinion is to be implied or may be inferred beyond the matters expressly stated.

Very truly yours,

Locke Lord Bissell & Liddell LLP

By: _____
Kevin L. Twining

EXHIBIT A

OFFICER'S CERTIFICATE

The undersigned Allen Clemson, Executive Director of the North Texas Tollway Authority (the "Authority"), hereby certifies as follows to Locke Lord Bissell & Liddell LLP in connection with the delivery of its opinion dated April 28, 2011 (the "LLBL Opinion") to the Texas Department of Transportation and the United States Department of Transportation. The undersigned acknowledges that Locke Lord Bissell & Liddell LLP intends to rely on this Certificate in rendering the LLBL Opinion. Capitalized terms not otherwise defined herein shall have the meanings set forth in the LLBL Opinion.

1. All authorizations, consents, approvals, licenses, permissions, and registrations, if any, of or with any person, including any governmental authority, required in connection with (a) the execution, delivery, and performance of the Documents by the Authority and (b) the adoption of the Resolutions by the Board have, in each case, been obtained.

2. There is no litigation or legal or administrative proceeding pending or, to the best of my knowledge, threatened against, or any outstanding judgment, order, writ, injunction, decree, or award affecting the Authority before any court, governmental authority, or arbitral body that (i) prohibits or affects, or if adversely determined might prohibit or affect, the ability or authority of the Authority to execute, deliver, or perform any of the Documents or (ii) challenges the legality, validity or enforceability of any Document.

3. The execution, delivery and performance of the Documents by the Authority will not result in a default under, a breach of, or the acceleration of (or entitle any party to accelerate) the maturity of any obligation of the Authority under, or result in or require the creation of any lien upon or security interest in any property of the Authority pursuant to the terms of (other than the liens and security interests granted under the Documents), any agreement or instrument binding upon the Authority.

4. The Authority is not in default with respect to any order, writ, injunction, or decree of any court or other governmental authority that would adversely affect the Authority's ability to execute, deliver, or perform any of the Documents.

EXECUTED AND DELIVERED this April 28, 2011.

Allen Clemson
Executive Director

EXHIBIT I

**FORM OF OPINION OF GENERAL COUNSEL TO THE TEXAS TRANSPORTATION
COMMISSION ON BEHALF OF TxDOT**

[see attached]

April [28], 2011

US Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Ladies and Gentlemen:

I am the duly appointed general counsel for the Texas Transportation Commission (the “Commission”), the governing body of the Texas Department of Transportation (the “Department”), and have acted in that capacity in connection with matters relating to the authorization by the Commission of the Toll Equity Loan Agreement dated as of April 1, 2011 (the “TELA”), between the Department and the North Texas Tollway Authority (“NTTA”), and the Direct Agreement dated as of April 1, 2011 (the “Direct Agreement”) among the Department, NTTA, the United States Department of Transportation and Wells Fargo Bank, National Association, as trustee.

In connection with the foregoing, I have examined the following:

- (a) The TELA.
- (b) The Direct Agreement.
- (c) Commission Minute Order numbered 112141 adopted February 24, 2010 (the “TELA Minute Order”).
- (d) Commission Minute Order numbered 112436 adopted September 30, 2010, as supplemented by Commission Minute Order numbered 112655 adopted April 12, 2011 (the “Direct Agreement Minute Orders,” and collectively with the TELA Minute Order, the “Authorizing Minute Orders”).
- (e) The opinion of the Attorney General of Texas relating to the TELA.
- (f) Such other certificates, documents, instruments, papers, and other matters as I have deemed necessary or appropriate as the basis for the opinions herein contained.

Based on my examination of the foregoing, my investigation of such matters of law as I have deemed necessary or appropriate, but subject to the qualifications hereinafter set forth, I am of the opinion that:

(i) The Department is duly organized and validly existing as an agency of the State of Texas.

(ii) The Authorizing Minute Orders have been duly adopted and are in full force and effect. The TELA and the Direct Agreement (collectively, the “Department Documents”) have been duly authorized by the Commission and executed and delivered by the Department.

(iii) The Department has full power, right and authority to execute, deliver and perform the TELA and the Direct Agreement.

(iv) The execution and delivery by the Department of the Department Documents, and compliance by the Department with the provisions thereof under the circumstances contemplated thereby, do not at the time of execution, to the best of my knowledge, (a) conflict with or constitute on the part of the Department a breach of or a default under any agreement or instrument to which the Department is a party or by which it is lawfully bound or (b) conflict with or constitute on the part of the Department a violation or contravention of any existing law, rule or regulation, court order, or consent decree binding upon the Department. The execution and delivery by the Department of the Department Documents, and compliance by the Department with the provisions thereof under the circumstances contemplated thereby, do not at the time of execution, require any consents, approvals, authorizations, registrations or declarations (other than such consents, approvals, authorizations, registrations or declarations as have already been obtained) under any agreement to which the Department is a party or, to the best of my knowledge, under any existing law binding on the Department. The opinion in clause (b) of the first sentence in this paragraph (iv) relates only to statutes, rules and regulations that this office, in the exercise of customary professional diligence, would reasonably recognize as being applicable to the Department with respect to the transactions contemplated under the Department Documents.

(v) There is no action, suit, proceeding, or investigation at law or in equity pending before or by any court, public board, or public body of which the Commission or the Department has notice, and to my knowledge after due and reasonable inquiry, no such action, suit, proceeding, or investigation at law or in equity before or by any court, public board, or public body is otherwise pending or threatened, against or affecting the Commission or the Department, wherein an unfavorable decision, ruling, or finding would affect the validity or enforceability of the Department Documents.

The foregoing opinions are based on and limited to the law of the State of Texas, and I render no opinion with respect to the law of any other jurisdiction.

This opinion is furnished solely to you and may not be relied upon or described or quoted from by any other person, firm, or entity without, in each instance, my prior written consent, except that this opinion may be included with a listing of the other documents delivered at the closing of this transaction.

Sincerely,

Bob Jackson
General Counsel

FORM OF OPINION OF SPECIAL COUNSEL TO TxDOT

[see attached]

[DATE OF FINANCIAL CLOSE]

[ADDRESSEE(S)]

re: Direct Agreement dated as of _____, 2011, made by and among Texas Department of Transportation, North Texas Tollway Authority, United States Department of Transportation, acting by and through the Federal Highway Administrator, and Wells Fargo Bank, National Association; Toll Equity Loan Agreement, dated as of _____, 2011, between the Texas Transportation Commission acting through the Texas Department of Transportation and the North Texas Tollway Authority.

Ladies and Gentlemen,

We have acted as special counsel to the Texas Department of Transportation, an agency of the State of Texas ("TxDOT"), in connection with that certain Direct Agreement dated as of _____, 2011, (the "Direct Agreement") made by and among TxDOT, North Texas Tollway Authority ("NTTA"), United States Department of Transportation, acting by and through the Federal Highway Administrator ("USDOT"), and Wells Fargo Bank, National Association, as trustee ("Trustee"), and in connection with that certain Toll Equity Loan Agreement, dated as of _____, 2011 (the "TELA"), between TxDOT and the NTTA. This opinion is being provided to you pursuant to Section 7.01 of the TELA and Section 13(b) of the Loan Agreement dated as of ___ between NTTA and USDOT.

In rendering the opinions set forth herein, we have examined and relied on originals or copies, certified or otherwise identified to our satisfaction, of the executed counterparts of the following documents and such other documents, certificates and opinions as we have deemed necessary or appropriate as a basis for such opinions:

- (a) Direct Agreement;
- (b) TELA ;
- (c) An opinion of the General Counsel for the Texas Transportation Commission dated as of the date hereof;
- (d) Opinions of McCall, Parkhurst & Horton, LLP, and Mahomes Bolden & Warren PC, co-bond counsel, dated as of the date hereof;

- (e) An opinion of Locke Lord Bissell & Liddell LLP, as counsel to NTTA, dated of the date hereof;
- (f) An opinion of Haynes & Boone, LLP, as counsel to the Trustee, dated as of the date hereof;
- (g) An opinion of the Attorney General of the State of Texas, dated as of April 11, 2011; and,
- (h) A certificate of TxDOT dated as of the date hereof.

The documents listed in (a) and (b) above are hereinafter referred to as the “Opinion Documents.”

In our examination, we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified or photostatic copies, and the authenticity of the originals of such copies. We have also examined such certificates of public officials and employees of TxDOT, and the originals (or copies thereof, certified to our satisfaction) of such documents and records of TxDOT and such other documents, records and information as we have deemed relevant in order to give the opinions hereinafter set forth. We have also relied, without independent investigation or verification of any kind, on the representations and warranties of the parties contained in each of the Opinion Documents (each such party to an Opinion Document being, individually, a “Transaction Party”) and in the certificates delivered pursuant to the terms thereof with respect to the accuracy of factual matters contained therein (which were not independently established by us), all of which certificates are listed above.

We have also assumed that:

- (i) Each Transaction Party has been duly organized and is validly existing in good standing under the laws of its jurisdiction of incorporation or organization and has the power and authority (corporate, partnership and other) to execute, deliver and perform its obligations under the Opinion Documents to which it is a party;
- (ii) Each Opinion Document has been duly authorized, executed and delivered by each Transaction Party that is a party thereto;
- (iii) Except in respect of TxDOT, each Opinion Document constitutes the valid and legally binding obligation of each Transaction Party that is a party thereto, enforceable against such Transaction Party in accordance with its terms;
- (iv) The execution, delivery and performance by each Transaction Party of each Opinion Document to which it is a party does not violate, contravene or conflict with (a) the certificate or articles of incorporation and by-laws or similar organizational and internal governance documents of such Transaction Party; (b) any agreement (other than the Opinion Documents solely in respect of TxDOT) to which it is a party or by which its properties or assets are bound; (c) any judgment, injunction, order or decree that is binding upon such Transaction

Party or its properties or assets; or (d) the provisions of all laws and governmental rules and regulations that may be applicable to such Transaction Party;

(v) All of the representations and warranties with respect to factual matters made by each such Transaction Party in any Opinion Document were true and correct as and when made or deemed made or repeated;

(vi) All relevant and necessary consents required by or from any Transaction Party in connection with any of the Opinion Documents have, as a factual matter, been obtained;

(vii) In respect of the Opinion Documents, value has been given;

(viii) The Project Agreement, as amended, dated ____ between TxDOT and NTTA is valid, binding and enforceable against TxDOT and the NTTA in accordance with its terms;

(ix) The Trust Agreement, dated ____ between NTTA and Wells Fargo Bank, National Association, is valid, binding and enforceable against TxDOT and the NTTA in accordance with its terms;

(x) The legal opinions listed above are correct; and

(xi) To the extent the opinions herein are based on currently effective statutes, we have assumed that such statutes were validly enacted and are constitutional.

Based upon and subject to the foregoing, and subject to the assumptions, exceptions and qualifications herein stated, we are of the opinion that:

1. The Direct Agreement constitutes the legal, valid and binding obligation of TxDOT, enforceable against TxDOT in accordance with its terms.

2. The TELA constitutes the legal, valid and binding obligation of TxDOT, enforceable against TxDOT in accordance with its terms.

The opinions contained herein are subject to the following additional limitations, qualifications, exceptions and assumptions:

(a) The foregoing opinions are based on and limited to the laws of the State of Texas (except as set forth in paragraph (f) below), and we render no opinion with respect to the law of any other jurisdiction.

(b) The validity, binding effect, and enforceability of the Opinion Documents may be limited by applicable bankruptcy, insolvency, reorganization, receivership, moratorium, liquidation, conservatorship, fraudulent conveyance, or other similar statutes, regulations or laws affecting creditor's rights and remedies generally.

(c) The enforceability of TxDOT's obligations under the Opinion Documents may be limited by (i) the application of Chapter 43 of the Texas Civil Practice and Remedies Code; and (ii) exercise by governmental authorities of rights of eminent domain.

(d) The enforceability of TxDOT's obligations under the Opinion Documents may be limited by the effects of generally applicable rules of law that: (i) limit or affect the enforcement of provisions of a contract that purport to (A) require waiver of the obligations of diligence and reasonableness, (B) impose limitations or restrictions on assignment or transfer of rights, interests or property, (C) impose limitations or restrictions, or waiver of, legal or equitable rights or remedies, or (D) restrict access to courts or affecting the jurisdiction or venue of courts; (ii) provide that forum selection clauses in contracts are not necessarily binding on the court(s) in the forum selected or in which suit is filed; (iii) limit the availability of a remedy under certain circumstances where another remedy has been elected; (iv) limit the enforceability of provisions releasing, exculpating or exempting any person from, or requiring indemnification of any person for, strict liability or liability for its own action or inaction; (v) may, where less than all of a contract is enforceable, limit the enforceability of the balance of the contract to circumstances in which the unenforceable portion is not an essential part of the agreed exchange; (vi) govern and afford judicial discretion regarding the determination of damages and entitlement to attorneys' fees and other costs; (vii) may permit a party who has materially failed to render or offer performance required by contract to cure that failure unless (A) permitting a cure would unreasonably hinder the aggrieved party from making substitute arrangements for performance or (B) it was important in the circumstances to the aggrieved party that performance occur by the date stated in such contract; (viii) limit or affect the enforceability of provisions for damages and "penalties"; or (ix) require mutuality of parties' obligations.

(e) We express no opinion with respect to the validity or enforceability of provisions of the Opinion Documents which (i) constitute or relate to (A) the rights or obligations of third parties, (B) evidentiary standards, (C) waiver of rights to notice or the obligations of good faith, fair dealing, diligence or reasonableness, (D) self-help, subrogation, delay or omission to enforce rights or remedies, contribution or severability, (E) the availability of specific performance, injunctive relief, mandamus, receivership or any other equitable right or remedy (regardless of whether such question is considered in a proceeding in equity or at law), (F) agreements to agree, (G) liability of any person for payment of any amount payable under the Opinion Documents to the extent such amounts (1) allow the recipient of any such payment to recover more than the "benefit of its bargain" or (2) exceed the amount of the actual damages of the recipient of any such payment; (ii) render inapplicable any otherwise applicable law (other than those laws which by their terms may be rendered inapplicable); or (iii) release, exculpate or exempt a party from, or require indemnification of a party for, liability for its own action or inaction, to the extent that (A) such provisions are inconsistent with public policy or are otherwise prohibited by applicable federal or state laws, or (B) such action or inaction involves strict liability, gross negligence, recklessness, willful misconduct, unlawful conduct, fraud or illegality.

(f) We express no opinion as to: (1) federal or state securities laws or regulations; (2) the Texas Administrative Code, the Texas UCC and similar laws; (3) federal or state banking, insurance or tax laws or regulations; (4) federal or state laws, regulations or policies relating to national or local emergencies; (5) statutes, ordinances, administrative decisions, rules or regulations applicable to NTTA or minute actions, administrative decisions, rules or regulations applicable to TxDOT (whether created or enabled through legislative action at the Federal, state or regional level); (6) any other laws to the extent not customarily applicable to transactions of the type contemplated by the Opinion Documents or (7) judicial decisions to the extent that they deal with any of the foregoing clauses (1) through (6).

(g) We express no opinion as to, and assume no responsibility for, the effect of any fact or circumstance occurring subsequent to the date of this letter, including, without limitation, legislative and other changes in the law or changes in circumstances affecting any Transaction Party. We assume no responsibility to advise you of any such facts or circumstances of which we become aware, regardless of whether or not they affect the opinions herein.

(h) We express no opinion as to (1) the availability of funds to honor draws under the TELA or (2) any provisions of the Opinion Documents providing for forfeitures or the recovery of, or securing, amounts deemed to constitute penalties, or in the nature of liquidated damages or late charges.

(i) We express no opinion as to the effect on the opinions set forth herein of any failure by any Transaction Party to comply with laws and regulations pertaining to the Trustee, if applicable, or other laws or regulations applicable to any Transaction Party by reason of such party's status or the nature of its business or assets, other than TxDOT.

We have been engaged to represent TxDOT for the purpose of rendering the opinions expressed in this letter, but we caution you that we are not the sole counsel to TxDOT. TxDOT has in the past used, and to our knowledge continues to use, other law firms to represent them in connection with other matters, including without limitation, litigation, securities and regulatory matters. No inference with regard to other matters should be drawn from our representation of TxDOT for the purpose of rendering the opinions expressed in this letter.

We advise you that this is the first time TxDOT has entered into the transactions contemplated by the Opinion Documents. To our knowledge, no Texas court has reviewed the validity of the statutes under which TxDOT is undertaking the transaction contemplated by the Opinion Documents in a published decision or otherwise, and therefore, our opinions are limited by any subsequent judicial interpretation thereof.

This opinion is delivered to you solely in connection with the transactions described herein and may not be relied upon by you for any other purpose and may not be used or relied upon by, or published or communicated to, any person other than the addressee hereof for any purpose whatsoever without our prior written consent.

Very truly yours,

Nossaman LLP

CDR/

FORM OF OPINION OF BOND COUNSEL TO THE BORROWER

[see attached]

April ____, 2011

Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

United States Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: \$_____ Toll Equity Loan Note and \$_____ TIFIA Note

Ladies and Gentlemen:

We have acted as counsel to the North Texas Tollway Authority (the "*Authority*"), a body politic and corporate and a political subdivision of the State of Texas in connection with the execution and delivery of the Toll Equity Loan Agreement dated as of _____, 2011 (the "*Toll Equity Loan Agreement*") between the Authority and the Texas Department of Transportation ("*TxDOT*") and the Secured Loan Agreement dated as of _____, 2011 (the "*TIFIA Loan Agreement*") between the Authority and the United States Department of Transportation ("*USDOT*"). Pursuant to the terms of the Toll Equity Loan Agreement, the Authority has executed and delivered a promissory note dated _____, 2011 (the "*Toll Equity Loan Note*") in the aggregate principal amount of \$_____ to TxDOT. Pursuant to the terms of the TIFIA Loan Agreement, the Authority has executed and delivered a promissory note dated _____, 2011 (the "*TIFIA Note*" and, together with the Toll Equity Loan Note, the "*Notes*") in the aggregate principal amount of \$_____ to USDOT. Capitalized terms used in this opinion and not otherwise defined herein shall have the meaning given in the Trust Agreement dated as of _____, 2011 between the Authority and Wells Fargo Bank, N.A., as trustee, as supplemented by a First through Third Supplemental Agreement (collectively, the "*Trust Agreement*").

In connection with this opinion, we have examined executed copies of the Toll Equity Loan Agreement, the TIFIA Loan Agreement, the Toll Equity Loan Note, the TIFIA Note, the Trust Agreement, Resolution No. 11-35B of the Authority adopted on March 17, 2011 authorizing the execution and delivery of the Toll Equity Loan Agreement and the TIFIA Loan Agreement (the "*Resolution*") and such documents and records of the Authority, certificates of public officials and officers of the Authority, and such other documents as we have deemed necessary or appropriate for the purposes of this opinion.

Based upon the foregoing, we are of the opinion that:

1. The Authority is a body politic and corporate and a political subdivision of the State of Texas duly organized and validly existing under the laws of the State of Texas.

2. The Authority has taken all necessary action required to be taken to ensure that the Toll Equity Loan Agreement complies in all respects with Chapter 366, Texas Transportation Code, as amended, and Chapter 1371, Texas Government Code, as amended (the "*Acts*") and the Resolution.

3. The Authority has taken all necessary action required to be taken to ensure that the TIFIA Loan Agreement complies in all respects with the Acts and the Resolution.

4. Except with respect to interlocal agreements to which the Authority is a party and as to which we express no opinion, no consent, authorization, license, or approval of, or registration or declaration with, any governmental authority is required in connection with the execution, delivery, and performance by the Authority of the Toll Equity Loan Agreement, the TIFIA Loan Agreement or the Notes, other than, with respect to the Toll Equity Loan Agreement and the TIFIA Loan Agreement, approval by the Attorney General of the State of Texas prior to the delivery thereof as required by Texas law.

5. The payment obligations of the Authority under the TIFIA Loan Agreement constitute "Second Tier Obligations" under the Trust Agreement and the TIFIA Note constitutes a "Second Tier Debt Obligation" under the Trust Agreement. The payment obligations of the Authority under the TIFIA Loan Agreement and the obligations of the Authority under the TIFIA Note are special, limited obligations of the Authority and constitute valid and legally binding obligations enforceable against the Authority in accordance with their terms, and payable solely from, and secured by a lien on and pledge of, the Trust Estate established pursuant to the Trust Agreement, and are payable in accordance with the priorities established in the Trust Agreement from the sources provided therein. To the extent provided in Section 215 of the Trust Agreement, upon the occurrence and during the continuance of a Bankruptcy Related Event, the TIFIA Note would automatically become, and be of equal rank and in parity with, the First Tier Obligations and the holder thereof would be entitled to all rights of an Owner of First Tier Obligations.

6. The payment obligations of the Authority under the Toll Equity Loan Agreement constitute "Third Tier Payment Obligations" under the Trust Agreement and the TELA Note constitutes a "Third Tier Debt Obligation" under the Trust Agreement. The payment obligations of the Authority under the Toll Equity Loan Agreement and the obligations of the Authority under the Toll Equity Loan Note are special, limited obligations of the Authority and constitute valid and legally binding obligations of the Authority, enforceable against the Authority in accordance with their terms, and payable solely from, and secured by a lien on and pledge of, the Trust Estate established pursuant to the Trust Agreement, and are payable in accordance with the priorities established in the Trust Agreement from the sources provided therein.

7. Chapter 1208, Texas Government Code ("*Chapter 1208*"), provides that a security interest established by an issuer that secures payment or performance of public securities or credit agreements, such as the lien on, pledge of and security interest in the "Trust Estate" granted by the Authority in the Trust Agreement, is valid and effective and that such security interest will remain continuously perfected without the need for any filings or further action by such an issuer until the security interest terminates according to its terms. Tex. Gov. Code §1208.002. Therefore, since Chapter 1208 applies to the issuance or incurrence of the Obligations and the lien on, pledge of and security interest in the "Trust Estate," such security interest is valid, effective and perfected and will remain so without the need of further action by the Authority until the lien on, pledge of and security interest in the "Trust Estate" terminates according to the terms of the Trust Agreement.

Our opinions in paragraphs 5 and 6 above are subject to the following qualifications: (a) the enforceability of the TIFIA Loan Agreement, the Toll Equity Loan Agreement and the Notes is limited by, and the performance by the Authority of its obligations thereunder, is subject to, applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law) and (b) the Authority has not, pursuant to Section 1371.059(c), Texas Government Code, waived sovereign immunity to suit with respect to its obligations under the TIFIA Loan Agreement, the Toll Equity Loan Agreement or the Notes.

Additionally, we are members of the Bar of the State of Texas and render no opinion on the laws of any jurisdiction other than the laws of the State of Texas and the federal laws of the United States of America.

Our opinions are limited to the present laws and to the facts as they presently exist. We assume no obligation to revise or supplement this opinion should the present laws of the jurisdictions referred to above be changed by legislative action, judicial decision, or otherwise.

Very truly yours,

TIGER GRANT AGREEMENT

[see attached]

**UNITED STATES OF AMERICA
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, DC 20590**

**COMPLIANCE AGREEMENT FOR FEDERAL FUNDING MADE AVAILABLE
UNDER THE PROVISIONS OF THE
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
TRANSPORTATION INVESTMENTS GENERATING ECONOMIC
RECOVERY (TIGER) DISCRETIONARY GRANT PROGRAM**

RECIPIENT: NORTH TEXAS TOLLWAY AUTHORITY

PROJECT: TEXAS STATE HIGHWAY 161

EXHIBIT TO SECURED LOAN AGREEMENT (TIFIA NO. 2009-1001A)

FHWA TIGER AGREEMENT NO. 33

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Compliance Agreement

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**COMPLIANCE AGREEMENT BETWEEN THE
U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY
ADMINISTRATION AND THE NORTH TEXAS TOLLWAY AUTHORITY, UNDER
THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009,
SUPPLEMENTAL DISCRETIONARY GRANTS FOR A NATIONAL SURFACE
TRANSPORTATION SYSTEM,
HEREINAFTER REFERRED TO AS THE
“TIGER DISCRETIONARY GRANT PROGRAM”**

WHEREAS, the Recipient, the North Texas Tollway Authority, hereinafter referred to as “NTTA” or “Recipient,” has applied for a Federal loan under the Transportation Infrastructure Finance and Innovation Act of 1998 (“TIFIA”), 23 U.S.C. § 601, *et seq.* (the “TIFIA Loan”) to cover up to one-third of the costs to acquire, develop and construct a continuous express lane facility within the State Highway 161 corridor extending from State Highway 183 to Interstate Highway 20 along the western boundary of Dallas County, Texas, a total length of approximately eleven and one-half (11.5) miles (hereinafter referred to as the “Project”);

WHEREAS, the Recipient has been approved to receive a TIFIA Loan in the amount of Four Hundred Eighteen Million, Four Hundred Five Thousand Dollars (\$418,405,000), to assist in completion of the Project and will enter into a Secured Loan Agreement which will require a total payment by NTTA of Nine Million, Seventy Six Thousand, Four Hundred Twenty Nine Dollars (\$9,076,429) for the subsidy costs, under the Federal Credit Reform Act of 1990, and for the administrative costs, associated with making the loan;

WHEREAS, Recipient has sought funds authorized under the TIGER Discretionary Grant Program (TIGER Program), a program enacted under the provisions of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (hereinafter referred to as the “Recovery Act” or “ARRA”), to pay the subsidy and administrative costs associated with securing the TIFIA Loan;

WHEREAS, the U.S. Department of Transportation, (referred to as the “DOT” or “Government”), acting for the United States, received and reviewed over 1,400 applications for grants under the TIGER Discretionary Grant Program;

WHEREAS, DOT selected 51 projects to receive TIGER Discretionary Grants, one of which was for a TIGER TIFIA Payment as defined in Section I hereof, because of the benefits that these projects are expected to provide; and

WHEREAS, the Project was selected to receive assistance under the TIGER Discretionary Grant Program to pay the subsidy and administrative costs associated with receiving a TIFIA Loan because it will improve the transportation network and mobility in the area and region;

THEREFORE, DOT hereby agrees to allocate funding under the TIGER Discretionary Grant Program to pay for the subsidy and administrative costs of the TIFIA Loan, as described above, in the total amount of Nine Million, Seventy Six Thousand, Four Hundred Twenty Nine Dollars (\$9,076,429), as it is administered by the Federal Highway Administration (“FHWA” or also referred to as the “Government”), to assist in the Recipient’s efforts to construct the Project, in

accordance with the terms and conditions of this Compliance Agreement (hereinafter referred to as "Compliance Agreement"), which will be an exhibit to and an essential part of the Secured Loan Agreement for the TIFIA Loan. The execution and delivery of this Compliance Agreement will be a condition precedent to the effectiveness of the Secured Loan Agreement.

SECTION 1. LEGISLATIVE AUTHORITY

Title XII of the Recovery Act provides that "...the Secretary of Transportation shall distribute funds provided...as discretionary grants to be awarded to State and local governments or transit agencies on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region." The Recovery Act also provides that "...projects eligible for funding provided under this heading shall include, but not be limited to, highway or bridge projects eligible under title 23, United States Code, including interstate rehabilitation, improvements to the rural collector road system, the reconstruction of overpasses and interchanges, bridge replacements, seismic retrofit projects for bridges, and road realignments; public transportation projects eligible under chapter 53 of title 49, United States Code, including investments in projects participating in the New Starts or Small Starts programs that will expedite the completion of those projects and their entry into revenue service; passenger and freight rail transportation projects; and port infrastructure investments, including projects that connect ports to other modes of transportation and improve the efficiency of freight movement."

Further, the Recovery Act provides that the authority to award a grant under the TIGER Discretionary Grant Program and perform oversight may be transferred from the Secretary of Transportation to the Administrators of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration and the Maritime Administration.

Finally, the Recovery Act allows for Recipients to obtain funding under the TIGER Discretionary Grant Program to pay the subsidy and administrative costs of a TIFIA loan, if it would further the purposes of the TIGER Discretionary Grant Program. The Government is referring to these payments as "TIGER TIFIA Payment."

SECTION 2. GENERAL TERMS AND CONDITIONS

- a) The maximum obligation of the Government payable under this Compliance Agreement for a TIGER TIFIA Payment to pay for the subsidy and administrative costs associated with the TIFIA Loan, shall be Nine Million, Seventy Six Thousand, Four Hundred Twenty Nine Dollars (\$9,076,429), (referred to as the "TIGER TIFIA Payment") subject to all the terms and conditions in this Compliance Agreement.
- b) Payment of the TIGER TIFIA Payment will be made pursuant to and in accordance with the provisions of the Secured Loan Agreement and the provisions of such regulations and procedures as the Government may prescribe.
- c) The Recipient agrees to carry out and complete the Project without undue delays and in accordance with the terms hereof, including the Project Schedule attached as Attachment E, and such regulations and procedures as the Government may prescribe.

- d) The Recipient has submitted a request for a TIGER TIFIA Payment, hereinafter referred to as the “Technical Application,” attached as Attachment F, and the Government is relying upon the Recipient’s assurances, certifications, and other representations made in the Technical Application, or any other related documents submitted to the Government; and, in its submissions, the Recipient has demonstrated justification for the Project, and has demonstrated the financial and technical feasibility of the Project, and to receive all necessary environmental, state and local planning, and legislative approvals necessary for the Project to proceed in accordance with the Project Schedule (Attachment E).
- e) The Government has determined that the Project should receive a TIGER TIFIA Payment to assist in payment of the TIFIA Loan’s subsidy and administrative costs based on a review of the Project’s potential to rapidly create jobs and economic activity; to provide lasting, long-term economic benefits for the transportation system; and to provide other outcomes, as specified in the June 17, 2009, Federal Register Notice, “Notice of Funding Availability for Supplemental Discretionary Grants for Capital Investments in Surface Transportation Infrastructure Under the American Recovery and Reinvestment Act” (Docket No. OST-2009-0115).
- f) The Recipient will be monitored periodically by the Government, both programmatically and financially, to ensure that the Project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of office-based reviews and onsite monitoring visits. Monitoring will involve the review and analysis of the financial, programmatic, performance and administrative issues relative to each program and will identify areas where technical assistance and other support may be needed. The Recipient is responsible for monitoring award activities, to include sub-awards, to provide reasonable assurance that the Federal award is administered in compliance with applicable requirements. Responsibilities include the accounting of receipts and expenditures, cash management, maintaining adequate financial records, and refunding disallowed expenditures.
- g) The Recipient agrees to take all steps, including initiating litigation, if necessary, to recover Federal funds if the Government determines, after consultation with the Recipient, that such funds have been spent fraudulently, wastefully, or in violation of Federal laws, or misused in any manner in undertaking the Project.
- h) The Recipient agrees to retain all documents relevant to the TIGER TIFIA Payment for a period of three years from completion of the Project and payment of the TIGER TIFIA Payment. The Recipient agrees to furnish the Government, upon request, all documents and records pertaining to the determination of the TIGER TIFIA Payment amount or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Recipient, in court or otherwise, involving the recovery of such amount shall be approved in advance by the Government.
- i) The Government is subject to the Freedom of Information Act (FOIA). The Recipient should therefore be aware that all applications and related materials submitted by the Recipient

related to this Compliance Agreement will become agency records and thus are subject to FOIA and to public release through individual FOIA requests. ARRA also mandates broad public dissemination of information related to the expenditure of funds through reporting requirements and website postings that are addressed in other sections of this Compliance Agreement. President Obama's March 20, 2009 Memorandum for the Heads of Executive Departments and Agencies on Ensuring Responsible Spending of Recovery Act Funds mandates the strongest possible efforts to ensure public transparency and accountability of Recovery Act expenditures.

- j) The Government shall not be responsible or liable for any damage to property or any injury to persons that may arise from, or be incident to, performance or compliance with this Compliance Agreement.
- k) The Recipient agrees to: (1) promote the creation of job opportunities for low-income workers through the use of best practice hiring programs and utilization of apprenticeship (including pre-apprenticeship) programs; (2) provide maximum practicable opportunities for small businesses, including veteran-owned small businesses and service disabled veteran-owned small businesses; (3) make effective use of community based organizations in connecting low income or unemployed workers with economic opportunities; (4) give priority consideration to doing business under the grant with firms that have a sound track record on labor practices and compliance with Federal laws ensuring that American workers are safe and treated fairly; and (5) implement best practices, consistent with our nation's civil rights and equal opportunity laws, for ensuring that all individuals — regardless of race, gender, age, disability, and national origin — benefit from the Recovery Act.

An example of a best practice under (5) would be to incorporate key elements of the Department's disadvantaged business enterprise (DBE) program (see 49 C.F.R. Part 26) in contracts under the grant. This practice would involve setting a DBE contract goal on contracts under the grant that have subcontracting possibilities. The goal would reflect the amount of DBE participation on the contract that the Recipient would expect to obtain absent the effects of discrimination and consistent with the availability of certified DBE firms to perform work under the contract. When a DBE contract goal has been established by a Recipient, the contract would be awarded only to a bidder/offeror who has met or made documented, good faith efforts to reach the goal. Good faith efforts are defined as "efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement."

Recipients must provide the Government a plan for incorporating the above best practice into its implementation of the grant within 30 days following execution of this Compliance Agreement.

If the Recipient is not able to substantially incorporate Part 26 elements in accordance with the above-described best practice, the recipient agrees to provide the DOT with a written explanation and an alternative program for ensuring the nondiscriminatory use of contractors owned and controlled by socially and economically disadvantaged individuals.

- l) Subject to the Paperwork Reduction Act, as necessary, the Recipient agrees to:
 - 1) collect the data necessary to track and report on each of the performance measures identified in the Performance Measures Table to be included as Attachment H of this Compliance Agreement – Attachment H shall be developed and finalized within 60 days of the execution of this Compliance Agreement;
 - 2) report the results of such data collection to the Government; and
 - 3) Recipient should include the data collected for each measure in each required report. To satisfy the reporting requirements, Recipient agrees to provide “Before” and “After” reports. Before reports should include current baseline data for each performance measure and should be delivered to the Government before project completion. Before reports should also include a detailed description of data sources, assumptions, variability and the estimated level of precision for each measure. Recipient should provide After reports for each performance measure following project completion at the intervals, and for the time periods, specified in the Performance Measures Table included as Attachment H. After reports may include a narrative discussion detailing project successes and/or the influence of external factors on project expectations. The final After report must include an ex post examination of project effectiveness in relation to Before baselines.

- m) The Government encourages the Recipient to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies that bar text messaging while driving company-owned or –rented vehicles, or government-owned, leased, or rented vehicles or privately-owned vehicles when on official government business or when performing any work for or on behalf of the Government. See Executive Order 13513 “Federal Leadership on Reducing Text Messaging While Driving”, Oct. 1, 2009 (available at <http://edocket.access.gpo.gov/2009/E9-24203.htm>) and DOT Order 3902.1 “Text Messaging While Driving”, Dec. 30, 2009 (available at <http://dotnet.gov.gov>), as implemented by Financial Assistance Policy Letter (No. FAP-2010-01, Feb. 2, 2010). This includes, but is not limited to, the Recipient:
 - 1) considering new rules and programs or re-evaluating existing programs to prohibit text messaging while driving;
 - 2) conducting education, awareness, and other outreach for employees about the safety risks associated with texting while driving; and
 - 3) encouraging voluntary compliance with the Recipient’s text messaging policy while off duty.

The Recipient is encouraged to insert the substance of this clause in all assistance awards.

SECTION 3. APPLICABLE FEDERAL LAWS AND REGULATIONS

In addition to any other Federal requirements that apply as are specifically set forth in the Secured Loan Agreement, including specific and/or additional Buy American and Davis Bacon Act Prevailing Wage requirements or other specific requirements that apply under Title 23 or Title 49 of the United States Code, performance under this Compliance Agreement shall be governed by and in compliance with the following requirements as applicable to the type of organization of the Recipient and any applicable sub-recipients:

- a) Section 902 of the Recovery Act, requiring that each contract awarded using Recovery Act funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to: 1) examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and 2) to interview any office or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.
- b) Section 1515 of the Recovery Act, authorizing the DOT Office of the Inspector General to: 1) examine any records of the contractor or Recipient, any of its subcontractors or subrecipients, or any State or local agency administering such contract, that pertain to, and involve transactions relating to, the contract, subcontract, grant or subgrant; and 2) interview any officer or employee of the contractor, Recipient, subrecipient, or agency regarding such transactions.
- c) The Buy America provision under 23 U.S. C. § 313 and 23 C.F.R. § 635.410.
- d) Section 1606 of the Recovery Act (Davis-Bacon Act Wage Rate Requirements at 2 C.F.R. Part 176.190) to the extent that the Recipient uses funds associated with the TIFIA Loan for construction, alteration, maintenance, or repair work. See Attachment B, Recovery Act Requirements and Contract Clauses, for requirements and more information on Section 1606 compliance.
- e) Section 1604 of the Recovery Act, which prohibits the Recipient from expending funds under this Compliance Agreement on any casino, or other gambling establishment, aquarium, zoo, golf course, or swimming pool.
- f) Note that the Section 1511 certification requirement pertains to particular infrastructure investments. All Certifications, once executed, should have been submitted to the Secretary of Transportation, c/o Joel Szabat, Deputy Assistant Secretary for Transportation Policy, at TigerTeam.Leads@dot.gov. Certifications may be submitted via e-mail as electronic, scanned copies, with original signed versions to follow to be submitted via U.S. mail. As required by the Recovery Act, certifications under Section 1511 shall be immediately posted on a website and linked to the website Recovery.gov. No funds may be obligated until such posting is made. Section 1553 of the Recovery Act, which requires the Recipient to provide Whistleblower protections. As a non-Federal employer, the Recipient is required to post a notice of the rights and remedies

provided under this section. The whistleblower program requirements and poster are available at the following web site: <http://www.recovery.gov/?q=content/whistleblower-information>.

- g) Section 1554 of the Recovery Act, which requires the Recipient to award contracts as fixed-price contracts to the maximum extent possible through the use of competitive procedures. In the rare circumstances where the Recipient does not award fixed-price contracts and does not use competitive procedures, the Recipient shall publicly and electronically post a summary of such contracts.
- h) The Single Audit Act Amendments of 1996 and the Office of Management and Budget's (OMB) Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" (Single Audit Information requirements for Recipients of Recovery Act Funds regulations at 2 C.F.R. Part 176.210), which govern the tracking and documentation of all Recovery Act expenditures. This includes compliance with Federal regulations requiring conduct of a federally-approved audit of any expenditure of funds of \$500,000 or more in a year in Federal awards. See Attachment B, Recovery Act Requirements and Contract Clauses, for requirements and more information on Single Audit Information compliance.
- i) The "New Restrictions On Lobbying," (49 C.F.R. Part 20 located at: <http://www.dot.gov/ost/m60/grant/49cfr20.htm>).
- j) The "Cost Principles for State and Local Governments" 2 C.F.R. Part 225 (OMB Circular A-87), or other applicable cost principles, depending upon the Recipient [located at: <http://www.whitehouse.gov/omb/circulars/a087/a087-all.html>].
- k) Any other applicable Federal regulation or statute including each of the laws, regulations, executive orders, policies, guidelines, and requirements identified herein or in the Secured Loan Agreement.

SECTION 4. RECIPIENT AND PROJECT CONDITIONS

- a) Recipient: The North Texas Tollway Authority, as a Recipient under the TIGER Discretionary Grant Program, agrees to utilize and administer the TIGER TIFIA Payment according to the conditions set forth in this Compliance Agreement.

Dun and Bradstreet Data Universal Numbering System (DUNS) No. of the Recipient:
008032567.

First-Tier Sub-Grantees or Sub-Recipients (if applicable – to be reported if/when identified):
Not applicable.

DUNS No. of First-Tier Sub-Grantee or Sub-Recipient (if applicable – to be reported if/when identified): Not applicable.

b) Notices:

Notices required by this Compliance Agreement should be addressed as follows:

As to the Government:

Anita Wilson
Area Engineer
Federal Highway Administration
300 East 8th, suite 826
Austin, Texas 78701
(512) 536-5951
Anita.Wilson@dot.gov

and

Rupinder Kaur
TIFIA Joint Program Office (HITJ)
Federal Highway Administration
Room E64-301
1200 New Jersey Avenue, SE
Washington, D.C. 20590
202-366-9644
Fax: 202-366-2908
TIFIAcredit@dot.gov

and

Ed Strocko
TIGER Discretionary Program Modal Coordinator
Federal Highway Administration
1200 New Jersey Ave. SE, E84-440
Washington DC 20590
(202) 366- 2997
Ed.Strocko@dot.gov

and

Robert Mariner
United States Department of Transportation
Office of the Secretary
1200 New Jersey Avenue, SE, W84-244
Washington, DC 20590
(202) 366-8914
Robert.Mariner@dot.gov

As to the Recipient:

Allen Clemson
Executive Director
North Texas Tollway Authority
5900 West Plano Parkway, Suite 100
Plano, Texas 75093
(214) 461-2022
aclemson@ntta.org

c) Project Description and Milestones:

- 1) Project Description: The Project extends the existing TxDOT section of State Highway 161 south of the current terminus of the President George Bush Turnpike by approximately 11.5 miles from SH 183 south to IH 20. The Project will have an initial design of four (4) mainlanes between IH 20 and IH 30, six (6) mainlanes between IH 30 and SH 183 and an ultimate design consisting of eight (8) mainlanes throughout the Project. The Project is being built in four phases. Phase 1, which generally consists of the SH 183/SH 161 interchange and the frontage roads from Carrier Parkway (north of IH 30) south to IH 20, was constructed by TxDOT and is open to traffic. Phases 2 and 3 were also built by TxDOT and generally consist of the frontage roads and main lanes (including two major bridges over floodplains) from SH 183 south to just north of IH 30, with both phases open to traffic. Phase 4 generally consists of the main lanes from just north of IH 30 south to IH 20 (including a multi-track Union Pacific railroad bridge over the Project), and the IH 30/SH 161 and IH 20/SH 161 interchanges, and is anticipated to be open to traffic by October 11, 2012.

Phase 4 is the responsibility of NTTA and consists of direct connection ramps, slip ramps, frontage roads, cross streets, and mainlanes between IH 20 and Carrier Parkway, just north of IH 30. The majority of the work for Phase 4 is anticipated for completion by October 11, 2012. The remainder of the Phase 4 work will come in the future in the form of the widenings. The first widening, an additional mainlane in each direction between IH 20 and IH 30, is anticipated for the year 2020. The second widening, an additional mainlane in each direction between IH 20 and IH 30, is anticipated for the year 2031. See Statement of Work (Attachment A).

- 2) State and Local Planning:

Planning Program Date: The Project is included in the Dallas-Fort Worth Metropolitan Transportation Plan (“Mobility 2030”) that was adopted by the Regional Transportation Council (“RTC”), the transportation policy making body of the North Central Texas Council of Governments (“NCTCOG”), the region’s Metropolitan Planning Organization (“MPO”), and has been in previous metropolitan transportation plans dating back to the 1950’s. Recommendations contained within Mobility 2030 meet air quality requirements and the MPO received notification of a

favorable air quality conformity determination on Mobility 2030 by the DOT on August 31, 2009. Mobility 2030 was developed in coordination with TxDOT and is part of the Texas transportation plan. The current short-range programming document is the 2008-2011 Transportation Improvement Program (“TIP”), which was also adopted by the RTC and incorporated by the Texas Transportation Commission into the statewide TIP. Inclusion in Mobility 2030 indicated this Project is part of the region’s plan to meet anticipated travel demand as well achieve conformance with the National Ambient Air Quality Standards for ozone as soon as possible.

3) Environmental Process:

Environmental Approval Type: An Environmental Impact Statement (EIS) was developed by TxDOT to determine the social, economic and environmental effects of the Project on the environment as required by the National Environmental Policy Act (NEPA) of 1969. This environmental document received a record of decision (ROD) from FHWA in 1997. As a result of revisions to the Project, a re-evaluation was prepared and ultimately approved in June 2004. After the re-evaluation was approved, the Project was designated as a toll facility by the RTC. Two public meetings and a public hearing were held as part of the environmental study for tolling the Project. Final documentation was submitted by TxDOT to FHWA and was approved on February 29, 2008. The complete 1997 Environmental Impact Statement and Re-evaluation are available at:

http://www.ntta.org/AboutUs/Projects/SH_161_documents

Section 404 Permits have been required for the on-going design and construction of the Project. An individual Section 404 Permit was obtained by TxDOT for the Phase 2 work. The NTTA obtained the remaining permit required for the Phase 4 construction on February 24, 2009.

Lead Agency: FHWA

DOT Agency (if not Lead Agency): Not applicable

Date of Environmental Approvals:

1. Record of Decision State Highway 161 from Interstate Highway 20 to State Highway 183 Dallas County Texas issued April 7, 1997
2. Re-Evaluation of Supplemental Final Environmental Impact Statement SH161: From IH 20 to SH 183 (May 2004) Approved June 10, 2004
3. Re-Evaluation of Supplemental Final Environmental Impact Statement SH161: From IH 20 to SH 183 (February 2005) Approved February 10, 2005
4. Re-Evaluation of Supplemental Final Environmental Impact Statement Proposed Toll Facility SH161: From IH 20 to SH 183 (July 2006) Approved July 2006

5. Re-Evaluation of Supplemental Final Environmental Impact Statement Proposed Toll Facility SH161: From IH 20 to SH 183 (February 2008) Approved February 29, 2008

Title of the Environmental Documents:

1. Supplemental Final Environmental Impact Statement and Final Section 4(f) Statement (October 1996)
2. Re-Evaluation of Supplemental Final Environmental Impact Statement SH161: From IH 20 to SH 183 (May 2004)
3. Re-Evaluation of Supplemental Final Environmental Impact Statement SH161: From IH 20 to SH 183 (February 2005)
4. Re-Evaluation of Supplemental Final Environmental Impact Statement Proposed Toll Facility SH161: From IH 20 to SH 183 (July 2006)
5. Re-Evaluation of Supplemental Final Environmental Impact Statement Proposed Toll Facility SH161: From IH 20 to SH 183 (February 2008)

- 4) Project Schedule (See Project Schedule, Attachment E):

Planned or Actual Construction Start Date: February 26, 2010

Planned execution date of Secured Loan Agreement: April 15, 2011

Planned Project Completion Date: October 11, 2012

- d) Project Funding (See Project Budget, Attachment D):

- 1) TIGER TIFIA Payment:

The total not-to-exceed amount of Federal funding that is provided under this Compliance Agreement is Nine Million, Seventy Six Thousand, Four Hundred Twenty Nine Dollars (\$9,076,429) for the entire period of performance. The Government's liability to make payments on behalf of the Recipient under this Compliance Agreement is limited to those funds obligated under this Compliance Agreement as indicated above and any subsequent amendments. The Federal funding will be allocated and spent at the financial close for the Project as is detailed in the Secured Loan Agreement as a credit charge against the loan from the Government for up to one-third of the costs to acquire, develop and construct the Project.

- 2) Local Financial Commitment (if any):

- A. The Recipient hereby commits and certifies that it will provide funds (and ensure the availability of other sources of funding, such as local/ private funding or in/kind contributions) in an amount sufficient, together with the Federal contribution (acknowledging the limitations as set forth in this

Compliance Agreement and in the Secured Loan Agreement), to assure timely and full payment of the project costs as necessary to complete the Project.

- B. The Recipient agrees to notify the Government within 14 calendar days of any change in circumstances or commitments that adversely affect the Recipient’s plan to fund the project costs necessary to complete the Project as set forth in the Recipient’s Technical Application. In its notification, the Recipient shall advise the Government of what actions it has taken or plans to take to ensure adequate funding resources and shall reaffirm its commitment to the Government as set forth in Paragraph (A) of this Section 4(d)(2). The Government is not responsible for any funding shortfalls regarding the non-TIGER Discretionary Grant amount share. The funding made available for this TIGER TIFIA Payment will remain unchanged (See Section 9 of this Compliance Agreement regarding termination).

3) Estimated Sources of Project Funds:

TIGER TIFIA Payment:	\$9,076,429
Subsidy costs	\$7,614,971
Administrative costs	\$1,461,458
Federal Other Share (if any):	\$ 0
State Share (if any):	\$ 12,000,000
Local Share (if any):	\$ 0
Other Share (if any):	\$1,197,656,389
First Tier Bonds (incl. premium)	\$ 674,313,704
Bond Anticipation Notes	\$ 418,405,000**
Equity Contribution	\$ 72,471,089
Revenue during Construction	\$ 32,466,596
Total Project Cost:	\$1,209,656,389

*The TIGER TIFIA Payment will be used to cover the subsidy and administrative costs associated with the TIFIA Loan as is detailed in the Secured Loan Agreement

**The Bond Anticipation Notes may be refunded by the Second Tier TIFIA Loan in the principal amount of approximately \$428 million.

SECTION 5. REPORTING

a) Recovery Act Reporting:

Reporting requirements under Section 1201(c)(2) of the Recovery Act, “General Provision – Department of Transportation” apply. Project reports, including information as set forth in subparagraph (2), below, shall therefore be reported to the Government in accordance with the statutory timeframes. Due to the unique timeframe for the TIGER Discretionary Grant Program, Recipients should submit the first of such reports on the 20th of the month following the execution date of this Compliance Agreement and on

each subsequent due date thereafter. Recipients shall submit their data using the Recovery Act Data System (RADS). The RADS guidance, which includes guidance on Section 1201(c) reporting, is located at:

<http://www.fhwa.dot.gov/economicrecovery/guidancelist.htm>.

- 1) Project reports for Section 1201(c) should include the amount of the TIGER TIFIA Payment appropriated, allocated, obligated, and outlayed under the appropriation; the number of projects put out to bid under the appropriation and the amount of the TIGER TIFIA Payment associated with these contracts; the number contracts awarded under the appropriation and the amount of the TIGER TIFIA Payment associated with these contracts; the number of projects for which work has begun under these contracts and the associated amount of the TIGER TIFIA Payment; the number of projects for which work has been completed and the associated amount of the TIGER TIFIA Payment; and the number of direct, on-project jobs created or sustained by the TIGER TIFIA Payment for projects under the appropriation and, to the extent possible, number of direct on-project job hours (the DOT calculates the number of indirect and induced jobs).
- 2) In accordance with the Recovery Act and OMB Guidance, dated June 22, 2009 (http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21.pdf), the TIGER TIFIA Payment requires the Recipient to complete projects or activities which are funded under the Recovery Act and to report on use of Recovery Act funds provided through this award to <http://www.FederalReporting.gov>. Information from these reports will be made available to the public. Such reporting responsibility may be delegated from the Grantee/ Recipient to the Sub-grantee/ Sub-recipient or vendor, in order to ensure that the necessary information is provided to the Grantee/ Recipient, who is ultimately responsible for reporting the required elements.

The reports are due no later than ten calendar days after each calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act.

Grantees/ Recipients and their Sub-grantees/ first-tier recipients (to the extent that they have been delegated direct reporting responsibility) must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active Federal awards funded with Recovery Act funds. A DUNS Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.

The Grantees/Recipients shall report the information described in section 1512(c) of the Recovery Act using the reporting instructions and data elements that will be provided online at <http://www.FederalReporting.gov> and ensure that any information that is pre-filled is corrected or updated as needed.

Projects administered by the FHWA shall comply with the reporting instructions and data elements in the Recovery Act Data System (RADS) guidance and any updates to

that guidance. The RADS guidance is available online at:
<http://www.fhwa.dot.gov/economicrecovery/guidancelist.htm>.

- 3) In accordance with Section 1609 of the Recovery Act, the Recipient shall submit quarterly reports, as necessary, describing the status of the Project with respect to the National Environmental Policy Act (NEPA) review. A report shall be submitted to RADS by July 5, 2011, and every 90 days thereafter following the execution of this Compliance Agreement. Due to the unique timeframe for the TIGER Discretionary Grant Program, Recipients should submit the first of such reports on the first due date following the execution date of this Compliance Agreement and on each subsequent due date thereafter.
- 4) In accordance with the purposes of the Recovery Act, the Recipient may be required to submit additional information in response to requests from DOT, OMB, the Congressional Budget Office, the Government Accountability Office, or the Department of Transportation's Inspector General. The Government will inform Recipients if and when such additional reports are required.

b) Project Reports:

- 1) Consistent with the purposes of the TIGER Discretionary Grant Program, to ensure accountability and transparency in Government spending, the Recipient shall submit quarterly progress reports in RADS or other system designated by the Government, as set forth in Attachment C: Quarterly Project Progress Reports, Format and Content, to the Government on a quarterly basis, beginning on the 20th of the first month of the calendar year quarter following the execution of this Compliance Agreement, and on the 20th of the first month of each calendar year quarter thereafter until completion of the Project. The initial report shall include a detailed description, and, where appropriate, drawings, of the items funded. Addresses for submittal of reports and documents: The Recipient shall submit all required reports and documents to the Government electronically, referencing this Compliance Agreement, at the following addresses: Ed.Strocko@dot.gov.
- 2) Annual Budget Review and Program Plan: The Recipient shall submit an Annual Budget Review and Program Plan to the Government via e-mail 60 days prior to the end of each Compliance Agreement year. The Annual Budget Review and Program Plan shall provide a detailed schedule of activities, estimate of specific performance objectives, include forecasted expenditures, and schedule of milestones for the upcoming Compliance Agreement year. If there are no proposed deviations from the Approved Project Budget, attached hereto as Attachment D, the Annual Budget Review shall contain a statement stating such. The Recipient will meet with DOT to discuss the Annual Budget Review and Program Plan. If there is an actual or projected project cost increase, the annual submittal should include a written plan for providing additional sources of funding to cover the project budget shortfall or supporting documentation of committed funds to cover the cost increase.

To the extent the annual budget update deviates from the approved project budget by more than 10 percent, then work proposed under the Annual Budget Review and Program Plan shall not commence until written approval from the Government is received.

- c) Milestones/Deliverables Schedule: Attachment G is incorporated herein.
- d) Closeout Process: Closeout occurs when all required Project work and all administrative procedures described in Title 23 are completed, and the Government notifies the Recipient. Within 90 days of the Project completion date or termination by the Government, the Recipient must submit a final Financial Status Report (XF-269), a certification or summary of project expenses, and third party audit reports.

SECTION 6. SPECIAL REQUIREMENTS

- a) This Compliance Agreement serves as an exhibit to the Secured Loan Agreement.
- b) The execution and delivery of this Compliance Agreement is a condition precedent to the effectiveness of the Secured Loan Agreement.
- c) The Grantee must enter into the Secured Loan Agreement with the Government by no later than April 15, 2011.

SECTION 7. ASSURANCES

The Recipient shall execute the attachments in conjunction with execution of this Compliance Agreement and shall comply with those provisions.

SECTION 8. TERMINATION, MODIFICATION AND EXPIRATION

- a) Subject to terms set forth in this Compliance Agreement, the Government reserves the right to terminate this Compliance Agreement and all of its obligations unless otherwise agreed between the Recipient and the Government, if any of the following occurs:
 - 1) The Recipient fails to obtain or enter into the Secured Loan Agreement by April 15, 2011.
 - 2) The Recipient fails to begin construction before June 30, 2011;
 - 3) The Recipient does not meet the conditions and obligations specified under this Compliance Agreement or those in the Secured Loan Agreement including a material failure to comply with the Project Schedule which is beyond the reasonable control of the Recipient; or
 - 4) The Government determines that termination is in the public interest.

- b) Funds available under this Compliance Agreement must be obligated on or before September 30, 2011, but once obligated, are available for liquidation and adjustment through September 30, 2016, the “Compliance Agreement Termination Date.” Unless otherwise specified, this Compliance Agreement shall terminate on the Compliance Agreement Termination Date.
- c) Either party (Government or the Recipient) may seek to amend or modify this Compliance Agreement prior to the Compliance Agreement Termination Date by written notice (formal letter) to the other party and in accordance with 49 C.F.R. parts 18.43 and 18.44. This Compliance Agreement will be amended or modified only on mutual written agreement by both parties.

SECTION 9. AWARD AND EXECUTION OF COMPLIANCE AGREEMENT

There are four (4) identical counterparts of this Compliance Agreement in typewritten hard copy; each counterpart is to be fully signed in writing by the parties and each counterpart is deemed to be an original having identical legal effect. When signed and dated by the authorized official of the Government, this Compliance Agreement will constitute an award of the TIGER TIFIA Payment. Upon full execution of this Compliance Agreement by the Recipient, the effective date will be the date the Government awarded funding under this Compliance Agreement as set forth below.

EXECUTION BY GOVERNMENT

The Government executes this Compliance Agreement in accordance with Public Law 111-5, and in accordance with the above conditions and assurances.

Executed this 15th day of April, 2011.



Signature of Government's Authorized Representative

Victor M. Mendez

Name

Administrator - Federal Highway Administration

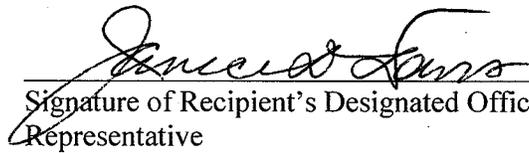
Title

EXECUTION BY RECIPIENT

The Recipient agrees to accomplish each element of the Project in compliance with the terms and conditions contained herein.

Executed this 15th day of April, 2011.

Recipient: North Texas Tollway Authority (NTTA)



Signature of Recipient's Designated Official
Representative

JANICE DAVIS

Name

Chief Financial Officer – NTTA

Title

ATTACHMENT A STATEMENT OF WORK

The TIGER TIFIA Payment will be used to pay for the subsidy and administrative costs of a direct federal loan under the DOT TIFIA program for up to one-third of the costs to acquire, develop and construct the Project, rather than to fund acquisition, development or construction costs of the Project. The Project consists of the portion of SH 161 extending from SH 183 in Dallas County south to IH 20 in Dallas County. Certain portions of Phases 1, 2 and 3 of the Project have already been completed by TxDOT. The NTTA has the obligation to design and construct certain additional improvements, including Phase 4, substantially consistent with the preliminary design prepared by TxDOT.

(a) Phase 1: All frontage roads from IH 20 to Carrier Parkway (North of IH 30), SH 161 CL Station 100+00 to Station 426+00. SH 183/SH 161 Interchange south to Conflans Road. SH 161 CL Station 665+00 to Station 712+00. TxDOT has performed all work for Phase 1.

(b) Phase 2: Two main lanes in each direction (the ultimate northbound main lanes) from SH 183 to just north of IH 30 (Carrier Parkway), northbound main lane bridge over Bear Creek and Trinity Railway Express, northbound main lane bridge over the Trinity River, frontage roads from Rock Island Road to Oakdale Road, and frontage roads from Lower Tarrant Road to Carrier Parkway. SH 161 CL Station 450+00 to Station 672+20. TxDOT was required to perform all work for Phase 2, except that the Authority was required to design and construct the permanent tolling system on the main lanes. All work for Phase 2 has been completed.

(c) Phase 3: Three main lanes in each direction from SH 183 to just north of IH 30 (Carrier Parkway) and temporary ramps between Egyptian Way and Carrier Parkway. SH 161 CL Station 441+00 to Station 672+20. TxDOT was required to perform all work for Phase 3, except that the Authority was required to design and construct the permanent tolling system. All work for Phase 3 has been completed.

(d) Phase 4: All main lanes from IH 20 to north of IH 30 (Carrier Parkway), full direct connection interchange at IH 30, direct connections at IH 20, Union Pacific Railroad bridge, underpass and other related improvements, all cross street bridges over the main lanes and electronic toll collection and ITS equipment. The Authority is required to perform all work for Phase 4.

ATTACHMENT B
RECOVERY ACT REQUIREMENTS AND CONTRACT CLAUSES

DAVIS-BACON WAGE RATE REQUIREMENTS AND CONTRACT CLAUSES

- a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.
- b) Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 C.F.R. parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 C.F.R. 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 C.F.R. 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).
- c) Federal agencies providing grants, grant agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 C.F.R. 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).
- d) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, grant agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

SINGLE AUDIT INFORMATION FOR RECIPIENTS OF RECOVERY ACT FUNDS REQUIREMENTS

- (a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act) as required by Congress and in accordance with 2 C.F.R. 215.21 “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations” and OMB Circular A–102 “Grants and Cooperative Agreements with State and Local Governments.” Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A–102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.
- (b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A–133, “Audits of States, Local Governments, and Non-Profit Organizations,” recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule

of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. OMB Circular A-133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

(c) Recipients agree to separately identify to each subrecipient, and document at the time of subaward and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.

(d) Recipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

By: _____
Signature of Authorized Official

Name

Title

Affiliation

Date

ATTACHMENT C QUARTERLY PROGRESS REPORTS

FORMAT AND CONTENT

The Paperwork Reduction Act approval is still pending. At this time, Attachment C is included for informational purposes. Recipients are requested to retain data for potential future reporting, to ensure that DOT records are complete (assuming clearance is granted).

The purpose of the calendar quarterly progress reports is to ensure that the project budget and schedule will be maintained to the maximum extent possible, that the project will be completed with the highest degree of quality, and that compliance with Federal regulations will be met.

The Recipient should develop a project reporting and tracking system to collect, assess and maintain project status information and data that is timely, independent, and accurate. This system should provide current information on project prosecution, progress, changes, and issues. This information should be used to identify trends and forecast project performance and to identify and proactively address challenges to eliminate major project surprises.

The need to continuously and accurately report cost increases; schedule changes; deficient quality items; and the causes, impacts, and proposed measures to mitigate these issues is paramount to effectively managing, administering, and protecting the public investment in the project. Any apparent reporting deficiencies or questionable data should be completely resolved. Ultimately, the Recipient and the Government must be fully aware of the complete status of the project, and therefore be in a position to take appropriate action if necessary.

A quarterly cost, schedule, and status report will be produced by the Recipient, and a quarterly status meeting will be held with the Recipient, the Government and other applicable agencies in attendance. The quarterly status meetings should discuss the project costs, schedules, quality issues, compliance with Federal requirements, and other status items in sufficient enough detail to allow all involved parties to be fully aware of the significant status issues and actions planned to mitigate any adverse impacts. In addition, significant issues occurring between status meetings must be communicated immediately without waiting for the next regularly scheduled meeting, with any highly significant or sensitive issues elevated immediately to the executive leadership.

The following is the required format for the quarterly status reports. At the discretion of the Government, modifications or additions can be made in order to produce a quarterly reporting format that will most effectively serve both the Recipient and the Government. It is recognized that some projects will have a more extensive quarterly status than others. In the case of smaller projects, the content of the quarterly reports will be streamlined and project status meetings will be held on a less-frequent basis.

Please note that the initial quarterly progress report should include a detailed description, and where appropriate, drawings, of the items funded.

1. Executive Summary. The executive summary should be a clear and concise summary of the current status of the project, including any major issues that have an impact on the project's scope, budget, schedule, quality, or safety. It may be done in a bulleted format. The following summary information is an example of items that should be covered in the executive summary section:

- Current total project cost (forecast) vs. latest budget vs. baseline budget. Include an explanation of the reasons for any deviations from the approved budget.
- Current overall project completion percentage vs. latest plan percentage.
- Any delays or exposures to milestone and final completion dates. Include an explanation of the reasons for the delays and exposures.
- A summary of the projected and actual dates for notices to proceed for significant contracts, start of construction, start of expenditure of TIGER Discretionary Grant funds, and project completion date. Include an explanation of the reasons for any discrepancies from the corresponding project milestone dates included in the Compliance Agreement.
- Any Federal obligations and/or TIFIA disbursements occurring during the month versus planned obligations or disbursements.
- Any significant contracts advertised, awarded, or completed.
- Any significant scope of work changes.
- Any significant items identified as having deficient quality.
- Any significant safety issues.
- Any significant Federal issues such as environmental compliance, Buy America/Buy American (whichever is applicable to this Project), Davis Bacon Act Prevailing Wage requirements, etc.

2. Project Activities and Deliverables. The purpose of this section is to: (1) highlight the project activities and deliverables occurring during the previous quarter (reporting period), and (2) define the activities and deliverables planned for the next two reporting periods. Activities and deliverables to be reported on should include meetings, audits and other reviews, design packages submitted, advertisements, awards, construction submittals, construction completion milestones, submittals related to Recovery Act requirements, media or Congressional inquiries, value engineering/constructability reviews, and other items of significance. The two reporting period "look ahead schedule" will enable the Government to accommodate any activities requiring input or assistance.

3. Action Items/Outstanding Issues. This section should draw attention to, and track the progress of, highly significant or sensitive issues requiring action and direction in order to

resolve. In general, issues and administrative requirements that could have a significant or adverse impact to the project's scope, budget, schedule, quality, safety, and/or compliance with Federal requirements should be included. Status, responsible person(s), and due dates should be included for each action item/outstanding issue. Action items requiring action or direction should be included in the quarterly status meeting agenda. The action items/outstanding issues may be dropped from this section upon full implementation of the remedial action, and upon no further monitoring anticipated.

4. Project Schedule. An updated master program schedule reflecting the current status of the program activities should be included in this section. A Gantt (bar) type chart is probably the most appropriate for quarterly reporting purposes, with the ultimate format to be agreed upon between the Recipient and the Government. It is imperative that the master program schedule be integrated, i.e., the individual contract milestones tied to each other, such that any delays occurring in one activity will be reflected throughout the entire program schedule, with a realistic completion date being reported.

Narratives, tables, and/or graphs should accompany the updated master program schedule, basically detailing the current schedule status, delays and potential exposures, and recovery efforts. The following information should also be included:

- Current overall project completion percentage vs. latest plan percentage.
- Completion percentages vs. latest plan percentages for major activities such as right-of-way, major or critical design contracts, major or critical construction contracts, and significant force accounts or task orders. A schedule status description should also be included for each of these major or critical elements.
- Any delays or potential exposures to milestone and final completion dates. The delays and exposures should be quantified, and overall schedule impacts assessed. The reasons for the delays and exposures should be explained, and initiatives being analyzed or implemented in order to recover the schedule should be detailed.

5. Project Cost. An updated cost spreadsheet reflecting the current forecasted cost vs. the latest approved budget vs. the baseline budget should be included in this section. One way to track project cost is to show: (1) Baseline Budget, (2) Latest Approved Budget, (3) Current Forecasted Cost Estimate, (4) Expenditures or Commitments To Date, and (5) Variance between Current Forecasted Cost and Latest Approved Budget. Line items should include all significant cost centers, such as prior costs, right-of-way, preliminary engineering, environmental mitigation, general engineering consultant, section design contracts, construction administration, utilities, construction packages, force accounts/task orders, wrap-up insurance, construction contingencies, management contingencies, and other contingencies. The line items can be broken-up in enough detail such that specific areas of cost change can be sufficiently tracked and future improvements made to the overall cost estimating methodology. A Program Total line should be included at the bottom of the spreadsheet.

Narratives, tables, and/or graphs should accompany the updated cost spreadsheet, basically detailing the current cost status, reasons for cost deviations, impacts of cost overruns, and efforts to mitigate cost overruns. The following information should be provided:

- Reasons for each line item deviation from the approved budget, impacts resulting from the deviations, and initiatives being analyzed or implemented in order to recover any cost overruns.
- Transfer of costs to and from contingency line items, and reasons supporting the transfers.
- Speculative cost changes that potentially may develop in the future, a quantified dollar range for each potential cost change, and the current status of the speculative change. Also, a comparison analysis to the available contingency amounts should be included, showing that reasonable and sufficient amounts of contingency remain to keep the project within the latest approved budget.
- Detailed cost breakdown of the general engineering consultant (GEC) services (if applicable), including such line items as contract amounts, task orders issued (amounts), balance remaining for tasks, and accrued (billable) costs.
- Federal obligations and/or TIFIA disbursements for the project, compared to planned obligations and disbursements.

6. Project Funding Status. The purpose of this section is to provide a status report on the non-TIGER Discretionary Grant funds necessary to complete the project. This report section should include a status update of any legislative approvals or other actions necessary to provide the non-TIGER Discretionary Grant funds to the project. Such approvals might include legislative authority to charge user fees or set toll rates, or the commitment of local funding revenues to the project. In the event that there is an anticipated or actual project cost increase, the project funding status section should include a report on the anticipated or actual source of funds to cover the cost increase and any significant issues identified with obtaining additional funding.

7. Project Quality. The purpose of this section is to: (1) summarize the Quality Assurance/Quality Control activities during the previous month (reporting period), and (2) highlight any significant items identified as being deficient in quality. Deficient items noted should be accompanied by reasons and specifics concerning the deficiencies, and corrective actions taken or planned. In addition, the agency or firm responsible for the corrective action should be documented. Planned corrective actions should then be included as Action Items/Outstanding Issues.

8. Other Status Reports. The Recipient and the Government may agree that other reports may be beneficial in ensuring that project status issues are fully and openly communicated. Such reports may include the public relations plan, value engineering and constructability review plan, environmental compliance report, and/or compliance with the Buy America requirements.

**ATTACHMENT D
PROJECT BUDGET**

The TIGER TIFIA Payment will be used to pay for the subsidy and administrative costs of a direct federal loan under the DOT TIFIA program for up to one-third of the costs to acquire, develop and construct the Project, rather than to fund acquisition, development or construction costs of the Project. All of the funds from the TIGER TIFIA Payment will be spent or allocated at the financial close related to the issuance of the revenue bonds and bond anticipation notes and execution of the TIFIA Secured Loan Agreement.

The following is the cost for the construction for Phase 4. Phases 1, 2 and 3 are complete and open to traffic. The upfront payment to be paid by the NTTA is partial reimbursement to TxDOT for its costs to acquire and construct Phases 1, 2 and 3.

Upfront Payment, Reserves and Financing Costs

Upfront Payment (including interest)	\$ 469,074,676	38.07%
Capitalized Interest Fund	86,711,324	7.97%
Rate Stabilization Fund	65,376,911	5.33%
Major Maintenance Reserve Fund	4,002,391	0.33%
O&M During Construction	23,923,037	1.95%
Major Maintenance During Construction	1,324,368	0.11%
Financing Fees and Costs	12,645,301	1.69%
Subtotal Upfront Payment, Reserves and Financing Costs	\$663,058,008	55.44%

Non-Design Build Project Costs

Administration	\$ 16,192,714	1.32%
Planning	5,196,492	0.42%
Design	14,520,140	1.18%
Construction (including Construction Management)	45,705,545	3.73%
ITS and Toll Gantry Equipment	12,146,440	0.99%
Others (ROW, Utilities, etc.)	1,679,799	0.14%
Construction Contingency	34,958,666	2.85%
Subtotal Non-Design Build Project Costs	\$130,399,796	10.63%

Design Build Project Costs (Phase 4)

Development Management and Design		
Development Management	\$ 13,550,886	1.10%
Development Design	33,061,223	2.70%
Community Outreach	763,171	0.06%
Utility Coordination, Management and Agreements	2,338,044	0.19%
Subtotal Development Management and Design	\$49,713,324	4.05%
Construction		
Mobilization	\$ 37,273,922	3.04%
Earthwork	32,245,036	2.63%
Pavement, Subbase and Base Course	35,416,051	2.89%

Structures (Bridges and Retaining Walls)	167,313,201	13.64%
Drainage	10,747,907	0.88%
Lighting, Signing, Striping and Signals	19,937,177	1.63%
Environmental Monitoring and Mitigation	\$4,051,913	0.33%
Quality Management and Testing	12,600,000	1.03%
Traffic Control	5,843,437	0.48%
Toll Gantries	5,031,010	0.41%
Maintenance	489,802	0.04%
Incidental Construction (Barriers, Landscaping, etc.)	9,758,789	0.80%
UPRR Construction	17,182,163	1.40%
Subtotal Construction	\$357,890,408	29.18%
Bonds, Warranties and Insurance Premiums		
Bonds	\$4,504,800	0.37%
Warranties	905,248	0.07%
Insurance Premiums	1,104,912	0.09%
Subtotal Bonds, Warranties and Insurance Premiums	\$6,550,960	0.53%
Initial Subtotal Design Build Project Costs	\$414,154,692	33.76%
Adjustments		
Value Added Contracting in Design-Build Contract	\$1,865,057	0.15%
Approved Change Orders	178,836	0.01%
Subtotal Adjustments	\$2,043,893	0.17%
Subtotal Design Build Project Costs	\$416,198,585	33.93%
Total Project Costs	\$1,209,656,389	100%

**ATTACHMENT E
PROJECT SCHEDULE**

Phase	Segment	Limits			Description	Number	Final Acceptance
			to				
1	1	IH20	to	SP303	Frontage Rds.	CSJ 2964-01-029	1/29/2009
1	2	SP303	to	N. of Dalworth	Frontage Rds.	CSJ 2964-01-030	5/13/2010
1	3	N. of Dalworth	to	Carrier Pkwy	Frontage Rds.	CSJ 1068-04-115	EST. June 2011
2/3	4	Carrier Pkwy	to	Conflans	Main Lanes and Frontage Rds.	CSJ 2964-01-031	9/23/2010
2	4	Carrier Pkwy	to	Conflans	Toll Gantry Steel Fabrication	02623-SH161-00-CN-PM	10/25/2009
2	4	Carrier Pkwy	to	Conflans	Toll Gantry Construction	02664-SH161-01-CN-PM	5/14/2010
3	4	Carrier Pkwy	to	Conflans	Toll Gantry Construction	02669-SH161-03-CN-PM	6/20/2011
4		IH20	to	Carrier Pkwy	Main Lanes & Direct Connectors	02622-SH161-00DB-PM	2/9/2013**
4					Railroad Crossings	02622-SH161-00DB-PM	2/9/2013

** The completion date for the low volume direct connectors at IH 30 for Phase 4 may be extended for a period of six months should NTTA and TxDOT agree to do so

Phases 1-3 of the Project have been completed.

Phase 4 of the Project is anticipated to be substantially complete by October 12, 2012 and finally complete by February 9, 2013.

**ATTACHMENT F
TECHNICAL APPLICATION**



Paul N. Wageman
Chairman

Victor T. Vandergriff
Vice Chairman

Kenneth Barr
Director

Gary Base
Director

Bob Day
Director

David R. Denison
Director

Michael R. Nowels
Director

Robert K. Shepard
Director

Alan E. Sims
Director

Allen Clemson
Executive Director

Rick Herrington
Deputy Executive Director

P.O. Box 260729
Plano, TX 75026

5900 W. Plano Parkway
Suite 100
Plano, TX 75093

(214) 461.2000

Fax (214) 528.4826

www.ntta.org

September 9, 2009

TIGER Discretionary Grants Program Manager
Office of the Secretary of Transportation
United States Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Sent via e-mail: TIGERGrants@dot.gov

RE: TIGER TIFIA Payment Application for Texas State Highway 161

Ladies and Gentleman:

The North Texas Tollway Authority (NTTA) is hereby submitting its Application for a TIGER TIFIA Payment through the TIGER Discretionary Grant program for the Texas State Highway 161 tollway project.

We look forward to working with the TIGER and TIFIA program staff to successfully reach financial close on this important project for NTTA and the North Texas region.

Sincerely,

Allen Clemson
Executive Director
North Texas Tollway Authority

cc: Janice Davis, Chief Financial Officer, North Texas Tollway Authority

COVER PAGE

To: TIGER Discretionary Grants Program Manager
Via e-mail: TIGERGrants@dot.gov

The North Texas Tollway Authority (“NTTA” or the “Authority”) is applying for TIGER TIFIA Payment.

- i. Type of project:** Toll highway
- ii. Location of the proposed project:**
 - a. State** Texas
 - b. City** Within the cities of Irving and Grand Prairie
 - c. County** Primarily Dallas County, with a few minor lane transitions occurring in Tarrant County
 - d. Congressional District** 24th Texas Congressional District
- iii. Area type of the proposed project:** Urban
- iv. Amount of dollars of Grant Funds the applicant is seeking:**

NTTA anticipates the TIGER allocation through the TIFIA program to be no greater than \$40 million, but most likely significantly less (approximately \$20 million) reflecting the “AA” credit support of Texas Department of Transportation (“TxDOT”) through the TxDOT Toll Equity Loan.

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LISTING OF DEFINED TERMS

<u>Term</u>	<u>Definition</u>	<u>Page</u>
AASHTO	American Association of State Highway and Transportation Officials	3
Acquisition Payment	\$458 million Upfront Payment to TxDOT	1
Authority	North Texas Tollway Authority	1
CABs	Capital Appreciation Bonds	18
CCI	Construction Cost Index	5
CIBs	Current Interest Bonds	18
CIF	NTTA's Capital Improvement Fund	18
CMP	Congestion Management Plan	9
DFW	Dallas Fort Worth	3
Design-Builder	Prairie Link Constructors, LLC	2
EIS	Environmental Impact Statement	5
EJ	Environmental Justice	13
ETC	Electronic Toll Collection	4
FHWA	Federal Highway Administration	5
IH 20	Interstate Highway 20	2
IH 30	Interstate Highway 30	2
ITS	Intelligent Transportation System	4
Member Counties	Collin, Dallas, Denton and Tarrant Counties	7
Mobility 2030	Dallas-Fort Worth Metropolitan Transportation Plan	1
MPO	Metropolitan Planning Organization	2
MTP	Dallas-Fort Worth Metropolitan Transportation Plan	1
NAAQS	National Ambient Air Quality Standards	6
NCTCOG	North Central Texas Council of Governments	2
NEPA	National Environmental Policy Act	4
NFL	National Football League	12
NTTA	North Texas Tollway Authority	1
NWP	Nationwide Permit	15
O&M	Operations and Maintenance	11
Plan of Finance	SH 161 Preliminary Financial Plan	17
Project	Texas State Highway 161 Project	1
Project Agreement	SH 161 Project Agreement between NTTA and TxDOT	1
RITE	Regional Integrated Toll Enhancements	19
ROD	Record of Decision	14
ROW	Right-of-Way	4
RTC	Regional Transportation Council	2
SFEIS	Supplemental Final Environmental Impact Statement	13
SH 161	State Highway 161	1
SH 183	State Highway 183	2
SH 360	State Highway 360	3
SW3P	Storm Water Pollution Prevention Plan	6
TCEQ	Texas Commission on Environmental Quality	6
TEL	TxDOT Toll Equity Loan	8
TIP	Transportation Improvement Program	6
TTA	Texas Turnpike Authority	7
TxDOT	Texas Department of Transportation	1
TxDOT TEL	TxDOT Toll Equity Loan	8
UPRR	Union Pacific Rail Road	2
UPWP	Unified Planning Work Program	9
USACE	U.S. Army Corps of Engineers	14
VES	Vehicle Enforcement System	4
WSA	Wilbur Smith Associates	11

EXECUTIVE SUMMARY

The North Texas Tollway Authority (“NTTA” or the “Authority”) has exercised its right of primacy to develop the Texas State Highway 161 Project (the “Project” or “SH 161”). The Project is included in the Dallas-Fort Worth Metropolitan Transportation Plan (“MTP” or “Mobility 2030”) known as *Mobility 2030: The Metropolitan Transportation Plan for the Dallas-Fort Worth Area, 2009 Amendment* and has been in previous metropolitan transportation plans as well, dating back to the 1950s. NTTA will pay the Texas Department of Transportation (“TxDOT”) an upfront payment of \$458 million (the “Acquisition Payment”) in addition to incurring construction costs currently estimated to be approximately \$601 million, which results in a total initial value of \$1.059 billion to the North Texas region. The Acquisition Payment is an amount that has been negotiated by NTTA and TxDOT as the cost to NTTA to own the Project in perpetuity and to share 50% of the net revenues with TxDOT after 50 years. TxDOT will use a significant portion of the Acquisition Payment to develop critical transportation projects in the North Texas region that are not self-supportive. NTTA and TxDOT have executed the SH 161 Project Agreement (the “Project Agreement”), which governs the construction and operation of the Project.

A TIGER TIFIA Payment is critical to the financing of the Project. Under current market conditions, the only debt product available that can be executed with certainty and that offers deferred interest terms is a TIFIA Loan. Funds available through a TIGER TIFIA Payment allow the Project to support additional debt during the traffic ramp-up period and extract additional public value from the Project to help the North Texas region reach its funding needs for Mobility 2030 faster and bring much needed additional funding for transportation projects in the North Texas region. The SH 161 Project has a combined value in excess of \$1 billion between TxDOT and the NTTA and will create or sustain an estimated 24,000 jobs and add a potential \$841 million to personal earnings in this area of North Texas, according to research from the Associated General Contractors of America. This Project will also benefit many small businesses that will participate in the construction activities.

NTTA anticipates the TIGER allocation through the TIFIA Program to be no greater than \$40 million, but most likely significantly less (\$20 million) reflecting the “AA” credit support of TxDOT through the TxDOT Toll Equity Loan. This size TIGER allocation will provide NTTA with the requested TIFIA Loan of approximately \$393 million.

A) CONTACT INFORMATION

NTTA's key contact person with whom all communication should flow is as follows:

Name: Janice D. Davis
Title: Chief Financial Officer, North Texas Tollway Authority
Street Address: 5900 West Plano Parkway, Suite 100
City/State: Plano, Texas 75093
Phone: (214) 224-2455
Fax: (972) 930-3455
E-mail: jdavis1@ntta.org

B) PROJECT DESCRIPTION

The Project is a joint effort of NTTA, TxDOT, and the Regional Transportation Council ("RTC"), the transportation policy making body of the North Central Texas Council of Governments ("NCTCOG"), the region's Metropolitan Planning Organization ("MPO").

During the SH 161 market valuation process between NTTA and TxDOT, the Project was divided into four (4) phases for purposes of managing and expediting the design and construction. Phase 1 of the Project, which is open to traffic, consists of the frontage roads and cross streets from Interstate Highway ("IH 20") to just north of Interstate Highway 30 ("IH 30"). In addition, Phase 1 consists of the State Highway 183 ("SH 183")/SH 161 interchange improvements. Phase 1 was designed and constructed by TxDOT.

Phase 2 of the Project consists of frontage roads, cross streets, slip ramps, and portions of the main lanes between IH 30 and SH 183, which are all currently being constructed by TxDOT. Within Phase 2, NTTA is currently constructing the toll gantries. On August 2, 2009, two (2) main lanes in each direction within Phase 2 opened to traffic in a temporary configuration while work continues on the remaining Phase 2 and Phase 3.

Phase 3 of the Project consists of slip ramps and portions of the main lanes between IH 30 and SH 183, which are all currently being constructed by TxDOT. Within Phase 3, NTTA agreed to construct the toll gantries. NTTA's portion of Phase 3 is scheduled for substantial completion by December 2010 and TxDOT's portion is scheduled for substantial completion by January 2011.

Phase 4 of the Project is the responsibility of NTTA and consists of direct connection ramps, slip ramps, frontage roads, cross streets, and main lanes between IH 20 and Carrier Parkway, just north of IH 30. NTTA has approved a design-build contract for the development of Phase 4 with Prairie Link Constructors, LLC ("Design-Builder"), a team composed of Fluor EPCM Services and Balfour Beatty Construction, and anticipates executing the contract in September 2009. Within the Phase 4 limits is a Union Pacific Railroad ("UPRR") crossing over the main lanes. TxDOT is responsible for developing and obtaining UPRR approvals of the design plans for this UPRR crossing. TxDOT is also leading the effort to negotiate the Four-Party UPRR agreement between TxDOT, UPRR, NTTA and the City of Grand Prairie. Per the SH 161 Project Agreement between the NTTA and TxDOT, the NTTA may choose to include the UPRR work in the Phase 4 design-build contract. The majority of the work for Phase 4 of the Project is scheduled for substantial completion by September 2012, with further construction activity occurring through June 2013. The remainder of the Phase 4 work will come in the future in the form of two widenings. The first widening, an additional main lane in each direction between IH 20 and IH 30, is scheduled to open to traffic in 2020 as traffic conditions warrant. The

second widening, an additional main lane in each direction between IH 20 and IH 30, is scheduled to open to traffic in 2031 if traffic needs warrant. This additional work has not yet been environmentally cleared and is only discussed here for information purposes.

Location

The SH 161 Project is located along the western boundary of Dallas County in a high-growth center of the Dallas-Ft. Worth Metroplex (“DFW”) in North Central Texas. The Project is mostly contained within Dallas County, with only minor lane transitions occurring within Tarrant County. The location of the Project is at the center of major intra-region transportation movements and plays a role in the continuing growth of the overall region. The Project would extend the existing SH 161 roadway from where it currently terminates, just south of SH 183 within the City of Irving, south approximately 11 miles to IH 20 within the City of Grand Prairie. SH 161 has been in various stages of planning for the past 30 years as the western portion of the second loop around Dallas. The Project would serve as a connection for much of the transportation and economic development in the central and southern portions of both Dallas and Tarrant Counties as growth continues to extend to the south into Ellis and Johnson Counties. A map of the Project area is available at http://www.ntta.org/AboutUs/Projects/SH_161_documents.

Purpose

The Project’s goals and objectives are to improve the transportation network and level of service in the region. The need for SH 161 is demonstrated by the traffic congestion resulting from considerable population increases and associated development. The implementation of tolling on SH 161 supports the overall Project’s needs by generating revenue for the operation and maintenance of SH 161. Tolling SH 161 allows for construction of the main lanes five to ten years earlier than previously programmed by the State of Texas.

The Project will serve as a major direct link in the DFW regional transportation network. It will provide access to the employment and recreation areas of north Dallas and Collin County from the west and southwest Tarrant, Ellis and Johnson Counties relieving traffic and congestion on the surrounding major roadways of State Highway 360 (“SH 360”), IH 20, IH 30, SH 183 and Spur 408/Loop 12.

SH 161 would result in considerable reduction in congestion along the SH 360/SH 161 corridor, which in turn would help the DFW region with reduction in the fossil fuel usage. In addition, SH 161 is expected to provide considerable time-savings over alternative routes. For example, SH 161 is expected to provide time savings in the range of 12 to 23 percent over alternative routes in the peak periods for a trip between DFW airport and near the south end of SH 161 in 2013. Please see the Mobility 2030: 2009 Amendment at http://www.ntta.org/AboutUs/Project/SH_161_documents for further discussion.

Design Features

The design and construction of the Project will conform to the latest TxDOT, American Association of State Highway and Transportation Officials (“AASHTO”), and NTTA design and construction standards with the normal and acceptable modifications necessary to incorporate toll collection, security and the phased development of the Project. The Project will be a controlled access tolled freeway with an initial design of four (4) main lanes between IH 20 and IH 30, six (6) main lanes between IH 30 and SH 183, and an ultimate design consisting of eight (8) lanes throughout the Project. No other expansions or accommodation of additional transportation modes is anticipated, at this time. Sidewalks will be constructed adjacent to cross-streets where appropriate. All sidewalks will be constructed in accordance with the applicable guidelines of the Americans with Disabilities Act.

The expansion of the Project to the ultimate eight (8) lane capacity is anticipated to be accomplished in two separate widening efforts as discussed previously. The median areas will be sufficient and capable of

accommodating the expansion(s) described above. For the initial construction, it is desired that the roadway bridges, walls and other ancillary facilities be constructed in their ultimate widths and final positions to accommodate this ultimate expansion with minimal rework and/or impacts on ongoing tolled traffic. National Environmental Policy Act (“NEPA”) evaluation and clearance has not occurred for the design and construction of the ultimate configuration and it is undetermined at this time whether the bridges will be constructed to include the ultimate configuration. In the event that NEPA clearance is not obtained, the roadway bridges will be constructed to their initial configuration.

The Project will include a major 4-level interchange at IH 20 and a major 5-level interchange at IH 30 along with 14 non-tolled ramps, 18 tolled ramps and 2 main lane toll gantries.

The Project will be constructed to utilize all electronic toll collection (“ETC”) and Intelligent Transportation System (“ITS”) technologies. The Project will be a completely cashless facility with tolls collected through the recognition of the NTTA (TollTag), TxDOT (TxTAG) transponders as well as a Vehicle Enforcement System (“VES”) capable of acquiring vehicle license plate information without transponders. An ITS system will link the Project to the NTTA and TxDOT regional traffic management centers utilizing real-time traffic flow and visual data to enhance mobility and shorten incident response time.

The Project is designed to be environmentally sensitive with the surrounding landscape and community with structural controls to minimize impacts on the adjacent areas. Drainage runoff will be collected in ditches and underground structures and mitigated during construction and in the finished roadway to alleviate any negative off-site impacts. Sound walls were provided along the route by TxDOT as part of the Phase 1 construction. NTTA will construct only one additional sound wall along the Project in accordance with the approved environmental documents and will be within state and federal guidelines to minimize any noise impacts to the surrounding community. Roadway safety illumination will be provided at the ramps using full cutoff fixtures, as required, to reduce ambient light off the Project. High-mast lighting was recently constructed at the SH 161-IH 20 interchange with the Phase 1 construction and only minor relocations are anticipated for constructing the remainder of the proposed SH 161-IH 20 interchange. High-mast lighting is anticipated for the SH 161-IH 30 interchange with the heights, lamp types and orientations designed to minimize impacts on the surrounding neighborhoods.

Since the majority of the Project will be constructed within the limits of the frontage roads previously built in Phase 1 by TxDOT, all the required right-of-way (“ROW”) was acquired prior to the frontage road construction. It is not currently anticipated that additional ROW will be required to complete the Project.

The Project structures and amenities will be designed to meet the aesthetic requirements of the NTTA, TxDOT and the surrounding communities. Landscaping along the Project will be designed and provided to support and enhance the roadway elements and appearance using native plants, grasses and other treatments.

Capital Cost

The current estimated total capital cost (Phase 4, ETC/ITS within Phases 2 and 3, and the UPRR Work) is \$601.5 million. NTTA has completed its procurement of a Design-Builder for the development of Phase 4 of the Project. Approximately \$5 million of project work for Phase 3 ETC and landscaping does not have firm bids in place.

Quantities of the major construction items were developed from the conceptual schematic plans provided by TxDOT and include pavement, earthwork, bridges, and retaining walls. The estimated quantities and unit prices for similar NTTA and TxDOT construction in the Dallas area were used to estimate the total

construction cost. The unit prices are based on costs from 2007. The total project cost was escalated to the mid-point of construction using a Construction Cost Index (“CCI”) developed by NTTA from historical data.

Development Schedule

Construction of Phase 1 is substantially complete and open to traffic. Phase 2 roadway and ETC elements have been designed and are currently under construction. On August 2, 2009, two (2) main lanes in each direction within Phase 2 opened to traffic in a temporary configuration while work continues on the remaining Phase 2 elements. These remaining elements will open up to traffic as they are completed, with all Phase 2 elements expected to be completed by January 2011. Phase 3 roadway elements have been designed and are currently under construction by TxDOT. Phase 3 ETC elements are currently under design by NTTA. All of the Phase 3 work is scheduled to be completed by January 2011. Phase 4 is anticipated to be delivered through a design-build agreement, with design commencing in 2009, construction commencing in early 2010, and expected substantial completion in September 2012.

Risks

The NTTA has analyzed major project and lender risks and developed methods to mitigate such risks. Common risk items, such as ROW and utility relocations, have for the most part already been taken care of by TxDOT within Phases 1, 2 and 3, and thus will have minimal impact on the Project. Additionally, NTTA’s design-build contract for Phase 4 transfers many of the project risks to the Design-Builder.

Public Support

A public hearing was held on September 21, 2006 in which the Project received support from the affected governmental agencies and favorable comments from the public. TxDOT and NTTA will continue to work with the Project stakeholders to maintain this public support throughout the construction of the Project. Additionally, on August 20, 2009, a public hearing was held to disclose the anticipated financial forecast for the Project.

Alternatives Considered

Ten alternatives were developed and evaluated during the course of the environmental study. These included the No-Build Alternative, nine alternative route locations and alternate modes of transportation.

Permits & Approvals

The preliminary planning of the Project, including the required environmental reviews, has been completed in accordance with the National Environmental Policy Act of 1969, Federal Highway Administration (“FHWA”) regulations, and other applicable federal, state and local law. Issues considered during the NEPA process included socioeconomic conditions in the surrounding communities and environmental impacts such as water, air quality, noise, traffic, historical and cultural resources, endangered species and hazardous material sites. Multiple alignments were studied throughout the Project during the schematic phase and the final route was determined by TxDOT and local authorities. The locally preferred alternative was presented during the October 1994 Public Hearing and was on display as the SH 161 Schematic.

A number of permits and approvals necessary for the construction of the Project have been obtained. An Environmental Impact Statement (“EIS”) was prepared by TxDOT and approved by FHWA in 1997. Subsequent re-evaluations of the Project were required based on modifications to the original schematic and later due to the designation as a tolled facility. As part of the process, two (2) public meetings and one (1) public hearing were held to explain the modifications and revised nature and scope of the Project. Final documentation was submitted to FHWA and was approved in February 2008.

Section 404 Permits have been required for the on-going design and construction of the Project. An individual Section 404 Permit was obtained by TxDOT for the Phase 2 work. The NTTA obtained the remaining needed permit required for Phase 4 construction on February 24, 2009.

The contractor would be required to comply with the Texas Commission on Environmental Quality (“TCEQ”) – Texas Pollutant Discharge Elimination System General Permit for Construction Activity because construction activities would disturb more than one acre. Since the construction activities would disturb more than five acres, a Notice of Intent would be filed to comply with TCEQ requirements and a storm water pollution prevention plan (“SW3P”) would be in place during construction.

Right of Way Acquisition Progress

TxDOT has acquired the necessary parcels to meet the requirements of the current roadway design schematic for the Project. These acquisitions will support the Project as currently designed and are in compliance with the schematic design. Realizing that there may be additions, modifications and refinements made during the final design process to improve the roadway plans or take advantage of innovative design practices, NTTA’s right of way acquisition policy and procedures will be utilized in the event other right of way parcels are identified for acquisition.

Contract Status

For the development of the Project, TxDOT has selected and issued multiple contracts to separate contractors to perform the work included in Phases 1, 2 and 3. All but one contract have been completed at this time, with anticipated contract completion date expected in January 2011. NTTA has assigned HDR Engineering, Inc. as their corridor manager for the development of the Project. The toll gantry construction contract for Phase 2 was authorized on April 14, 2009, with notice to proceed given April 20, 2009. This work was completed August 2, 2009 and was managed by Kellogg, Brown and Root, Inc. A contract with the Design-Builder for Phase 4 is anticipated to be executed in September 2009, with notice to proceed anticipated to be issued shortly thereafter. This work is scheduled for substantial completion in September 2012.

State Transportation Plan & Metropolitan Transportation Plan

The Project is consistent with *Mobility 2030* which was adopted on April 9, 2009 by the RTC of the NCTCOG. The RTC is the policy board of the DFW area’s MPO and is responsible for the development of the area’s long-range transportation plan. Recommendations contained within the MTP meet air quality requirements and the MPO received notification of a favorable air quality conformity determination on the MTP by the U.S. Department of Transportation on August 31, 2009. The MTP was developed in full coordination with TxDOT and is part of the Texas transportation plan. The current short-range programming document is the 2008-2011 Transportation Improvement Program (“TIP”) which was also adopted by the RTC and incorporated by the Texas Transportation Commission into the statewide TIP.

The Project is included in the current DFW MTP and has been in previous metropolitan transportation plans dating back to the 1950s. Inclusion in the MTP indicates this vital transportation Project is part of the region’s plan to meet anticipated travel demand as well achieve conformance with the National Ambient Air Quality Standards (“NAAQS”) for Ozone as soon as possible.

C) PROJECT PARTIES

Name of Applicant

NTTA Authority is the applicant.

Members of Project Team and Staff

Below is a listing of the primary NTTA staff members and NTTA's consultants working on the Project.

NTTA Staff: Janice Davis, CFO; Dana Boone, Director of Cash & Debt Management; Kristel Richards, Debt and Financial Planning Manager; Dartanian Boyette, PMP, Project Evaluation Manager; Gerry Carrigan, P.E., Assistant Executive Director of Project Delivery; Elizabeth Mow, P.E., Director of Project Delivery

Corridor Manager (HDR): Paul Alsina, P.E., SH 161 Corridor Manager

Financial Advisor (RBC Capital Markets): Dan Heimowitz, Managing Director; Andrew Mendelson, Associate

Co-Financial Advisor (TKG & Associates): Charlotte Knight-Marshall, Principal; Pamela Mobley, Principal

Traffic and Revenue Engineer (Wilbur Smith Associates): Michael Copeland, AICP, Senior Project Manager

General Engineering Consultant (HNTB Corporation): Stephanie Halliday, P.E., GEC Project Director

General Counsel (Locke Lord Bissell & Liddell): Frank Stevenson, Partner; Kevin Twining, Partner

Bond Counsel (McCall, Parkhurst & Horton): Rick Porter, Partner; Greg Schaecher, Partner; Joe Eckert, Partner

Co-Bond Counsel (Mahomes Bolden Warren Sigmon): Bill Mahomes, Partner; Steve Bolden, Partner; Ingrid Warren, Partner

Design-Builder (Prairie Link Constructors): Fluor EPCM Services; Balfour Beatty Construction

Underwriters: A set pool of 21 underwriters is available from which to choose an underwriting syndicate

NTTA Organizational Structure

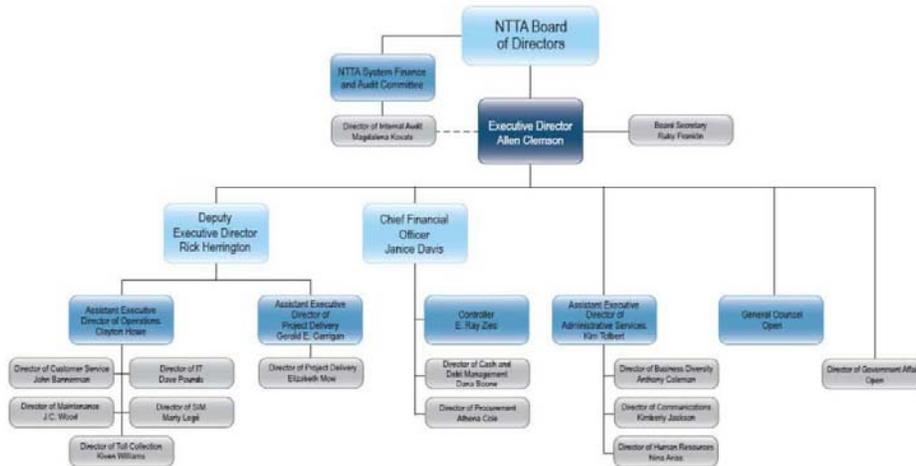
The Authority is a regional tollway authority governed by Chapter 366 of the Texas Transportation Code and is a political subdivision of the State of Texas currently serving Collin, Dallas, Denton, and Tarrant Counties (a "Member County" or the "Member Counties"). It came into existence on September 1, 1997 as the successor to the Texas Turnpike Authority (the "TTA"), an agency of the State of Texas that was created in 1953 and abolished in 1997. The Authority assumed ownership of the NTTA System and all obligations of the TTA related to the NTTA System.

The Authority is governed by a nine member appointed Board of Directors. One of the directors, who must be from a County outside the Authority but adjacent to one of the Member Counties, is appointed by the Governor of Texas. The commissioners' court of each Member County appoints two directors to the

Board. If a county adjacent to a Member County petitions to join the Authority, and the Board approves that petition, the Board will be enlarged by one seat, to be filled by appointment of the county commissioners of the petitioning County.

The Board appoints an executive director who is responsible for day-to-day operations of the Authority, including general management and hiring and termination of employees, as well as other duties described in the Authority's bylaws.

Organizational Chart of the North Texas Tollway Authority as of July 28, 2009



Other Parties

Texas Department of Transportation www.dot.state.tx.us

TxDOT will be providing NTTA with a Toll Equity Loan (“TEL” or “TxDOT TEL”) for this Project. The TEL will not be used for construction or other project costs. NTTA can draw on the TxDOT TEL in any year in an amount equal to the difference between actual revenue and the projected toll revenue from the investment grade traffic and revenue study. In effect, TxDOT, through the TEL, is providing a gross toll revenue guarantee. Any amount drawn from the TxDOT TEL will first be pledged to senior project debt holders and then to TIFIA. The TEL is discussed in more detail in Section F6 – “Financial Feasibility, TxDOT Toll Equity Loan” on page 18 below.

TxDOT, in cooperation with local and regional officials, is responsible for planning, designing, building, operating and maintaining the state's transportation system. TxDOT has been involved in the planning and development of the SH161 Project from the beginning. As discussed above, they are completing the first three phases of the four phases.

North Central Texas Council of Governments www.nctcog.org

NCTCOG is a voluntary association of, by and for local governments, and was established to assist local governments in planning for common needs, cooperating for mutual benefit, and coordinating for sound regional development. NCTCOG serves a 16-county region of North Central Texas, which is centered around the two urban centers of Dallas and Fort Worth. NCTCOG has over 230 member governments including 16 counties, numerous cities, school districts, and special districts. NTTA will coordinate with the NCTCOG as well as other local stakeholders throughout the development of the Project.

Regional Transportation Council

The RTC is the independent transportation policy body of the Metropolitan Planning Organization. The RTC is comprised of 43 members: 36 local elected or appointed officials representing cities and counties, and seven transportation provider representatives. The RTC is responsible for overseeing the metropolitan transportation planning process. NTTA will coordinate with the RTC as well as other local stakeholders throughout the development of the Project.

Metropolitan Planning Organization

Regional transportation planning in North Central Texas is conducted by the federally designated MPO, comprised of the NCTCOG Transportation Department, NCTCOG Executive Board, RTC, and several technical committees. The MPO works with state and local governments, the private sector, and the region's citizens to plan coordinated transportation systems designed to move goods and people affordably, efficiently, and safely. Areas served include the Dallas-Fort Worth-Arlington, Denton-Lewisville, and McKinney urbanized areas and surrounding municipalities and communities. Major products produced by the MPO include a long-range MTP, a shorter-term TIP, a Congestion Management Process ("CMP"), and a Unified Planning Work Program ("UPWP"). NTTA will coordinate with the MPO as well as other local stakeholders throughout the development of the Project.

Federal Highway Administration www.fhwa.dot.gov

FHWA is charged with the broad responsibility of ensuring that America's roads and highways continue to be the safest and most technologically up-to-date. Although state, local, and tribal governments own most of the nation's highways, the FHWA provides financial and technical support to them for constructing, improving, and preserving America's highway system. FHWA's annual budget of more than \$30 billion is funded by fuel and motor vehicle excise taxes. The FHWA budget is primarily divided between two programs: federal-aid funding to state and local governments; and Federal Lands Highways funding for national parks, national forests, Indian lands, and other land under federal stewardship. For Phase 4, FHWA will perform oversight functions on the Project.

City of Grand Prairie, TX www.gptx.org

Grand Prairie is located between Dallas and Fort Worth and has a population of more than 166,000. Generally speaking, the residents are 30-something dual income homeowners. The long-awaited section of SH 161 between SH 183 in Irving and IH 30 in Grand Prairie opened Aug. 2, 2009. Drivers on the President George Bush Turnpike are now allowed to continue south of SH 183 to I-30 using the new five-mile toll road that stretches from SH 183 to Egyptian Way in Grand Prairie.

Irving, TX www.ci.irving.tx.us

Irving, TX is located in Dallas County and has a population over 196,000. The Project would extend the existing SH 161 roadway from where it currently terminates, just south of SH183 within the City of Irving, south approximately 11.5 miles to IH20 within the City of Grand Prairie. NTTA will coordinate with the Irving as well as other local stakeholders throughout the development of the Project.

D) GRANT FUNDS AND SOURCES AND USES OF PROJECT FUNDS

NTTA is applying for a TIGER TIFIA Payment for a TIFIA Loan. NTTA anticipates the TIGER allocation through the TIFIA Program to be no greater than \$40 million, but most likely significantly less (approximately \$20 million) reflecting the “AA” credit support of TxDOT through the TxDOT Toll Equity Loan. The TIGER allocation would fund the requested TIFIA Loan of approximately \$393 million. Below please find a table with the currently estimated sources and uses of project funds. More detail regarding the sources and uses of funds is provided below in Section F6 – “Financial Feasibility” as well as in the TIFIA application that has been submitted.

Sources and Uses of Funds

Sources of Funds		
	Total \$	Total %
Revenue ¹	40,871,266	3.23%
Interest Earnings	-	0.00%
Senior Current Interest Bonds	454,325,555	35.93%
Subordinate TIFIA Loan	393,011,986	31.08%
Equity	376,254,576	29.76%
Total	1,264,463,383	100.00%

Uses of Funds		
	Total \$	Total %
Construction	601,469,953	47.57%
Upfront Payment (Includes Phase 2 & 3 Reimbursement)	456,000,000	36.22%
Capitalized Interest Fund	127,725,129	10.10%
Rate Stabilization Fund	37,269,483	2.95%
Major Maintenance Reserve Fund	4,080,033	0.32%
Operations and Maintenance ²	29,708,910	1.89%
Major Maintenance ²	1,223,652	0.10%
TIFIA Upfront and Ongoing Fees	1,165,538	0.09%
Other Transaction Fees	9,814,893	0.78%
Total	1,264,463,383	100.00%

(1) Revenue from the operations of Phases 2&3 during the construction period.
(2) O&M and major maintenance costs for the operations of Phases 2&3 during the construction period.
Source: Model V022d - TIFIA Application with NTTA revenue and cost inputs v16
Figures are preliminary estimates and subject to change based on market conditions and further diligence by NTTA and TxDOT

E) PRIMARY SELECTION CRITERION 1 – LONG-TERM OUTCOMES

The Project’s goals and objectives are to improve the transportation network and level of service in the study area and region. The need for SH 161 is demonstrated by the traffic congestion resulting from considerable population increases and associated development. The implementation of tolling on SH 161 supports the overall project need by generating revenue for the operation and maintenance of SH 161. Tolling SH 161 would allow for the main lanes to be constructed five to ten years earlier than previously programmed by the State of Texas.

Long-term the Project benefits the public by improving the condition of the existing North Texas transportations systems; measurably contributing to economic growth in North Texas; positively impacting commutes; and improving the safety of travelers.

1. State of Good Repair Does the project improve the condition of existing transportation facilities and systems, with particular emphasis on projects that minimize life-cycle costs?

SH 161 has been planned for over 30 years as an integral part of the DFW area’s regionally adopted MTP. Providing valuable parallel capacity to severely congested freeways, SH 161 improves the freeway and tollway system in North Texas. Construction of SH 161 will improve the overall transportation system by

leveling the traffic demand on the entire highway system. By reducing the long-term traffic demand on existing freeways, to be shared by the new SH 161, existing highway corridors will experience less wear-and-tear, which will increase system longevity and a possible reduction in long-term life-cycle costs. As part of the planning process, NTTA and TxDOT conducted a detailed traffic and revenue study to determine the likely toll revenue versus estimated project costs for SH 161. In addition, SH 161 has undergone both capital and long-term maintenance cost evaluations, with a particular focus on life-cycle costs. In many cases, the selection of construction materials or the application of construction specifications have been evaluated with the intent of minimizing life-cycle costs. NTTA's financial structure for SH 161 ensures adequate funds to support future operations and maintenance expenditures over the long-term for SH 161. Please see Section F6 – "Financial Feasibility," on page 16 below, for a further discussion of the revenue projections that will support future operations and maintenance expenditures. A detailed discussion of the traffic and revenue projections are included in the Draft investment grade traffic and revenue report by Wilbur Smith Associates ("WSA"), which was included in NTTA's TIFIA Loan Application submitted to the Office of the Secretary of Transportation dated September 9, 2009. *The WSA draft investment grade traffic and revenue report is contains confidential business information and the entire document is considered strictly confidential.*

2. Economic Competitiveness Does the completed project contribute to the economic competitiveness of the United States (i.e. growth in employment, production or other high value economic activity) over the medium-to long-term?

SH 161 has been developed with consideration to planned land uses adjacent to the planned tollway. The current land use consists of commercial areas around the major interchanges, industrial, warehousing as well as mixed used/sustainable developments and residential developments. These commercial and residential developments located along SH 161 are expected to contribute to the local tax base and economic growth of west Dallas County. SH 161 will improve the long-term efficiency of the movement of workers and goods by serving as an alternate and reliever transportation route from the existing SH 360 corridor. SH 161 will contribute to both the medium- and long-term competitiveness of the North Texas region by creating short-term jobs, creating improved transportation to/from existing places of employment, and spurring sustainable commercial and residential development along this new Project.

Any jobs "directly" created are temporary construction jobs for the Project or internal NTTA Operations & Maintenance ("O&M") FTEs. Anything else would be indirectly related such as business expansion, for businesses currently located in the corridor, or new businesses deciding to build in the corridor. Both would be difficult to quantify because we would need a "no-build" scenario against which to compare. It is believed that many businesses or jobs will migrate to the corridor to take advantage of the improved transportation system. Quantifying which ones are new to the DFW area attributable to SH 161 versus which ones are new to the area just based upon general economic expansion, versus the ones that are relocating from within the area is difficult, if not impossible, to predict with any level of certainty.

SH 161 will provide improved connectivity and access to the heart of the entertainment center of the DFW metroplex. Several large entertainment venues are located along the IH 30 corridor that include Lone Star Park (horse racing), QuickTrip Park (professional minor league baseball), Nokia Theater (multi-use concert and stage venue), Six Flags Over Texas (theme park), Rangers Ballpark in Arlington (major league baseball), and the Dallas Cowboys' new Cowboys Stadium (professional football). These attractions generate a tremendous amount of economic activity both directly as well as indirectly from hotels, restaurants and other general tourism activities.

SH 161 will provide greatly improved access to the IH 30 corridor and thus to each of these major travel destinations. The new Cowboys Stadium is expected to generate \$7 billion of economic benefits over 30

years just for the city of Arlington and approximately \$400 million annually for Tarrant County. Having been recently chosen to host the 2014 NCAA Final Four Men's Basketball Championship, an annual interstate football game between Texas A&M University and University of Arkansas, as well as the 2011 National Football League ("NFL") Super Bowl XLV, Cowboys Stadium is expected to generate a tremendous amount of economic activity. The Super Bowl alone is expected to generate \$400 million for the entire DFW region including over 2,000 temporary jobs.

An improved transportation system, led by the construction of SH 161, is essential to ensuring a successful event. The North Texas Super Bowl Host Committee is reaching out nationwide to provide ample economic opportunities to small, minority-owned, and women-owned businesses through an initiative entitled Emerging Business Program. Other venues along the IH 30 corridor will also benefit from the improved transportation access SH 161 provides. Located a short drive east of SH 161 along IH 30 near Dallas' central business district is the historic Texas State Fair Park and the American Airlines Center, home to the Dallas Stars (professional hockey) and the Dallas Mavericks (professional basketball); to the west near Fort Worth's central business district is the Fort Worth Stockyards National Historic District. SH 161 will provide a key portion of the DFW metroplex greater mobility and bolster the area's economic competitiveness by providing improved access to these significant attractions.

3. Livability Does the project improve the quality of living and working environments and the experience for people in communities across the United States?

As noted previously, the roadways near the SH 360/SH161 corridor such as SH 360, IH 20, IH 30, SH 183 and Spur 408/Loop 12 currently experience moderate congestion and are expected to reach severe congestion levels by 2030 if no new projects, including SH 161 are constructed.

SH 161 will improve the quality of living and working environments and the overall commuting experience for people in Grand Prairie and the surrounding communities. By providing a new and more convenient transportation alternative and expanding the transportation choices and points of connectivity, commuters will experience less congested travel and more reliable travel time to and from places of employment and recreation. SH 161 is expected to provide considerable time-savings over alternative routes. For example, SH 161 is expected to provide time savings in the range of 12 to 23 percent over alternative routes in the peak periods for a trip between DFW airport and near the south end of SH 161 in 2013, when the Project is fully open. This reduction in congestions also has the effect of reducing greenhouse gas emissions, benefiting the environment and the quality of life for the citizens of North Texas.

Additionally, SH 161 improves the overall travel experience on the freeway and tollway system with the deployment of modern design features, technology and aesthetic enhancements. As currently planned, the SH 161 Project extends the existing SH 161 and the existing President George Bush Turnpike. SH 161 facilitates the distribution of traffic to significant regional destinations in North Texas and serves as a critical connection to major multimodal and intermodal transportation facilities. SH 161 has been part of a 30 year planning process which coordinated land-use planning decisions and encouraged community participation in the process. The process has included input for various stakeholders within the community and the region including the NCTCOG, TxDOT, NTTA, City of Grand Prairie and local citizen groups. In 1971, FHWA approved the first FEIS for the corridor. In 1989, FHWA approved a DEIS for the corridor. A Supplemental DEIS was approved by FHWA in September of 1994 and a Public Hearing was held in October of that year. In 1996 a SFEIS was approved by FHWA and a Record of Decision (ROD) was issued by FHWA for the corridor. In June of 2004, a Re-evaluation was approved for the corridor, and again in 2005. Lastly in February of 2008, the latest re-evaluation for the

corridor was approved. As can be seen by the various approvals that have occurred over the years, the amount of involvement and input from the stakeholders in the region has been significant.

4. Sustainability Does the project improve energy efficiency, reduce dependence on oil, reduce greenhouse gas emissions and benefit the environment?

The DFW region is classified as a non-attainment area for Ozone by the EPA. SH 161 is included in the current DFW MTP. The MTP must demonstrate how the proposed transportation improvement projects, including SH 161, help the region reduce pollutants from automobile emissions in order to meet the NAAQS. A Supplemental Final Environmental Impact Statement (“SFEIS”) re-evaluation was developed for the FHWA and TxDOT to determine the social, economic and environmental effects of the Project as required by the NEPA of 1969. This SFEIS Re-evaluation was approved by the FHWA on February 29, 2008. The construction of SH 161 will, in conjunction with other projects listed in the MTP, help reduce pollutants and congestion in the region. SH 161 further benefits the environment through design and construction techniques that increase system longevity and reduce long term maintenance, both of which will reduce future construction and minimize future impacts to commuters and the environment.

SH 161 has gone through a lengthy planning process and has demonstrated avoidance and minimization efforts throughout the NEPA process. Through the planning process and corridor preservation, environmental impacts have been minimized and mitigation efforts employed. SH 161 would result in considerable reduction in congestion along the SH 360/SH 161 corridor, which in turn would help the DFW region with reduction in the fossil fuel usage. See TIFIA Credit Program Application, Section 7 – “Environmental Benefits,” Page 21.

5. Safety Does the project improve the safety of U.S. transportation facilities and systems?

SH 161 has been designed in accordance with the latest state and local standards and guidelines, which means current safety standards and criteria have been implemented. Functionally, the application of current criteria will improve overall mobility along the Corridor as well as address typical travel movements associated with safety, such as merge-and-weave distances, on/off ramp locations, sight distances, and overhead bridge clearances. In addition, SH 161 will reduce the congestion currently experienced on nearby highway facilities such as SH 360, which will help reduce the number of vehicular accidents on highways where demand exceeds capacity.

F) PRIMARY SELECTION CRITERION 2 – JOB CREATION/ECONOMIC STIMULUS

Is the project expected to quickly (i.e. in the near-term) create and preserve jobs and stimulate rapid increases in economic activity, particularly jobs and activity that benefit Economically Distressed Areas?

The SFEIS Re-evaluation (2008) studies impacts to Environmental Justice (“EJ”) populations (low income and/or minority). Although there was a fairly large impact to EJ populations, the study also reports a 49.2% minority population, which accounts for the EJ impact. The area is not considered to be economically distressed (less than 10% under the poverty level).

1. Project Schedule

All major studies and engineering and environmental studies have been completed. Construction of the Phase 1 portion of the Project is substantially complete and open to traffic. Phase 2 roadway and ETC

elements have been designed and are currently under construction by NTTA and TxDOT. On August 2, 2009, two (2) main lanes in each direction within Phase 2 opened to traffic in a temporary configuration while work continues on the remaining Phase 2 elements. These remaining elements will open to traffic as they are completed, with all Phase 2 elements being completed by January 2011. Phase 3 roadway elements have been designed and are currently under construction by TxDOT. Phase 3 ETC elements are currently under design by NTTA. All of the Phase 3 work is to be complete by January 2011. Phase 4 is anticipated to be delivered through a design-build agreement, with design commencing in 2009, construction commencing in early 2010, and expected substantial completion in September 2012. Below is an overview of the project schedule.

Project Schedule		
Activity Name	Start	Finish
Phase 1		
TxDOT Construction	16-May-06	29-Jan-09
Phase 2		
NTTA Design	02-Apr-08	02-Aug-09
NTTA Construction	23-Oct-08	18-Apr-09
TxDOT Construction	20-Apr-09	02-Aug-09
Phase 3		
NTTA Design	02-Apr-08	19-Jan-11
NTTA Construction	15-May-09	22-Apr-10
TxDOT Construction	22-Jun-10	01-Dec-10
Phase 4		
NTTA Procurement of Developer	02-Apr-08	19-Jan-11
NTTA Design Build	05-Dec-08	01-Sep-12
	05-Dec-08	19-Aug-09
	15-Sep-09	01-Sep-12

2. Environmental Approvals Receipt (or reasonably anticipated receipt) of all environmental approvals necessary for the project to proceed to construction on the timeline specified in the project schedule, including satisfaction of all Federal, State and local requirements and completion of NEPA.

The preliminary planning of the Project, including the required environmental reviews, has been completed in accordance with the NEPA, FHWA regulations, and other applicable federal, state and local law. Issues considered during the NEPA process included socioeconomic conditions in the surrounding communities and environmental impacts such as water, air quality, noise, traffic, historical and cultural resources, endangered species and hazardous material sites.

An EIS was developed by TxDOT to determine the social, economic and environmental effects of the Corridor on the environment as required by the NEPA. Ten separate alignments were studied for the Corridor during this schematic phase including a No-Build Alternative, nine (9) alternative alignments and alternate modes of transportation. The final and locally preferred alternative route was determined by TxDOT and presented on the original 1994 SH161 Schematic. This EIS received a Record of Decision (“ROD”) from FHWA in 1997. As a result of revisions to the Project, a re-evaluation was prepared and ultimately approved in June 2004. After the re-evaluation was approved, the Project was designated as a toll facility by the RTC. Two public meetings and a public hearing were held as part of the environmental study for tolling the Project. Final documentation was submitted by TxDOT to FHWA and was approved on February 29, 2008. The complete 1997 EIS and Re-evaluation are available at http://www.ntta.org/AboutUs/Projects/SH_161_documents for your review.

Under Section 404 of the Clean Waters Act, the U.S. Army Corps of Engineers (“USACE”) regulates the discharge of dredged or fill material into waters of the United States, including wetlands. Therefore, authorization by the USACE in the form of a nationwide permit is required for the Project and the Project for the discharge of dredged or fill materials and for construction of box culverts and/or bridges in water

of the U.S. that exist within the Project. Section 404 Permits have been required for the on-going design and construction of the Project. An Individual Section 404 Permit developed for TxDOT was obtained in February 2008 for the crossing of the Trinity River. Additionally, the NTTA acquired an additional Nationwide Permit (“NWP”) 14 to complete the remaining construction from IH 20 to IH 30 in Phase 4. The permit was acquired on February 24, 2009.

A contractor is required to comply with the TCEQ – Texas Pollutant Discharge Elimination System General Permit for Construction Activity when construction activities disturb more than one acre. More than five acres will be disturbed therefore, a Notice of Intent will be filed to comply with TCEQ requirements and a SW3P would be in place during construction.

3. Legislative Approvals (a) Receipt of all necessary legislative approvals, and (b) Evidence of support from State and local officials, including relevant governor(s) and/or mayors (this is not required, but the evidence should demonstrate that the project is broadly supported).

The NTTA has exercised its right of primacy under Texas state law to develop the SH 161 Project, and has entered into a Project Agreement with TxDOT regarding the acquisition, construction and development of the Project. The NTTA is authorized under Chapter 366 of the Texas Transportation Code to charge and set tolls on the Project. The Project is also included in the MTP known as Mobility 2030 and has been in previous metropolitan transportation plans as well, dating back to the 1950s. The Authority has received all necessary approvals and local support for this Project.

4. State and Local Planning (a) Inclusion of the project in the relevant State, metropolitan, and local planning documents; or (b) Certification from the appropriate agency that the project will be included in the relevant planning document prior to award of a TIGER Discretionary Grant.

The SH 161 Project is consistent with the 2008-2011 TIP as proposed by NCTCOG. Not only has the RTC expressed its full support for the NTTA’s development of the Project, but TxDOT is also in full support as it provides active assistance with the Project development and NTTA’s TIFIA application process. TxDOT with financial support from the RTC has already committed to full funding of Phases 1, 2 and 3 to accelerate the development of the Project – construction of these phases is already underway with the first phase expected to open to traffic in the third quarter of 2009. The United States Department of Transportation (FHWA/FTA) found the MTP to conform to the State Implementation Plan as of June 12, 2007 and found the 2008-2011 TIP to conform on October 3, 2007.

As described in the approved environmental documents, the Project’s goals and objectives are to improve the transportation network and level of service in the study area and region. The need for SH 161 is demonstrated by the traffic congestion resulting from considerable population increases and associated development. The implementation of tolling on SH 161 supports the overall Project need by generating revenue for the operation and maintenance of SH 161. Tolling SH 161 would allow for the main lanes to be constructed five to ten years earlier than previously programmed by the State of Texas.

Specifically, the Project will serve as a major direct link in the DFW regional transportation network where it will provide access to the employment and recreation areas of north Dallas and Collin County from the west and southwest Tarrant, Ellis and Johnson Counties relieving traffic and congestion on the surrounding major roadways of SH 360, IH 20, IH 30, SH 183 and Spur 408/Loop 12.

5. Technical Feasibility Includes completion of substantial preliminary engineering work.

As the Project has been in various stages of development over the past 30 years, the technical feasibility of the Project has progressed over time. Beginning with the early schematics and the environmental document approvals, the preliminary engineering work and schematics have been updated over time as standards changed as well as the area surrounding the Project. Detailed engineering design has been completed for Phases 1, 2 & 3, with Phases 1 & 2 already open to traffic. Phase 3 is currently under construction. Phase 1 consisted of the frontage roads between IH 30 and IH 20, while Phase 4 consists of the main lanes between these two interstates.

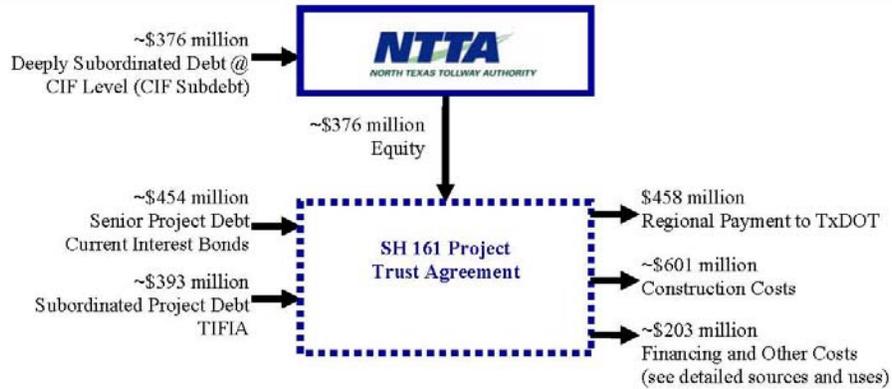
As part of the development of Phase 1, the schematic design of Phase 4 was completed to a level as to allow the purchase of all the necessary right of way for the Project, as well as the relocation of utilities to accommodate the future Phase 4 construction. For the Phase 4 design-build procurement, the Phase 4 schematic design was provided to the design-build proposers to assist them in the preparation of their proposals. Through the procurement process, NTTA met numerous times with the design-build proposers to discuss the technical feasibility of the Project. All three proposers were confident that the Project was technically feasible and submitted price proposals underneath the engineer's estimate. A contract with Prairie Link Constructors for Phase 4 is anticipated to be executed in September 2009, with notice to proceed anticipated to be issued shortly thereafter. For more detailed discussion on the engineering of the Project, please refer to the SH 161 Engineering Report at http://www.ntta.org/AboutUs/Projects/SH_161_documents.

6. Financial Feasibility The viability and completeness of the project's financing package (assuming availability of the requested TIGER Discretionary Grant Funds), including evidence of (a) stable and reliable financial commitments and contingency reserves, and (b) the grant recipient's ability to manage grants.

NTTA is applying for a TIGER TIFIA Payment for a TIFIA Loan. NTTA anticipates the TIGER allocation through the TIFIA Program to be no greater than \$40 million, but most likely significantly less (approximately \$20 million) reflecting the "AA" credit support of TxDOT through the TxDOT Toll Equity Loan. This size TIGER allocation would provide NTTA with the requested TIFIA Loan of approximately \$393 million. Below please find a table with the currently estimated sources and uses of project funds.

Financing Structure

The Authority expects to employ a project finance structure, in which SH 161 does not fall under NTTA's Amended and Restated Trust Agreement, which is the trust agreement under which all NTTA System debt is issued. Rather, the SH 161 financing is a stand alone project finance structure that will receive an equity contribution from the NTTA System and will have its own segregated project trust agreement. The payment of operations, maintenance, and debt service will rely solely on the cash flows and operations of SH 161, including the TEL, and not on the NTTA System. The NTTA System will guarantee payment of operations and maintenance expenses above agreed to projected threshold levels. Below please find a diagram of the Project's financial structure.



The proposed finance plan for the Project (the “Plan of Finance”) includes senior project secured debt, a TIFIA loan and an equity contribution from NTTA. The Authority is seeking the maximum available TIFIA loan, which is expected to be equal to 33% of eligible project costs. NTTA will seek to issue as much senior project debt that can be supported by the Project and secured by the TxDOT TEL as discussed below, to maintain an “AA” level credit rating for both the senior project debt and the subordinated TIFIA Loan. All additional capital that cannot be raised through the TIFIA Loan and senior project debt will be in the form of equity from the NTTA System.

Sources and Uses of Funds

Below please find a table listing the sources and uses of funds for the Project’s financing:

Sources of Funds		
	Total \$	Total %
Revenue ¹	40,071,266	3.23%
Interest Earnings	-	0.00%
Senior Current Interest Bonds	454,325,655	35.93%
Subordinate TIFIA Loan	393,011,906	31.00%
Equity	376,254,576	29.76%
Total	1,264,463,303	100.00%

Uses of Funds		
	Total \$	Total %
Construction	601,469,953	47.57%
Upfront Payment (includes Phase 2 & 3 Reimbursement)	458,000,000	36.22%
Capitalized Interest Fund	127,725,129	10.10%
Rate Stabilization Fund	37,269,483	2.95%
Major Maintenance Reserve Fund	4,080,033	0.32%
Operations and Maintenance ²	23,708,910	1.88%
Major Maintenance ³	1,229,652	0.10%
TIFIA Upfront and Ongoing Fees	1,165,338	0.09%
Other Transaction Fees	9,014,003	0.70%
Total	1,264,463,303	100.00%

⁽¹⁾ Revenue from the operations of Phases 2&3 during the construction period
⁽²⁾ O&M and major maintenance costs for the operations of Phases 2&3 during the construction period
 Source: Model v022d - TIFIA Application with NTTA revenue and cost inputs v16
 Figures are preliminary estimates and subject to change based on market conditions and further diligence by NTTA and TxDOT

TIFIA Loan

The Plan of Finance includes a TIFIA Secured Loan in an amount equal to approximately \$393 million, which is assumed at the maximum level of 33% of eligible project costs. With the build-up of deferred interest during the interest accrual period, the loan would ultimately be outstanding in an amount equal to approximately \$550 million. The terms and conditions of the TIFIA Loan are assumed to be those that we understand to have been generally acceptable for TIFIA Loans in the past.

The TIFIA Loan is a critical element of the Authority's preferred Plan of Finance. In the event the Project is not allocated a TIFIA Secured Loan, the TIFIA piece of the Plan of Finance would need to be substituted with a limited amount of more expensive current interest bonds, but most of the gap would require an additional equity contribution from the NTTA System. The resulting equity requirement would significantly alter the project economics, likely making the Project unfeasible for the NTTA because the NTTA has set a maximum equity contribution at \$400 million and the resulting gap would require an equity contribution significantly more than \$400 million. Under such a scenario, the Authority would ultimately likely be unable to accept the Project at this time.

Senior Project Debt

NTTA will raise senior project debt through the issuance of current interest bonds ("CIBs"). These bonds will be a senior debt obligation of the Project under the segregated SH 161 Project Trust Agreement. Under current market conditions, NTTA no longer believes it can issue capital appreciation bonds ("CABs") for this Project as CABs require an "AAA" insurance wrap, which is currently not available.

Equity

NTTA's equity contribution to the SH 161 financing will come from the Authority's Capital Improvement Fund ("CIF"). The Authority will likely issue deeply subordinated debt at the CIF level of the NTTA System to raise the capital for NTTA's equity requirement. Although this capital is for the Project, the repayment of this CIF subdebt will be secured by cash flow into the NTTA System's CIF under NTTA's Amended and Restated Trust Agreement and not from the new segregated SH 161 Project Trust Agreement that is currently under development for the Project. As such, this capital contribution to the Project is a pure form of equity with no security from the Project. Conversely, the NTTA System's obligation to the Project would be limited to the initial equity contribution and the guarantee of certain operations and maintenance expenses.

TxDOT Toll Equity Loan

In any year that actual revenue is less than projected toll revenue, NTTA may draw on the TxDOT Toll Equity Loan up to an amount no greater than the lesser of: (1) debt service payments associated with the SH 161 project debt for the period, plus operations and maintenance expenses up to the budgeted amount for the period, including budgeted amounts for the period for major maintenance expenses and for capital improvement expenditures, but excluding any required reserves therefore, minus balances in the capitalized interest fund for debt service for the period, minus any revenues deposited into the Revenue Fund during that period, minus any available amounts in the TxDOT Toll Equity Loan payments reserve, and minus any available amounts in any operations and maintenance reserves; and (2) the maximum available amount as dictated in the TxDOT Toll Equity Loan agreement, minus balances in the capitalized interest fund for debt service for the period, minus any revenues deposited into the Revenue Fund during that period, minus any available amounts in the TxDOT Toll Equity Loan payments reserve, and minus any available amounts in any operations and maintenance reserves.

Revenues

Toll Revenue: Toll revenue estimates were provided to NTTA by Wilbur Smith Associates as part of an investment grade traffic and toll revenue study for the SH 161 Project. Further detail of the investment grade study assumptions are included in Section D, Part 5 Supplementary Narrative on Revenue Sources of the TIFIA loan application as well as in the draft investment grade traffic and revenue study provided in Exhibit VIII of the TIFIA loan application.

Video Fees: These fees include administrative fees for delinquent payment of video tolls. Further detail of the assumptions behind these projections is included in Section D, Part 5 Supplementary Narrative on Revenue Sources of the TIFIA loan application.

Description of Revenue Source(s) Pledged to Repayment

SH 161 Project debt will have a gross pledge of all revenues generated by the SH 161 Project, including toll revenue, video toll fees and interest earnings. TIFIA will be subordinated to senior project debt and will have a pledge of gross revenues less senior debt service. In addition, NTTA can draw on the TxDOT Toll Equity Loan in any year in an amount equal to the difference between actual revenue and the projected toll revenue from the investment grade traffic and revenue study. In effect, TxDOT, through a Toll Equity Loan, is providing a gross toll revenue guarantee. Any amount drawn from the TxDOT TEL will first be pledged to senior project debt holders and then to TIFIA. *As such, if projections do not materialize, draws would be made from the Toll Equity Loan to pay senior project debt holders and TIFIA. There is no project revenue risk in this financing as debt would be paid by funds drawn from the TxDOT Toll Equity Loan.*

Please note that the Plan of Finance and financing structure described above and herein is preliminary and has not been approved by the NTTA Board of Directors. As such, the Plan of Finance and financing structure are preliminary and subject to change.

G) SECONDARY SELECTION CRITERION – INNOVATION AND PARTNERSHIP

1. Innovation Does the project use innovative strategies to pursue its long-term outcomes?

SH 161 will utilize several innovative solutions such as ITS and ETC to support a transportation system that will deliver reliable and predictable levels of service, produce no delays caused by traditional toll booths, and reduce long-term operation and maintenance cost. Congestion management technologies such as dynamic message signs to alert the traveling public of known issues along the tollway will be utilized. These solutions will work together to help support the sustainability component mentioned earlier by reducing the greenhouse and MAST emissions caused by congestion and stop-and-go traffic associated with toll booths.

The Authority uses a Regional Integrated Toll Enhancements (“RITE”) System, an integrated software, hardware, and management system for toll collection that enables the Authority to manage its roadways and operations through automated revenue audit and reconciliation, consolidated reporting, violation-loss recovery, customer account management, and system and operation management and maintenance.

In addition, SH 161 is utilizing innovative approaches to enhancing project aesthetics while at the same time reducing long-term maintenance on hardscape elements such as retaining walls and cast-in-place concrete.

For the development of Phase 4, NTTA determined that the most appropriate contracting method for the delivery of the Project is the design-build delivery method. Phase 4 marks the first use of this delivery method for the NTTA.

As described above under “TxDOT Toll Equity Loan,” TxDOT is providing a Toll Equity Loan, which, in effect, provides a gross toll revenue guarantee. It is expected that the Toll Equity Loan will allow an “AA” rating on the senior project debt and the TIFIA loan. This would be the first use of this financing structure in the State of Texas.

2. Partnership. Does the project demonstrate strong collaboration among a broad range of participants and/or integration of transportation with other public service efforts?

SH 161 has been in development since the 1950s and was designated by the State of Texas as part of the disciplinary integration system to be known as Loop 9 in 1968. Later the Corridor was re-designated as State Highway 190 and SH 161. Since that time TxDOT, NCTCOG, NTTA, Dallas County, the City of Grand Prairie and several Community Work Groups and Advisory Groups have worked together to select the alignment, typical section, and aesthetic look of SH 161. To date multiple Inter-Local Agreements have been executed to define each entity's role in the development, construction and operation of SH 161. SH 161 continues to serve as a model Corridor for TxDOT Dallas District and NTTA transportation partnerships.

With FHWA's support of SH 161 through a TIFIA Loan in the form of a TIGER TIFIA Payment, the SH 161 Project is feasible. A TIFIA Loan is critical to the financing of the Project. Under current market conditions, the only debt product available that can be executed with certainty and offers deferred interest terms is a TIFIA loan. TIFIA's favorable terms allow the Project to support additional debt during the traffic ramp-up period and extract additional public value from the Project to help the North Texas region reach its funding needs for Mobility 2030 faster and bring much needed additional funding for transportation projects in the North Texas region.

In the event the Project is not allocated a TIFIA Loan, the TIFIA piece of the Plan of Finance would need to be substituted with a limited amount of more expensive current interest bonds, but most of the gap would require an additional equity contribution from the NTTA System. The resulting equity requirement would significantly alter the Project economics, likely making the Project unfeasible for the NTTA because the NTTA has set a maximum equity contribution at \$400 million and the resulting gap would require an equity contribution significantly more than \$400 million. Under such a scenario, the Authority would ultimately likely be unable to accept the Project at this time. In this event, it is possible that the project could not be completed at all. The impact to the region of not constructing SH 161 would include increased congestion on already overcrowded parallel routes such as Loop 12/Spur 408 and SH 360; worsening air quality attributable to increased mobile source emissions from automobiles sitting in congestion; and reduction of the economic growth potential of the SH 161 corridor specifically, and the DFW metropolitan area as a whole, due to lack of critical transportation access and connectivity.

The "private equity" component of this Project is funded through privately placed deeply subordinated debt of the NTTA System and is used as NTTA's equity contribution to the Project. The private equity contribution is approximately 30% of capital sources for the total project costs. Senior project debt is an investment from private investors as well and is funded through the issuance of tax-exempt project bonds. The senior project debt is approximately 36% of the capital raised for the total Project costs. As such, the total capital raised from private investors is approximately 66% of the total capital sources for the Project.

The Project has also received a financial commitment from TxDOT in the form of a Toll Equity Loan as described above under Section F6 - "Financial Feasibility, TxDOT Toll Equity Loan," page 18.

H) FEDERAL WAGE RATE REQUIREMENT

Please see http://www.ntta.org/AboutUs/Projects/SH_161_documents.

D) NATIONAL ENVIRONMENTAL POLICY ACT REQUIREMENT

The EIS received a ROD from FHWA in 1997. A re-evaluation was prepared and ultimately approved in June 2004. See Section F2 – “Environmental Approvals,” on page 14 above.

J) ENVIRONMENTALLY RELATED FEDERAL, STATE AND LOCAL ACTIONS

Please see Section F2– “Environmental Approvals,” page 14 above.

K) PROTECTION OF CONFIDENTIAL BUSINESS INFORMATION

The WSA draft investment grade traffic and revenue report referenced in this application contains Confidential Business Information.



Signature: By submitting this application, the undersigned certifies that the facts stated and the certifications and representations made in this application are true, to the best of the applicant's knowledge and belief after due inquiry, and that the applicant has not omitted any material facts. The undersigned is an authorized representative of the applicant.

Applicant: **North Texas Tollway Authority**

Signed: Allen Clemson

Name and Title: **Allen Clemson, Executive Director**

Date: 9.9.2009

END OF FORM

**ATTACHMENT G
MILESTONE/DELIVERABLE SCHEDULE**

Phase	Segment	Limits			Description	Number	Final Acceptance
1	1	IH20	to	SP303	Frontage Rds.	CSJ 2964-01-029	1/29/2009
1	2	SP303	to	N. of Dalworth	Frontage Rds.	CSJ 2964-01-030	5/13/2010
1	3	N. of Dalworth	to	Carrier Pkwy	Frontage Rds.	CSJ 1068-04-115	June 2011
2/3	4	Carrier Pkwy	to	Conflans	Main Lanes and Frontage Rds.	CSJ 2964-01-031	9/23/2010
2	4	Carrier Pkwy	to	Conflans	Toll Gantry Steel Fabrication	02623-SH161-00-CN-PM	10/25/2009
2	4	Carrier Pkwy	to	Conflans	Toll Gantry Construction	02664-SH161-01-CN-PM	5/14/2010
3	4	Carrier Pkwy	to	Conflans	Toll Gantry Construction	02669-SH161-03-CN-PM	6/20/2011
4		IH20	to	Carrier Pkwy	Main Lanes & Direct Connectors	02622-SH161-00DB-PM	2/9/2013**
4					Railroad Crossings	02622-SH161-00DB-PM	2/9/2013

** The completion date for the low volume direct connectors at IH 30 for Phase 4 may be extended for a period of six months should NTTA and TxDOT agree to do so

Phase	Scheduled Completion Date
1	Complete
2.	Complete
3.	Complete
4.	October 11, 2012 (substantial completion) February 9, 2013 (final completion)

**ATTACHMENT H
PERFORMANCE MEASURES TABLE**

Study Area: Tolled Portion of Project constructed/obtained the TIFIA loan

Table 1: Performance Measurement Table

Measure	Description of Measure	Frequency	Measurement Period
Average daily traffic & Average daily truck traffic	ADT is defined as the total volume of vehicle traffic on a highway or road segment per day. ADTT measures only truck traffic.	Quarterly	5 years after the project opens for operation under normal conditions
Annual average peak/off-peak vehicle travel time (minutes)	Travel time measured for traffic measured during peak and off-peak periods for a designated highway or road segment.	Quarterly	3 years after the project opens for operation under normal conditions