



CENTRAL TEXAS REGIONAL  
**MOBILITY AUTHORITY**

August 25, 2021  
**AGENDA ITEM #7**

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Discuss and consider authorizing the execution and delivery of a TIFIA Loan Agreement with the United States Department of Transportation relating to the 183 North Mobility Project in accordance with specified parameters

Strategic Plan Relevance: Regional Mobility  
Department: Finance  
Contact: Bill Chapman, Chief Financial Officer  
Associated Costs: N/A  
Action Requested: Consider and act on the draft resolution

**Background:** The Mobility Authority is authorized to issue revenue bonds, notes, certificates or other obligations for the purposes of (i) financing and refinancing all or a portion of the cost of the acquisition, construction, improvement, extension or expansion of one or more turnpike projects (as defined in the Act), (ii) refunding, defeasing and redeeming any such obligations previously issued by the Authority and (iii) paying the expenses of issuing such revenue bonds, notes, certificates or other obligations.

**Previous Actions & Brief History of the Program/Project:** On February 24, 2021 the board adopted Resolution 21-007 authorizing the issuance of System revenue obligations to finance the design and construction of the 183 North Mobility Project and other improvements and extensions to the System. These revenue obligations included the issuance, sale and delivery of Central Texas Regional Mobility Authority Senior Lien Revenue Bonds, Series 2021B (the “Bonds”), and Subordinate Lien Revenue Bond Anticipation Notes, Series 2021C (the “BANs”). The BANs have a maturity date of January 1, 2027.

On March 31, 2021 the Board adopted Resolution 21-017 authorizing the staff and the Authority’s consultants to apply for and negotiate the terms of a loan agreement with the United States Department of Transportation to refinance the BANs.

**Parameters Resolution** - The parameters resolution (i) authorizes the execution and delivery of (a) the TIFIA Loan Agreement as a credit agreement in connection with the BANs, (b) a Promissory Note (the "TIFIA Note") evidencing the obligations of the Mobility Authority under the TIFIA Loan Agreement, and (c) a Supplemental Indenture securing the TIFIA Loan Agreement as a subordinate lien obligation, (ii) authorizes the Board's designated Authorized Officer (Chairman, Executive Director, or Chief Financial Officer) to act on behalf of the Board to determine the final terms and conditions of the TIFIA Loan Agreement, the TIFIA Note, and the Supplemental Indenture, and (iii) authorizes and approves all other matters relating to the execution and delivery of the TIFIA Loan Agreement; provided, that the following conditions (parameters) can be satisfied:

(1) the aggregate principal amount of each of the TIFIA Loan Agreement and the TIFIA Note shall not exceed \$280,000,000; and

(2) the TIFIA Loan Agreement and the TIFIA Note shall not bear interest at an initial rate greater than 3.5%;

all based on the terms, conditions and provisions negotiated by the Authority for the TIFIA Loan Agreement.

**Action requested/Staff Recommendation:** Staff recommends the Board authorize the execution and delivery of the TIFIA Loan Agreement with the United States Department of Transportation in accordance with specified parameters; and authorize the execution and delivery of any and all documents, certificates, agreements and instruments necessary or desirable to be executed and delivered in connection with the foregoing; and enact other provisions relating to the subject.

**Backup provided:**

Draft Resolution

Draft Supplemental Indenture

Draft Loan Agreement

**GENERAL MEETING OF THE BOARD OF DIRECTORS  
OF THE  
CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

**RESOLUTION NO. 21-0XX**

**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT (THE “TIFIA LOAN AGREEMENT”) WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION IN ACCORDANCE WITH SPECIFIED PARAMETERS; APPROVING THE FORM OF, AND AUTHORIZING THE EXECUTION AND DELIVERY OF, A SUBORDINATE LIEN SUPPLEMENTAL TRUST INDENTURE; APPOINTING AN AUTHORIZED OFFICER TO AUTHORIZE, APPROVE AND DETERMINE CERTAIN TERMS AND PROVISIONS OF THE TIFIA LOAN AGREEMENT, INCLUDING THE TERMS AND PROVISIONS OF THE PROMISSORY NOTE (THE “TIFIA NOTE”) ATTACHED THERETO, AND TO EXECUTE AND DELIVER THE TIFIA LOAN AGREEMENT AND THE TIFIA NOTE; AUTHORIZING THE EXECUTION AND DELIVERY OF ANY AND ALL DOCUMENTS, CERTIFICATES, AGREEMENTS, CLOSING INSTRUCTIONS, AND INSTRUMENTS NECESSARY OR DESIRABLE IN CONNECTION WITH THE FOREGOING AND ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT**

WHEREAS, the Central Texas Regional Mobility Authority (the “Authority”) has been created and organized pursuant to and in accordance with the provisions of Chapter 361, Texas Transportation Code, and operates pursuant to the Constitution and laws of the State, including, particularly, Chapter 370, Texas Transportation Code (the “Act”), for the purposes of constructing, maintaining and operating transportation projects, including turnpike projects, in Travis and Williamson Counties, Texas; and

WHEREAS, pursuant to the Act and other applicable law, the Authority is authorized to: (i) study, evaluate, design, finance, acquire, construct, maintain, repair and operate transportation projects (as defined in the Act), individually or as a system (as defined in the Act); (ii) issue bonds, certificates, notes or other obligations payable from the revenues of a transportation project or system, including tolls, fees, fares or other charges, to pay all or part of the cost of a transportation project and to refund any bonds previously issued for a transportation project; and (iii) impose tolls, fees, fares or other charges for the use of each of its transportation projects and the different parts or sections of each of its transportation projects; and

WHEREAS, pursuant to the Act, Chapter 1371, Texas Government Code (“Chapter 1371”) and other applicable laws, the Authority is authorized to issue revenue bonds, notes, certificates or other obligations for the purposes of (i) financing and refinancing all or a portion of the cost of the acquisition, construction, improvement, extension or expansion of one or more turnpike projects (as defined in the Act), (ii) refunding, defeasing and redeeming any such obligations previously issued by the Authority and (iii) paying the expenses of issuing such revenue bonds, notes, certificates or other obligations; and

WHEREAS, the Authority has previously executed and delivered that certain Master Trust Indenture (the “Master Indenture”), between the Authority and Regions Bank, as successor in trust

to JPMorgan Chase Bank, National Association, as trustee (the “Trustee”), providing for the issuance from time to time by the Authority of one or more series of its revenue obligations (collectively, the “Obligations”) (the Master Indenture, as previously supplemented and amended), is referred to herein as the “Indenture”); and

WHEREAS, Sections 301, 302, 706, 708, 1001 and 1002 of the Master Indenture authorize the Authority and the Trustee to execute and deliver supplemental indentures authorizing the issuance of Obligations, including Additional Subordinate Lien Obligations, and to include in such supplemental indentures the terms of such Additional Subordinate Lien Obligations and any other matters and things relative to the issuance of such Obligations that are not inconsistent with or in conflict with the Indenture, to add to the covenants of the Authority, and to pledge other moneys, securities or funds as part of the Trust Estate; and

WHEREAS, the Authority has previously issued and has Outstanding its Subordinate Lien Revenue Bond Anticipation Notes, Series 2021C (the “Series 2021C BANs”); and

WHEREAS, the Authority has requested that the United States Department of Transportation (“USDOT”) make a loan in a principal amount not to exceed \$280,000,000 pursuant to a secured loan agreement (the “TIFIA Loan Agreement”) between the Authority and USDOT to be used for the purposes specified herein; and

WHEREAS, the Board of Directors (the “Board”) desires to authorize the execution and delivery of the TIFIA Loan Agreement, and to further authorize the execution and delivery of a Promissory Note (the “TIFIA Note”) in substantially the form attached to the TIFIA Loan Agreement as evidence of the obligations of the Authority under the TIFIA Loan Agreement; and

WHEREAS, the Board has been presented with and examined the proposed form of a Subordinate Lien Supplemental Trust Indenture, between the Authority and the Trustee (the “Subordinate Lien Supplement”) and the Board finds that the form and substance of such document is satisfactory and the recitals and findings contained therein are true, correct and complete, and hereby adopts and incorporates by reference such recitals and findings as if set forth in full in this Resolution, and finds that it is in the best interest of the public and the Authority to execute and deliver the Subordinate Lien Supplement, the TIFIA Loan Agreement and the TIFIA Note; and

WHEREAS, the Board desires to authorize the execution and delivery of the Subordinate Lien Supplement setting forth the terms and provisions relating to the TIFIA Loan Agreement and the TIFIA Note and the pledge and security therefor, in the substantially final form presented at this meeting; and

WHEREAS, the TIFIA Loan Agreement shall constitute a credit agreement under Chapter 1371 and a Credit Facility under the Master Indenture and is being executed in connection with and related to the Series 2021C BANs; and

WHEREAS, the obligations of the Authority under the TIFIA Loan Agreement and the TIFIA Note shall constitute Additional Subordinate Lien Obligations, Long-Term Obligations and Reimbursement Obligations incurred pursuant to and in accordance with the provisions of the Master Indenture and the Subordinate Lien Supplement; and

WHEREAS, the Board desires to provide for the execution and delivery of the TIFIA Loan Agreement and the TIFIA Note in accordance with the Master Indenture and the Subordinate Lien Supplement, and to authorize the execution and delivery of such certificates, agreements, instruction letters and other instruments as may be necessary or desirable in connection therewith; and

WHEREAS, the Board desires to appoint one or more officers of the Authority to act on behalf of the Authority to determine the final terms and conditions of the TIFIA Loan Agreement and the TIFIA Note, as provided herein, and to make such determinations and findings as may be required by the Subordinate Lien Supplement and to carry out the purposes of this Resolution and execute an Award Certificate setting forth such determinations and authorizing and approving all other matters relating to the execution and delivery of the Subordinate Lien Supplement, the TIFIA Loan Agreement and the TIFIA Note; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY THAT:

## ARTICLE I

### FINDINGS AND DETERMINATIONS

Section 1.1. Findings and Determinations. (a) The findings and determinations set forth in the preamble hereof are hereby incorporated herein for all purposes as though such findings and determinations were set forth in full herein. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned thereto in the Master Indenture and the Subordinate Lien Supplement.

(b) The Board has found and determined that the TIFIA Loan Agreement and the TIFIA Note may be executed and delivered as, and the obligations of the Authority thereunder may be incurred as, Additional Subordinate Lien Obligations, Long-Term Obligations and Reimbursement Obligations, as designated by the Authorized Officer (as defined herein) in the Award Certificate (the "Award Certificate").

(c) It is officially found, determined and declared that the meeting at which this Resolution has been adopted was open to the public and public notice of the time, place and subject matter of the public business to be considered and acted upon at said meeting, including this Resolution was given, all as required by the applicable provisions of Chapter 551, Texas Government Code, as amended.

(d) The Board hereby finds and determines that the execution and delivery of the TIFIA Loan Agreement and the TIFIA Note for the purposes specified herein is in the best interest of the Authority.

## ARTICLE II

### EXECUTION AND DELIVERY OF THE SUBORDINATE LIEN SUPPLEMENT, TIFIA LOAN AGREEMENT AND THE TIFIA NOTE; APPROVAL OF DOCUMENTS

Section 2.1. Approval, Execution and Delivery of TIFIA Loan Agreement and the Subordinate Lien Supplement. The terms and provisions of the TIFIA Loan Agreement, in substantially the form presented at this meeting, are hereby authorized and approved with such changes as may be approved by the Authorized Officer, such approval to be conclusively evidenced by the execution thereof. The Authorized Officer is hereby authorized to execute and deliver the TIFIA Loan Agreement. The terms and provisions of the Subordinate Lien Supplement, in substantially the form presented at this meeting, are hereby authorized and approved with such changes as may be approved by the Authorized Officer, such approval to be conclusively evidenced by the execution thereof. The Authorized Officer is hereby authorized to execute the Subordinate Lien Supplement and the Secretary is hereby authorized to attest the signature of the Authorized Officer. The Subordinate Lien Supplement shall have such supplement number as shall be deemed appropriate by the Authorized Officer and may include such terms and provisions as are necessary or desirable to reflect the final terms and conditions of the TIFIA Loan Agreement.

Section 2.2. The Execution and Delivery of the TIFIA Note. The execution and delivery of the TIFIA Note to USDOT as evidence of the Authority's obligations under the TIFIA Loan Agreement are hereby authorized and approved. The TIFIA Note shall be executed and delivered in the aggregate principal amount and shall bear interest in accordance with the terms of the Subordinate Lien Supplement and the TIFIA Loan Agreement, all as determined by the Authorized Officer and set forth in the Award Certificate, for the purposes of financing a portion of the Costs of the 183 North Mobility Project (as defined in the Subordinate Lien Supplement) and refinancing a portion of the Costs of the 183 North Mobility Project funded with the proceeds of the Series 2021C BANs by using amounts drawn under the TIFIA Loan Agreement to pay all or a portion of the Series 2021C BANs. The TIFIA Note may have such designation and may have such other terms and provisions as are determined by the Authorized Officer and set forth in the Award Certificate. The Award Certificate may make reference to the TIFIA Loan Agreement for any of the terms and provisions of the TIFIA Note. The Authorized Officer is hereby authorized to execute and deliver the TIFIA Note.

Section 2.3. Best Terms Available. The Authorized Officer is hereby authorized to make findings in the Award Certificate to the effect that the maturity date, interest rate and other terms and provisions of the TIFIA Note, as negotiated by the Authority, are the best terms reasonably available and are advantageous to the Authority.

## ARTICLE III

### APPOINTMENT OF AUTHORIZED OFFICER; DELEGATION OF AUTHORITY

Section 3.1. Appointment of Authorized Officer. The Board hereby appoints the Chairman of the Board, the Executive Director, the Chief Financial Officer and any person serving

in an interim capacity for any such position, severally and each of them, to act as an authorized officer (the “Authorized Officer”) on behalf of the Board and to perform all acts authorized and required of an Authorized Officer set forth in this Resolution and the Subordinate Lien Supplement. The Authorized Officer is hereby authorized and directed to execute the Award Certificate setting forth the information authorized to be stated therein pursuant to this Resolution and required to be stated therein pursuant to the Subordinate Lien Supplement.

Section 3.2. Delegation of Authority. (a) The Board hereby authorizes and directs that the Authorized Officer act on behalf of the Authority to determine the final terms and provisions of the Subordinate Lien Supplement, the TIFIA Loan Agreement and the TIFIA Note, the dated date for the Subordinate Lien Supplement, the dated date for the TIFIA Loan Agreement and the TIFIA Note, any different or additional designation or title of the TIFIA Note, the aggregate principal amount, maturity date and payment dates for the TIFIA Loan Agreement and the TIFIA Note, the per annum interest rate for the TIFIA Loan Agreement and the TIFIA Note, the redemption and prepayment provisions for the TIFIA Loan Agreement and the TIFIA Note, the final form of the TIFIA Note and such other terms and provisions that shall be applicable to the TIFIA Loan Agreement and the TIFIA Note, to approve the final terms and provisions of the Subordinate Lien Supplement and the TIFIA Loan Agreement, and the numbering or designation of the Subordinate Lien Supplement, and to make such findings and determinations as are otherwise authorized herein or as may be required by the Subordinate Lien Supplement and the TIFIA Loan Agreement to carry out the purposes of this Resolution and to execute the Award Certificate setting forth such determinations, such other matters as authorized herein, and authorizing and approving all other matters relating to the execution and delivery of the TIFIA Loan Agreement and the TIFIA Note; provided, that the following conditions can be satisfied:

- (i) the aggregate principal amount of each of the TIFIA Loan Agreement and the TIFIA Note shall not exceed \$280,000,000; and
- (ii) the TIFIA Loan Agreement and the TIFIA Note shall not bear interest at an initial rate greater than 3.5%;

all based on the terms, conditions and provisions negotiated by the Authority for the TIFIA Loan Agreement and the TIFIA Note.

Section 3.3. Limitation on Delegation of Authority. The authority granted to the Authorized Officer under Article III of this Resolution shall expire at 5:00 p.m. Central Time on August 24, 2022, unless otherwise extended by the Board by separate Resolution. If an Award Certificate is executed prior to 5:00 p.m. Central Time on August 24, 2022, the TIFIA Note may be delivered to USDOT after such date.

#### ARTICLE IV

##### USE AND APPLICATION OF PROCEEDS; LETTERS OF INSTRUCTION; POWER TO REVISE DOCUMENTS

Section 4.1. Use and Application of Proceeds; Letters of Instruction. The proceeds from any advances made by USDOT under the TIFIA Loan Agreement shall be used for the purposes

set forth in and in accordance with the terms and provisions of the Subordinate Lien Supplement, the Award Certificate and the TIFIA Loan Agreement. The deposit and application of the proceeds from any advances made by USDOT under the TIFIA Loan Agreement shall be set forth in a Letter of Instruction of the Authority executed by the Authorized Officer.

Section 4.2. Execution and Delivery of Other Documents. The Authorized Officer is hereby authorized and directed to execute and deliver from time to time and on an ongoing basis such other documents and agreements, including, without limitation, amendments, modifications, supplements, waivers or consents to existing agreements (including any agreements with the Texas Department of Transportation and the United States Department of Transportation), assignments, certificates, instruments, releases, financing statements, written requests, filings with the Internal Revenue Service, notices and letters of instruction, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution and to comply with the requirements of the Indenture, the Subordinate Lien Supplement, the Award Certificate and the TIFIA Loan Agreement.

Section 4.3. Power to Revise Form of Documents. Notwithstanding any other provision of this Resolution, the Authorized Officer is hereby authorized to make or approve such revisions in the form of the documents presented at this meeting and any other document, certificate or agreement pertaining to the execution and delivery of the TIFIA Loan Agreement and the TIFIA Note in accordance with the terms of the Indenture and the Subordinate Lien Supplement as, in the judgment of such person, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution thereof.

## ARTICLE V

### APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

Section 5.1. Approval of Submission to the Attorney General of Texas. The Authority's Bond Counsel is hereby authorized and directed to submit to the Attorney General, for his approval, a transcript of the legal proceedings relating to the execution and delivery of the TIFIA Loan Agreement and the TIFIA Note as required by law. In connection with the submission of the record of proceedings for the TIFIA Loan Agreement and the TIFIA Note to the Attorney General of the State of Texas for examination and approval, the Authorized Officer is hereby authorized and directed to issue one or more checks of the Authority payable to the Attorney General of the State of Texas as a nonrefundable examination fee in the amount required by Chapter 1202, Texas Government Code. The TIFIA Note shall be delivered to USDOT upon satisfaction of the requirements of the Indenture, the Subordinate Lien Supplement and the TIFIA Loan Agreement.

Section 5.2. Certification of the Minutes and Records. The Secretary and any Assistant Secretary of the Board are each hereby severally authorized to certify and authenticate minutes and other records on behalf of the Authority for the execution and delivery of the Subordinate Lien Supplement, TIFIA Loan Agreement and the TIFIA Note and for all other Authority activities.

Section 5.3. Ratifying Other Actions. All other actions taken or to be taken by the Executive Director, the Chief Financial Officer, the Authorized Officer, the Controller (and any



person serving in an interim capacity for any such positions) and the Authority's staff and consultants in connection with the execution and delivery of the Subordinate Lien Supplement, the TIFIA Loan Agreement and the TIFIA Note are hereby approved, ratified and confirmed.

Section 5.4. Authority to Invest Funds. The Executive Director, the Chief Financial Officer and the Controller (and any person serving in an interim capacity for any such positions) are each hereby severally authorized on an ongoing basis to undertake all appropriate actions and to execute such documents, agreements or instruments as they deem necessary or desirable under the Indenture and the Subordinate Lien Supplement with respect to the investment of proceeds of advances made under the TIFIA Loan Agreement and other funds of the Authority.

Section 5.5. Federal Tax Considerations. In addition to any other authority provided under this Resolution, each Authorized Officer is hereby further expressly authorized, acting for and on behalf of the Authority, to determine and designate in the Award Certificate whether the TIFIA Note will be executed and delivered as a taxable obligation or a tax-exempt obligation for federal income tax purposes and to make all appropriate elections under the Internal Revenue Code of 1986, as amended. Each Authorized Officer is hereby further expressly authorized and empowered from time to time and at any time to perform all such acts and things deemed necessary or desirable and to execute and deliver any agreements, certificates, documents or other instruments, whether or not herein mentioned, to carry out the terms and provisions of this section, including but not limited to, the preparation and making of any filings with the Internal Revenue Service.

## ARTICLE VI

### GENERAL PROVISIONS

Section 6.1. Changes to Resolution. The Executive Director, the Chief Financial Officer and the Authorized Officer (and any person serving in an interim capacity for any such positions), and any of them, singly and individually, are hereby authorized to make such changes to the text of this Resolution as may be necessary or desirable to carry out the purposes hereof or to comply with the requirements of the Attorney General of Texas in connection with the execution and delivery of the Subordinate Lien Supplement, the TIFIA Loan Agreement and the TIFIA Note herein authorized.

Section 6.2. Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

Adopted, passed and approved by the Board of Directors of the Central Texas Regional Mobility Authority on the 25<sup>th</sup> day of August 2021.

Submitted and reviewed by:

Approved:

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Geoff S. Petrov  
General Counsel

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Robert W. Jenkins, Jr.  
Chairman, Board of Directors

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[\_\_\_\_\_]<sup>1</sup> SUPPLEMENTAL TRUST INDENTURE

BETWEEN

CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY

AND

REGIONS BANK, TRUSTEE

AUTHORIZING AND SECURING

A TIFIA LOAN AGREEMENT BY AND BETWEEN  
THE CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY AND  
THE UNITED STATES DEPARTMENT OF TRANSPORTATION

AND

CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY  
SUBORDINATE LIEN REVENUE PROMISSORY NOTE,  
183 NORTH MOBILITY PROJECT  
(TIFIA-2021-\_\_\_\_)

Dated as of \_\_\_\_\_, 2021

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<sup>1</sup> Supplement number to be determined by Authorized Officer

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[ \_\_\_\_\_ ] **SUPPLEMENTAL TRUST INDENTURE**

THIS [ \_\_\_\_\_ ] SUPPLEMENTAL TRUST INDENTURE, dated as of \_\_\_\_\_, 2021 (this “Supplemental Indenture” or “[ \_\_\_\_\_ ] Supplemental Indenture”), is made by and between the CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY (together with any successor to its rights, duties, and obligations hereunder, the “Authority”), a body politic and corporate and a political subdivision of the State of Texas (the “State”) duly created, organized and existing under the laws of the State, and REGIONS BANK, an Alabama state banking corporation, as successor in trust to JPMorgan Chase Bank, National Association, as trustee (together with any successor trustee hereunder, the “Trustee”). Capitalized terms used herein and not otherwise defined shall have the meaning as provided in Section 1.2 of this Supplemental Indenture.

RECITALS

WHEREAS, the Authority has been created and organized pursuant to and in accordance with the provisions of Chapter 361, Texas Transportation Code, and operates pursuant to the Constitution and laws of the State, including, particularly, Chapter 370, Texas Transportation Code, as amended (the “Act”), for the purposes of constructing, maintaining and operating transportation projects in Travis and Williamson Counties, Texas; and

WHEREAS, pursuant to the Act, Chapter 1371, Texas Government Code (“Chapter 1371”), and other applicable laws, the Authority is authorized to: (i) study, evaluate, design, finance, acquire, construct, maintain, repair and operate transportation projects (as defined in the Act), individually or as a system (as defined in the Act); and (ii) issue bonds, certificates, notes or other obligations payable from the revenues of a transportation project or system, including tolls, fees, fares or other charges, to pay all or part of the cost of a transportation project and to refund or refinance any bonds previously issued for a transportation project; and (iii) impose tolls, fees, fares or other charges for the use of each of its transportation projects and the different parts or sections of each of its transportation projects; and (iv) enter into this Supplemental Indenture for the purposes provided herein; and

WHEREAS, the Authority and the Trustee have executed and delivered the Master Indenture, providing for the issuance from time to time by the Authority of one or more series of its revenue obligations (collectively, the “Obligations”); and

WHEREAS, Section 1002 of the Master Indenture authorizes the Authority and the Trustee to execute and deliver a supplemental indenture authorizing Obligations to include any other matters and things relative to such Obligations which are not inconsistent with or contrary to the Master Indenture, to add to the covenants of the Authority, and to pledge other moneys, securities or funds as part of the Trust Estate; and

WHEREAS, the Authority has previously issued and has outstanding its Subordinate Lien Revenue Bond Anticipation Notes, Series 2021C (the “Series 2021C BANs”); and

WHEREAS, the TIFIA Loan Agreement (as defined herein) constitutes a credit agreement under Chapter 1371 that is being executed in connection with and related to the Series 2021C BANs; and

WHEREAS, pursuant to the authority granted in the Act, Chapter 1371 and other applicable laws, the Authority has determined to execute and deliver the TIFIA Loan Agreement as a credit agreement under the Act and Chapter 1371 and as a Credit Facility under the Master Indenture, for the purposes of financing a portion of the Eligible Project Costs (as defined in the TIFIA Loan Agreement) of the 183 North Mobility Project (as defined in the TIFIA Loan Agreement) and refinancing a portion of the Eligible Project Costs funded with the proceeds of the Series 2021C BANs, as provided herein; and

WHEREAS, pursuant to the authority granted in the Act and Chapter 1371, the Authority has determined to authorize the execution and delivery of the 2021 TIFIA Note (as hereinafter defined) to evidence the Authority's obligations under the TIFIA Loan Agreement as Subordinate Lien Obligations, Long-Term Obligations and Reimbursement Obligations; and

WHEREAS, the Board hereby finds and determines that the execution and delivery of the TIFIA Loan Agreement and the 2021 TIFIA Note is in the best interest of the Authority; and

WHEREAS, pursuant to the Bond Resolution, the Authority has authorized the Authorized Officer to make such findings and determinations as may be required in connection with the execution and delivery of the TIFIA Loan Agreement and the 2021 TIFIA Note and to set forth such findings and determinations in the Award Certificate; and

WHEREAS, the execution and delivery of this Supplemental Indenture, the TIFIA Loan Agreement and the 2021 TIFIA Note have been in all respects duly and validly authorized by the Bond Resolution; and

WHEREAS, the Trustee has accepted the trusts created by the Master Indenture and this Supplemental Indenture and in evidence thereof has joined in the execution and delivery hereof; and

WHEREAS, except as provided herein, all acts and conditions and things required by the laws of the State to happen, exist and be performed precedent to execution and delivery of this Supplemental Indenture have happened, exist and have been performed as so required in order to make the Indenture, as supplemented by this Supplemental Indenture, a valid, binding and legal instrument for the security of the TIFIA Loan Agreement and the 2021 TIFIA Note and a valid and binding agreement in accordance with its terms;

NOW, THEREFORE, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the acceptance of the TIFIA Loan Agreement and the 2021 TIFIA Note by the Holder thereof, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and for the further purpose of fixing and declaring the terms and conditions upon which the TIFIA Loan Agreement is to be executed and delivered and the 2021 TIFIA Note is to be executed, delivered and accepted by the Holder thereof, the Authority and the Trustee do hereby mutually covenant and agree, for the equal and proportionate benefit of the respective Holders from time to time of the Obligations, including the 2021 TIFIA Note, as follows:

## ARTICLE I.

### DEFINITIONS AND STATUTORY AUTHORITY

Section 1.1. Supplemental Indenture. This Supplemental Indenture is supplemental to the Master Indenture and is adopted in accordance with Article III and Article X thereof.

Section 1.2. Definitions.

Unless the context shall require otherwise, all defined terms contained in the Master Indenture and the TIFIA Loan Agreement shall have the same meanings in this Supplemental Indenture as such defined terms are given in Section 101 of the Master Indenture and in the TIFIA Loan Agreement, as applicable.

As used in this Supplemental Indenture, unless the context shall otherwise require, the following terms shall have the following respective meanings:

“183 North Mobility Project” shall have the meaning given to the term “Project” in the TIFIA Loan Agreement.

“2021 Project Account” shall mean the account by that name established in the Twenty-Seventh Supplemental Indenture as part of the Construction Fund.

“2021 TIFIA Note” shall mean the Central Texas Regional Mobility Authority Subordinate Lien Revenue Promissory Note, 183 North Mobility Project (TIFIA-2021-\_\_\_\_) authorized pursuant to this Supplemental Indenture. The 2021 TIFIA Note is also referred to as the “TIFIA Note” in the TIFIA Loan Agreement.

“2021 TIFIA Note Form” shall mean the substantially final form of the 2021 TIFIA Note attached as Exhibit A to the TIFIA Loan Agreement, with such changes and modifications as shall be appropriate to conform to the terms of the Award Certificate.

“2021 TIFIA NOTE SUB LIEN Project Subaccount” shall mean the “2021 TIFIA NOTE Subordinate Lien Project Subaccount” established pursuant to Section 3.2 hereof as part of the 2021 Project Account.

“Authorized Officer” shall mean the Chairman of the Board of Directors of the Authority, the Executive Director of the Authority and the Chief Financial Officer of the Authority, and any person serving in an interim capacity for any such positions, severally and each of them, as provided in the Bond Resolution.

“Award Certificate” means the Award Certificate executed and delivered by an Authorized Officer pursuant to Section 2.1 hereof in connection with the execution and delivery of the TIFIA Loan Agreement and the 2021 TIFIA Note authorized hereunder.

“Bond Resolution” shall mean Resolution No. 21\_\_\_\_, adopted by the Board of Directors of the Authority on \_\_\_\_\_, 2021.



“Debt Service Account 2021 TIFIA NOTE SUB LIEN” shall mean the “Debt Service Account 2021 TIFIA NOTE Subordinate Lien” established in Section 3.3 hereof as part of the Subordinate Lien Debt Service Fund and any Accounts established therein pursuant to this Supplemental Indenture or a Letter of Instructions signed by an Authorized Officer.

“Debt Service Reserve Account 2021 TIFIA NOTE SUB LIEN” shall mean the “Debt Service Reserve Account 2021 TIFIA NOTE Subordinate Lien” established as part of the Subordinate Lien Debt Service Reserve Fund pursuant to Section 3.4 hereof.

“Designated Payment Office” shall mean, initially, the office of the Trustee located in Houston, Texas, or such other office designated by the Trustee from time to time as the place of payment of the 2021 TIFIA Note.

“Indenture” shall mean the Master Indenture, as amended or supplemented (i) by each Supplemental Indenture (as defined in the Master Indenture) heretofore executed and delivered by the Authority and the Trustee in accordance with the terms of the Master Indenture, prior to the date of this [\_\_\_\_\_] Supplemental Indenture; (ii) by this [\_\_\_\_\_] Supplemental Indenture; and (iii) hereafter from time to time in accordance with the terms of the Master Indenture.

“Interest Payment Date” shall mean, with respect to the 2021 TIFIA Note, each date on which interest is payable pursuant to the TIFIA Loan Agreement.

“Issuance Date” shall mean the date of initial execution and delivery of the 2021 TIFIA Note to The United States Department of Transportation, or its designee.

“Master Indenture” shall mean the Master Trust Indenture, dated as of February 1, 2005, between the Authority and the Trustee, without regard to supplements and amendments thereto.

“Series 2021C BANs” shall mean the Authority’s Subordinate Lien Revenue Bond Anticipation Notes, Series 2021C, authorized pursuant to the Twenty-Eighth Supplemental Indenture. The Series 2021C BANs are also referred to as the “Project BANs” in the TIFIA Loan Agreement.

“Series 2021 TIFIA NOTE SUB LIEN DSR Requirement” shall mean the “Series 2021 TIFIA NOTE Subordinate Lien Debt Service Reserve Requirement” which shall be an amount equal to the TIFIA Debt Service Reserve Required Balance, as defined in the TIFIA Loan Agreement.

“Springing Lien Account” shall have the meaning given to such term in the Twelfth Supplemental Indenture.

“Springing Lien Obligation” shall have the meaning given to such term in the Twelfth Supplemental Indenture.

“Supplemental Indenture” or “[\_\_\_\_\_] Supplemental Indenture” shall mean this [\_\_\_\_\_] Supplemental Trust Indenture by and between the Authority and the Trustee, dated as of the date first above written, together with any amendments hereto.

“TIFIA Loan Agreement” shall have the meaning given to such term in Section 2.1 of this Supplemental Indenture.

“Twelfth Supplemental Indenture” shall mean the Twelfth Supplemental Trust Indenture, dated as of November 1, 2015, between the Authority and the Trustee.

“Twenty-Eighth Supplemental Indenture” shall mean the Twenty-Eighth Supplemental Trust Indenture, dated as of April 1, 2021, between the Authority and the Trustee.

“Twenty-Seventh Supplemental Indenture” shall mean the Twenty-Seventh Supplemental Indenture, dated as of April 1, 2021, between the Authority and the Trustee.

Section 1.3. Authority for This Supplemental Indenture. This Supplemental Indenture is adopted pursuant to the provisions of the Act and the Master Indenture, particularly Section 1002(a) of the Master Indenture.

Section 1.4. Rules of Construction.

(a) For all purposes of this Supplemental Indenture unless the context requires otherwise, all references to designated Articles, Sections and other subdivisions are to the articles, sections and other subdivisions of this Supplemental Indenture.

(b) Except where the context otherwise requires, terms defined in this Supplemental Indenture to impart the singular number shall be considered to include the plural number and vice versa.

(c) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa.

(d) This Supplemental Indenture and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of this Supplemental Indenture and the Master Indenture which it supplements.

Section 1.5. Interpretation. The Table of Contents, titles and headings of the Articles and Sections of this Supplemental Indenture have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict the terms or provisions hereof.

Section 1.6. Indenture to Remain in Force. Except as otherwise explicitly provided in this Supplemental Indenture, the Indenture shall be in full force and effect and govern the TIFIA Loan Agreement and the 2021 TIFIA Note, it being the express intention of the parties that this Supplemental Indenture supplements the Master Indenture by providing the terms and provisions related to the TIFIA Loan Agreement as a Credit Facility under the Master Indenture and authorizes the execution and delivery of the 2021 TIFIA Note to evidence the Authority’s obligations under the TIFIA Loan Agreement as Subordinate Lien Obligations, Long-Term Obligations and Reimbursement Obligations.

Section 1.7. Successors and Assigns. All covenants and agreements in this Supplemental Indenture by the Authority and the Trustee shall bind their respective successors and assigns, whether so expressed or not.

Section 1.8. Separability Clause. In case any provision in this Supplemental Indenture shall be determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 1.9. Benefits of Supplemental Indenture. Nothing in this Supplemental Indenture, the TIFIA Loan Agreement or the 2021 TIFIA Note, express or implied, shall give to any Person, other than the parties hereto, their successors hereunder, and the Holder of the 2021 TIFIA Note, any benefit or any legal or equitable right, remedy or claim under this Supplemental Indenture.

Section 1.10. Governing Law. This Supplemental Indenture shall be construed in accordance with and governed by the laws of the State.

Section 1.11. Miscellaneous. Every “request,” “order,” “demand,” “application,” “notice,” “statement,” “certificate,” “consent,” “instruction,” or similar action hereunder shall, unless the form thereof is specifically provided herein, be in writing, and in the case of the Authority signed by an Authorized Representative or Authorized Officer of the Authority or in the case of any other Person signed by its President or Vice President, or other officer serving in similar capacities specifically authorized to execute such writing on behalf of any other Person, as the case may be.

## **ARTICLE II.**

### **AUTHORIZATION AND TERMS OF THE TIFIA LOAN AGREEMENT AND THE 2021 TIFIA NOTE**

Section 2.1. Authorization, Principal Amount, Designation, Terms and Provisions to Apply.

(a) The Authority hereby approves the terms and provisions of the TIFIA Loan Agreement (the “TIFIA Loan Agreement”) attached as Exhibit A to this Supplemental Indenture. To evidence the Authority’s obligations under the TIFIA Loan Agreement, the Central Texas Regional Mobility Authority Subordinate Lien Revenue Promissory Note, 183 North Mobility Project (TIFIA-2021-\_\_\_\_), designated as such in the Award Certificate (defined herein as the “2021 TIFIA Note”), is hereby authorized to be executed and delivered pursuant to and in accordance with the provisions of the Bond Resolution, the Master Indenture, this Supplemental Indenture, the Act, Chapter 1371 and the TIFIA Loan Agreement. The TIFIA Loan Agreement and the 2021 TIFIA Note are hereby authorized to be executed and delivered in the maximum principal amount (excluding capitalized interest) set forth in the TIFIA Loan Agreement. The Authorized Officer shall make such findings as required by law with respect to the TIFIA Loan Agreement and the 2021 TIFIA Note, as authorized by the Bond Resolution, this Supplemental Indenture or as otherwise deemed appropriate by the Authorized Officer, all of which shall be set forth in the Award Certificate. The terms of the TIFIA Loan Agreement and the 2021 TIFIA Note

shall be as set forth in the Master Indenture, this Supplemental Indenture, the Award Certificate, the TIFIA Loan Agreement and the 2021 TIFIA Note Form. All terms and provisions of the Award Certificate relating to the TIFIA Loan Agreement and the 2021 TIFIA Note shall be deemed to be incorporated into and shall become a part of this Supplemental Indenture; provided, that any amendment of the TIFIA Loan Agreement shall be governed exclusively by the TIFIA Loan Agreement and any amendment to the TIFIA Loan Agreement shall be deemed an amendment to this Supplemental Indenture.

(b) The 2021 TIFIA Note (i) may and shall be prepaid or redeemed prior to the respective payment dates, (ii) may be assigned and transferred, (iii) may be exchanged, (iv) shall be designated and have the characteristics, (v) shall be signed and sealed, (vi) shall mature in such amounts and on such dates and bear interest at such rate or rates, and (vii) shall be payable, in respect of the principal amount and redemption price and interest thereon, all as provided, and in the manner required or indicated, in this Supplemental Indenture, the TIFIA Loan Agreement, the Award Certificate and the 2021 TIFIA Note Form.

Section 2.2. Purpose. Disbursements made under and pursuant to the TIFIA Loan Agreement and the 2021 TIFIA Note shall be used for the purposes of (i) financing a portion of the Eligible Costs of the 183 North Mobility Project and (ii) refinancing a portion of Eligible Project Costs of the 183 North Mobility Project funded with the proceeds of the Series 2021C BANs by using amounts drawn under the TIFIA Loan Agreement to pay all or a portion of the Series 2021C BANs.

Section 2.3. Pledge; Limited Obligations.

(a) The obligations of the Authority under the TIFIA Loan Agreement and the 2021 TIFIA Note are designated as Subordinate Lien Obligations, Obligations of the type described in Section 706(c) of the Master Indenture, Long-Term Obligations and Reimbursement Obligations under the Master Indenture.

(b) Subject to the provisions of Section 6.1, the obligations of the Authority under the TIFIA Loan Agreement and the 2021 TIFIA Note shall be limited obligations of the Authority constituting Subordinate Lien Obligations payable from and secured solely by a lien on, pledge of and security interest in the Trust Estate, which lien and pledge are junior and subordinate to the Senior Lien Obligations and the Junior Lien Obligations; provided, that the interest of the TIFIA Loan Agreement and the 2021 TIFIA Note in the Construction Fund shall be limited to amounts on deposit in the 2021 TIFIA NOTE SUB LIEN Project Subaccount. The 2021 TIFIA Note, as a Subordinate Lien Obligation (or as Senior Lien Obligation to the extent the 2021 TIFIA Note becomes a Senior Lien Obligation pursuant to Section 6.1), shall constitute a valid claim of the Holder thereof against the Trust Estate (including the Debt Service Reserve Account 2021 TIFIA NOTE SUB LIEN, as provided herein), which is pledged to secure the payment of the principal of, redemption premium, if any, and interest on the 2021 TIFIA Note. The 2021 TIFIA Note shall not constitute a general obligation of the Authority and under no circumstances shall the 2021 TIFIA Note be payable from, nor shall the Holder thereof have any rightful claim to, any income, revenues, funds or assets of the Authority other than those pledged hereunder and under the Master Indenture as security for the payment of Subordinate Lien Obligations (or for the payment of

Senior Lien Obligations to the extent the 2021 TIFIA Note becomes a Senior Lien Obligation pursuant to Section 6.1).

Any and all amounts deposited to the Debt Service Reserve Account 2021 TIFIA NOTE SUB LIEN are pledged to the payment of the 2021 TIFIA Note. Under no circumstances shall any other Obligations, whether previously issued or hereafter issued, be payable from or secured by amounts on deposit in the Debt Service Reserve Account 2021 TIFIA NOTE SUB LIEN unless otherwise expressly provided by the Authority in a Supplemental Indenture with the consent of the Holder of the 2021 TIFIA Note.

NONE OF THE STATE OF TEXAS OR ANY OTHER AGENCY OR POLITICAL SUBDIVISION OF THE STATE OF TEXAS OTHER THAN THE AUTHORITY IS OBLIGATED TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE 2021 TIFIA NOTE. THE 2021 TIFIA NOTE IS PAYABLE SOLELY FROM THE TRUST ESTATE AND CERTAIN FUNDS CREATED UNDER THE INDENTURE. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF TEXAS OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE 2021 TIFIA NOTE. THE AUTHORITY HAS NO TAXING POWER.

NO RECOURSE UNDER THE 2021 TIFIA NOTE SHALL BE HAD AGAINST ANY PAST, PRESENT OR FUTURE OFFICER OF THE AUTHORITY. THE 2021 TIFIA NOTE SHALL NEVER BE PAID IN WHOLE OR IN PART OUT OF ANY FUNDS RAISED OR TO BE RAISED BY TAXATION OR OUT OF ANY OTHER REVENUES OF THE AUTHORITY, EXCEPT THOSE REVENUES ASSIGNED BY THE INDENTURE.

Section 2.4. Date, Numbers, and Letters.

(a) The TIFIA Loan Agreement and the 2021 TIFIA Note shall be dated as provided in the Award Certificate.

(b) Unless the Authority shall direct otherwise, the 2021 TIFIA Note shall be lettered and numbered as provided in Exhibit A of the TIFIA Loan Agreement.

Section 2.5. Interest Payment Dates, Interest Rates and Maturity Dates.

(a) Interest on the 2021 TIFIA Note shall payable on each Interest Payment Date as provided in the TIFIA Loan Agreement.

(b) The 2021 TIFIA Note shall mature on the date or dates and shall bear interest at the per annum rate or rates set forth in the TIFIA Loan Agreement in accordance with the provisions of the Transportation Infrastructure Finance and Innovation Act of 1998, 23 USC Sections 601-609.

Section 2.6. Paying Agent; Method and Place of Payment. The Trustee is hereby appointed as Paying Agent for the 2021 TIFIA Note. The principal of the 2021 TIFIA Note shall be payable on the due date or dates thereof (whether at stated maturity or, if applicable, on a prior redemption date or optional or mandatory prepayment date) and the interest on the 2021 TIFIA

Note shall be payable at the times and in the manner provided in the TIFIA Loan Agreement and the 2021 TIFIA Note Form.

Section 2.7. Execution and Delivery of 2021 TIFIA Note. It is hereby found and determined to be in the best interest of the Authority for the 2021 TIFIA Note to be executed and delivered pursuant to this Supplemental Indenture to The United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau, as evidence of the obligations of the Authority under the TIFIA Loan Agreement. The 2021 TIFIA Note shall not be executed and delivered as a book-entry-only obligation.

Section 2.8. Prepayment. The 2021 TIFIA Note shall be subject to prepayment or redemption, in whole or in part, and at such times, in such amounts and with such notice as may be provided in the TIFIA Loan Agreement.

### **ARTICLE III.**

#### **ACCOUNTS; APPLICATION OF PROCEEDS**

Section 3.1. Project Accounts. The 2021 Project Account established pursuant to Section 3.1(a) of the Twenty-Seventh Supplemental Indenture is hereby confirmed and ratified.

Section 3.2. 2021 TIFIA NOTE SUB LIEN Project Subaccount.

(a) There is hereby established within the 2021 Project Account a subaccount designated “2021 TIFIA NOTE Subordinate Lien Project Subaccount” (“2021 TIFIA NOTE SUB LIEN Project Subaccount”).

(b) The Authority shall deposit with the Trustee all amounts received by the Authority pursuant to disbursements made under and pursuant to the provisions of the TIFIA Loan Agreement, and the Trustee shall deposit such amounts to the credit of the 2021 TIFIA NOTE SUB LIEN Project Subaccount.

(c) Amounts on deposit in the 2021 TIFIA NOTE SUB LIEN Project Subaccount shall be used for the purpose of paying a portion of the Eligible Project Costs of the 183 North Mobility Project and the refinancing of a portion of the Eligible Project Costs of the 183 North Mobility Project funded with proceeds of the Series 2021C BANs by using amounts drawn under the TIFIA Loan Agreement to pay all or a portion of the Series 2021C BANs, all in accordance with and subject to the provisions of the Indenture and the provisions of the TIFIA Loan Agreement.

(d) The Authority shall submit written requisition requests in the form of Exhibit B to this Supplemental Indenture to request disbursements from the 2021 TIFIA NOTE SUB LIEN Project Subaccount in accordance with the Indenture. Amounts requisitioned by the Authority for the purpose of refinancing Eligible Project Costs of the 183 North Mobility Project funded with the proceeds of the Series 2021C BANs shall be transferred by the Trustee to such Funds, Accounts or subaccounts (whether existing or hereafter created for such purpose, and including without limitation, the Debt Service Account 2021C Subordinate Lien established in the Twenty-Eighth Supplemental Indenture) as directed by the Authority in a Letter of Instructions and shall be used for such purpose by paying all or a portion of the Series 2021C BANs.

Section 3.3. Debt Service Account 2021 TIFIA Note Subordinate Lien.

(a) There is hereby established within the Subordinate Lien Debt Service Fund an account designated “Debt Service Account 2021 TIFIA NOTE Subordinate Lien” (the “Debt Service Account 2021 TIFIA NOTE SUB LIEN” and also referred to in the TIFIA Loan Agreement as the “TIFIA Debt Service Account”). Moneys on deposit in the Debt Service Account 2021 TIFIA NOTE SUB LIEN shall be used to pay debt service on the 2021 TIFIA Note when due.

(b) On or prior to each Interest Payment Date with respect to the 2021 TIFIA Note, the Trustee shall deposit to the Debt Service Account 2021 TIFIA NOTE SUB LIEN from Revenues an amount sufficient to pay debt service then due on the 2021 TIFIA Note.

Section 3.4. Debt Service Reserve Account 2021 TIFIA Note Subordinate Lien.

(a) There is hereby established within the Subordinate Lien Debt Service Reserve Fund an account designated “Debt Service Reserve Account 2021 TIFIA NOTE Subordinate Lien” (the “Debt Service Reserve Account 2021 TIFIA NOTE SUB LIEN” and also referred to in the TIFIA Loan Agreement as the “TIFIA Debt Service Reserve Account”).

(b) The Debt Service Reserve Account 2021 TIFIA NOTE SUB LIEN shall be funded, maintained and applied, and amounts therein shall be subject to release and withdrawal, as provided in Sections 16(k)(i), (ii), (iv), (v) and (vi) of the TIFIA Loan Agreement, Section 513 of the Master Indenture and Section 6.1 of this Supplemental Indenture.

(c) Amounts on deposit in the Debt Service Reserve Account 2021 TIFIA NOTE SUB LIEN are hereby pledged to the payment of the 2021 TIFIA Note. Under no circumstances shall any other Obligations, whether previously issued or hereafter issued, have any rights to monies on deposit in the Debt Service Reserve Account 2021 TIFIA NOTE SUB LIEN. Any additional Obligations issued after the Issuance Date shall only have such rights to monies on deposit in the Subordinate Lien Debt Service Reserve Fund, including amounts on deposit in the Debt Service Reserve Account 2021 TIFIA NOTE SUB LIEN, as is specifically set forth in the Supplemental Indenture relating to such additional Obligations and, with respect to the Debt Service Reserve Account 2021 TIFIA NOTE SUB LIEN, with the consent of the Holder of the 2021 TIFIA Note.

**ARTICLE IV.**

**FORM OF 2021 TIFIA NOTE**

Section 4.1. Form of 2021 TIFIA Note. The form of the 2021 TIFIA Note shall be substantially as set forth in and attached as Exhibit A to the TIFIA Loan Agreement, with such omissions, insertions, and variations as permitted or required by the Master Indenture, this Supplemental Indenture and the Award Certificate.

## ARTICLE V.

### PARTICULAR COVENANTS

Section 5.1. Confirmation of Funds and Accounts. The establishment of all Funds, Accounts and subaccounts heretofore established in the Indenture is hereby confirmed and ratified.

Section 5.2. Covenants Regarding Tax Status. The Authority does not intend to execute and deliver the 2021 TIFIA Note in a manner such that the 2021 TIFIA Note would constitute obligations described in section 103(a) of the Internal Revenue Code of 1986, as amended (the “Code”), and all applicable temporary, proposed, and final regulations and procedures promulgated thereunder. The Authority covenants that it will not file an Internal Revenue Form 8038 or an Internal Revenue Form 8038-G with respect to the 2021 TIFIA Note.

Section 5.3. Transfers from the Senior Lien Debt Service Reserve Fund. Notwithstanding Section 509 of the Master Indenture to the extent there are excess amounts on deposit in the Senior Lien Debt Service Reserve Fund and such excess amounts were derived from Revenues, the Authority shall not transfer such excess amounts to the General Fund but instead may deposit such excess amounts into the Revenue Fund.

Section 5.4. Transfers from Construction Fund Accounts. The Authority shall obtain the written consent of the Holder of the 2021 TIFIA Note prior to transferring any funds on deposit in or credited to the 2021 Project Account to a different account under the Construction Fund or to a different Fund established under the Master Indenture (other than the Revenue Fund, any debt service fund or account maintained under the Indenture and relating to the Obligations that were issued to fund such account in whole or in part (but solely in amounts of unexpended proceeds of such Obligations), and any transfer required to maintain the tax-exempt status of any such Obligations), subject to and except as otherwise may be provided in the TIFIA Loan Agreement.

Section 5.5. Credit Facilities.

(a) To the extent the Authority has replaced all or a portion of the required balance in any of the Senior Lien Debt Service Reserve Fund, the Junior Lien Debt Service Reserve Fund, the Subordinate Lien Debt Service Reserve Fund or the Renewal and Replacement Fund with a Credit Facility in the form of a letter of credit, if at any time an issuer of such letter of credit ceases to maintain a rating of its unsecured, senior long-term indebtedness of at least ‘A,’ ‘A2’ or the equivalent rating from each nationally recognized rating agency that provides such rating, the Authority shall, within thirty (30) days of the date on which the current issuer ceased to be maintain any such credit rating, cause such letter of credit to be replaced by a letter of credit issued by a bank or trust company that is authorized to engage in the banking business, and is organized under or licensed as a branch or agency under the laws of the United States or any state thereof and has a rating of its unsecured, senior long-term indebtedness of at least ‘A+,’ ‘A1’ or the equivalent rating from each nationally recognized rating agency that provides such rating; provided, that the Authority and the Trustee each acknowledges and agrees that if the Authority fails to replace the current Credit Facility with a new Credit Facility issued by an issuer meeting the qualifications described above within such thirty (30) day period, the Holder of the 2021 TIFIA Note may direct the Trustee to draw immediately the full amount of such letter of credit and deposit the proceeds



of such drawing into the applicable Fund. The Holder of the 2021 TIFIA Note is an express third party beneficiaries with respect to this Section 5.5 and may directly enforce compliance with this Section 5.5.

(b) In the event that any letter of credit securing a Reserve Account (as defined in the TIFIA Loan Agreement) is scheduled to expire prior to the latest maturity set forth in the TIFIA Loan Agreement, the Authority shall replace such letter of credit with a new Acceptable Letter of Credit (as defined in the TIFIA Loan Agreement) at least ten (10) Business Days prior to the stated expiry date of the existing letter of credit and such new Acceptable Letter of Credit shall be in an amount equal to at least the amount of expiring letter of credit. In the event that the Authority fails to provide such new Acceptable Letter of Credit by the date required above, the Trustee shall be permitted to immediately draw the full undrawn amount of the existing letter of credit and deposit the proceeds of such drawing into the applicable Reserve Account.

Section 5.6. Subordinated Hedging Termination Obligations. The Authority and the Trustee acknowledge and agree that “Subordinated Hedging Termination Obligations” shall not be paid prior to the payment of principal or interest in respect of Subordinate Lien Obligations pursuant to Section 505 of the Master Indenture. For purposes of this Section 5.6, “Subordinated Hedging Termination Obligations” means the aggregate amount payable by the Authority to the counterparties to any hedging agreement upon the early termination or early unwind of all or a portion of such hedging agreement (net of all amounts payable to the Authority by such hedge counterparties) for reasons other than (i) the request of the Authority as a result of a determination by the Authority that the applicable hedging arrangement (or any part thereof) is no longer necessary or required under the terms of the TIFIA Loan Agreement, (ii) amortization (or other reduction) of the notional amount of a hedge, to the extent that any hedging agreement evidencing such hedge provides for the notional amount to amortize or otherwise be reduced from time to time, (iii) the requirements of Section 16(o)(vii) of the TIFIA Loan Agreement, (iv) a tax or illegality event, or (v) failure by the Authority to pay any obligations under such hedging agreement when due.

Section 5.7. Amendments to Twelfth Supplemental Indenture. During any time that the 2021 TIFIA Note is Outstanding and all or any portion of the 2021 TIFIA Note is held by a Qualified Holder (as defined in Section 6.1 hereof), neither Section 3.9 nor Section 3.10 of the Twelfth Supplemental Indenture may be amended, supplemented or otherwise modified, nor may compliance with the requirements of such sections be waived by the Trustee, without the prior written consent of the Qualified Holder.

Section 5.8. Purpose. The provisions of this Article V are for the sole benefit of the Holder of the 2021 TIFIA Note and may be modified or amended at any time with the consent of, or may be waived in whole or in part by, the Holder of the 2021 TIFIA Note and may not be relied upon or enforced by the Holders of any other Obligations.

## ARTICLE VI.

### DEFAULT REMEDY

Section 6.1. 2021 TIFIA Note Default Remedy. Upon the occurrence of an Event of Default described in Section 801(d) of the Master Indenture during any period when the 2021 TIFIA Note is Outstanding and to the extent that either the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau, or any other federal government agency or instrumentality (in each case, a “Qualified Holder”) is a Holder of the 2021 TIFIA Note, (i) the 2021 TIFIA Note, or any portion thereof, held by a Qualified Holder will be deemed to be and will automatically become Senior Lien Obligations for all purposes of the Indenture, including particularly the provisions of Article VIII of the Master Indenture, and such Qualified Holder will be deemed to be the Holder of such Senior Lien Obligations, (ii) the portion of the funds on deposit in the Debt Service Account 2021 TIFIA NOTE SUB LIEN established in Section 3.3 allocable to the Outstanding principal amount of the 2021 TIFIA Note held by one or more Qualified Holders shall be transferred to a new Account that shall be established as a separate Account in the Senior Lien Debt Service Fund for the benefit of such Qualified Holders; provided, that if a Qualified Holder is the sole holder of the 2021 TIFIA Note at the time an Event of Default described in Section 801(d) of the Master Indenture occurs, the Debt Service Account 2021 TIFIA NOTE SUB LIEN established in Section 3.3 and all funds on deposit therein shall be deemed to be automatically transferred, reestablished and redesignated as a separate Account in the Senior Lien Debt Service Fund for the benefit of the 2021 TIFIA Note and (iii) the portion of the funds on deposit in the Debt Service Reserve Account 2021 TIFIA NOTE SUB LIEN established in Section 3.4 allocable to the outstanding principal amount of the 2021 TIFIA Note held by a Qualified Holder shall be transferred to a new Account that shall be established as a separate Account in the Senior Lien Debt Service Reserve Fund for the benefit of such Qualified Holder; provided, that if a Qualified Holder is the sole holder of the 2021 TIFIA Note at the time an Event of Default described in Section 801(d) of the Master Indenture occurs, the Debt Service Reserve Account 2021 TIFIA NOTE SUB LIEN and all funds on deposit therein shall be deemed to be automatically transferred, reestablished and redesignated as a separate Account in the Senior Lien Debt Service Reserve Fund for the benefit of the 2021 TIFIA Note, and, in each case, such Account shall constitute a Springing Lien Account and the 2021 TIFIA Note shall constitute Springing Lien Obligations for the purposes of Section 3.10 of the Twelfth Supplemental Indenture.

## ARTICLE VII.

### OTHER MATTERS

Section 7.1. Execution in Several Counterparts. This Supplemental Indenture may be simultaneously executed in several counterparts, all of which shall constitute one and the same instrument and each of which shall be, and shall be deemed to be, an original.

Section 7.2. Permitted Investments. Amounts drawn under the TIFIA Loan Agreement may only be invested as permitted by the TIFIA Loan Agreement.

Section 7.3. Compliance with Texas Government Code. (a) The Trustee hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Supplemental Indenture is a contract for goods or services, will not boycott Israel during the term of this Supplemental Indenture. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Trustee understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Trustee and exists to make a profit.

(b) The Trustee represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer’s internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Trustee and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Trustee understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Trustee and exists to make a profit.

(c) To the extent this Supplemental Indenture constitutes a contract for goods or services for which a written verification is required under Section 2274.002, Texas Government Code (as added by Senate Bill 13, 87th Texas Legislature, Regular Session) as amended, the Trustee hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Supplemental Indenture. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or Federal law. As used in the foregoing verification, “boycott energy companies” shall have the meaning assigned to the term “boycott energy company” in Section 809.001, Texas Government Code. The Trustee understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Trustee and exists to make a profit.

(d) To the extent this Supplemental Indenture constitutes a contract for the purchase of goods or services for which a written verification is required under Section 2274.002, Texas Government Code (as added by Senate Bill 19, 87th Texas Legislature, Regular Session, “SB 19”),

as amended, the Trustee hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any,

(1) do not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and

(2) will not discriminate during the term of this Supplemental Indenture against a firearm entity or firearm trade association.

The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or Federal law. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code (as added by SB 19). The Trustee understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Trustee and exists to make a profit.

[Execution Pages Follow]

IN WITNESS WHEREOF, the Authority and the Trustee have caused this Supplemental Indenture to be signed and attested on their behalf by their duly authorized representatives, all as of the date first hereinabove written.

CENTRAL TEXAS REGIONAL MOBILITY  
AUTHORITY

By \_\_\_\_\_  
Chief Financial Officer

Attest:

\_\_\_\_\_  
Secretary

REGIONS BANK, Trustee

By \_\_\_\_\_  
Authorized Officer

**EXHIBIT A**  
**TIFIA LOAN AGREEMENT**

**EXHIBIT B**  
**FORM OF REQUISITION**  
**CONSTRUCTION FUND**  
**2021 TIFIA NOTE SUBORDINATE LIEN PROJECT SUBACCOUNT**  
**CERTIFICATE AND REQUISITION FOR PAYMENT**

DATE: [Month], [Year]

DRAW REQUEST NO.: \_\_\_\_\_

<u>DESCRIPTION SUMMARY<sup>1</sup></u>	<u>AMOUNT</u>
	\$ _____
TOTAL AMOUNT REQUESTED	\$ _____

The Authority does hereby certify to the Trustee that: (i) each item submitted herewith is a proper charge against the 2021 TIFIA NOTE Subordinate Lien Project Subaccount of the 2021 Project Account of the Construction Fund and has not been paid, (ii) such requisition contains no item representing payment on account of any retainage which the Authority is as of the date of this requisition not entitled to release, (iii) no default exists under the Indenture which has not been disclosed to the Trustee and the Authority will use its best efforts to cure any default if it exists and (iv) there has not been filed with or served upon the Authority legal notice of any lien, right to lien, attachment or other claim, which is valid in the opinion of counsel to the Authority and affects the right to receive payment of any of the moneys payable to any of the Persons, firms or corporations named herein which has not been released or will not be released simultaneously with such payment.

Please remit funds by wire transfer to the Authority [Wiring instructions for disbursement].

CENTRAL TEXAS REGIONAL MOBILITY  
AUTHORITY

By: \_\_\_\_\_  
Authorized Representative

<sup>1</sup> Attach appropriate information indicating the name of the Person, Firm or Corporation to whom payment is due, the amount to be paid and the purpose for which such obligation was incurred.



**CERTIFICATION OF GENERAL ENGINEERING CONSULTANT**

As General Engineering Consultant for the 183 North Mobility Project, we hereby certify the following in connection with 2021 TIFIA NOTE Subordinate Lien Project Subaccount of the 2021 Project Account of the Construction Fund Certificate and Requisition for Payment Draw Request No. \_\_\_\_\_:

- (i) such requisition is approved;
- (ii) the amount requisitioned is due and has not previously been paid from the 2021 TIFIA NOTE Subordinate Lien Project Subaccount of the 2021 Project Account of the Construction Fund;
- (iii) insofar as the payment is to be made for work, material, supplies or equipment, the work has been performed and the materials, supplies or equipment have been installed in the 183 North Mobility Project or have been delivered at the site;
- (iv) all work material, supplies and equipment for which payment is to be made are, in our opinion, substantially in accordance with the plans and specifications or duly approved change orders; and

[If an item for payment includes real property:

- (v) acquisition of such property is necessary or advisable in connection with the construction or operation of the 183 North Mobility Project.]

\_\_\_\_\_  
as General Engineering Consultant

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**UNITED STATES  
DEPARTMENT OF TRANSPORTATION**

**TIFIA LOAN AGREEMENT**

**For Up to \$250,289,625**

**With**

**CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

**For the**

**183 NORTH MOBILITY PROJECT**

**(TIFIA – 2021-[\_\_\_\_])**

**Dated as of [\_\_\_\_], 2021**

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## **TIFIA LOAN AGREEMENT**

**THIS TIFIA LOAN AGREEMENT** (this “**Agreement**”), dated as of [\_\_\_\_], 2021, is entered into by and between **CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**, a body politic and corporate and political subdivision of the State of Texas (the “**State**”), created under the laws of the State, with an address of 3300 North IH-35, Suite 300, Austin, Texas 78705 (the “**Borrower**”), and the **UNITED STATES DEPARTMENT OF TRANSPORTATION**, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau (the “**Executive Director**”), with an address of 1200 New Jersey Avenue, S.E., Washington, D.C. 20590 (the “**TIFIA Lender**”).

### **RECITALS:**

**WHEREAS**, the Congress of the United States of America (the “**Congress**”) 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 of America 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 Public Law 105-206, Public Law 109-59, Public Law 112-141, and Public Law 114-94) (the “**Act**”), codified as 23 U.S.C. §§ 601-609; and

**WHEREAS**, Section 603 of the Act authorizes the TIFIA Lender to enter into agreements with one or more obligors to make secured loans; and

**WHEREAS**, pursuant to the application for TIFIA credit assistance dated [\_\_\_\_], 2021 (the “**Application**”), the Borrower has requested that the TIFIA Lender make the TIFIA Loan (as defined herein) in an aggregate principal amount not to exceed \$[250,289,625] (excluding interest that is capitalized in accordance with the terms hereof) (the “**TIFIA Loan**”) to be used to pay a portion of the Eligible Project Costs related to the Project (as defined herein), including the payment or redemption of the Project BANs (as defined herein); and

**WHEREAS**, on [\_\_\_\_], 2021, the Secretary (as defined herein) approved TIFIA credit assistance for the Project in the form of the TIFIA Loan; and

**WHEREAS**, the TIFIA Lender is prepared to extend credit upon the terms and conditions hereof; and

**WHEREAS**, the Borrower agrees to repay any amount due pursuant to this Agreement and the TIFIA Note (as defined herein) in accordance with the terms and provisions hereof and thereof; and

**WHEREAS**, the TIFIA Lender has entered into this Agreement in reliance upon, among other things, the Traffic and Revenue Study (as defined herein) and the Base Case Financial Model (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 TIFIA Lender as follows:

**SECTION 1. Definitions.** Unless the context otherwise requires, capitalized terms used in this Agreement shall have the meanings set forth below in this Section 1 or as otherwise defined in this Agreement. Any term used in this Agreement that is defined by reference to any other agreement shall continue to have the meaning specified in such agreement, whether or not such agreement remains in effect.

**“Acceptable Credit Rating”** means, with respect to any Person, the rating of its unsecured, senior long-term indebtedness (or, if such Person has no such rating, then its issuer rating or corporate credit rating) is no lower than (a) at the time such Person executes, delivers or issues a Qualified Hedge, a Credit Facility or a repurchase obligation, ‘A+’, ‘A1’ or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such Person’s unsecured, senior long-term indebtedness, issuer rating, or corporate credit rating, as applicable; and (b) at any time thereafter, ‘A’, ‘A2’ or the equivalent rating from each Nationally Recognized Rating Agency that provides a rating on such Person’s unsecured, senior long-term indebtedness, issuer rating, or corporate credit rating, as applicable.

**“Acceptable Letter of Credit”** means a letter of credit, in form and substance satisfactory to the TIFIA Lender, issued by a Qualified Issuer.

**“Act”** means the Act as defined in the recitals. In addition, the Act includes those sections of law which are codified in Title 23, United States Code.

**“Additional Project Contract”** means any contract, agreement, letter of intent, understanding or instrument (other than a Principal Project Contract) entered into by (or on behalf of) the Borrower after the Effective Date, providing for the design, construction, testing, or start-up of the Project.

**“Additional Senior Obligations”** means Additional Senior Lien Obligations (as defined in the Indenture) or Additional Junior Lien Obligations (as defined in the Indenture), as applicable (and not including any Existing Indebtedness consisting of Senior Obligations), that are permitted under Section 17(a) and under the Indenture Documents, which Additional Senior Lien Obligations or Additional Junior Lien Obligations (as applicable) are issued or incurred after the Effective Date and, in addition to meeting the requirements for issuance in the Indenture Documents, satisfy the following requirements, as applicable:

(a) if the proceeds thereof will be used to complete the construction of the Project or to comply with obligations under the Construction Contract, in addition to meeting the requirements of Section 710(a) of the Indenture, the Borrower’s Authorized Representative shall have certified to the Trustee and the TIFIA Lender, and the General Engineering Consultant shall have confirmed, that the Additional Senior Obligations are necessary for such completion or compliance and that the proceeds, together with other funds available to complete the Project, are expected to be sufficient to achieve Substantial Completion; provided that the aggregate amount of Additional Senior Obligations incurred pursuant to this clause (a) may not, without the prior written consent of the TIFIA Lender, exceed ten percent (10%) of the cumulative aggregate

proceeds from the issuance of the Initial Senior Obligations and the Project BANs (but excluding the proceeds of any Initial Senior Obligations and Project BANs that are used to refund or repay other indebtedness of the Borrower);

(b) if the proceeds thereof will be used to refinance Senior Obligations, (i) such Additional Senior Obligations must receive an Investment Grade Rating at the time of issuance, (ii) the net proceeds of such Additional Senior Obligations (after deducting any amounts required to be deposited to satisfy the Senior Lien Debt Service Reserve Fund Requirement or the Junior Lien Debt Service Reserve Fund Requirement, as applicable, and any amounts used to pay costs of issuance) shall be used solely to refinance Senior Obligations (which may include the acquisition of Permitted Investments for purposes of defeasing the Senior Obligations to be refinanced), (iii) after issuance of such Additional Senior Obligations, the Trustee shall have on deposit in a separate account irrevocably in trust and used only as provided in this clause (b), (A) moneys in an amount sufficient to pay (but not more than is needed to pay) the applicable redemption price to refund the Senior Obligations being refinanced, (B) Permitted Investments in such principal amounts, having such maturities, bearing such interest, and otherwise having such terms and qualifications as shall be necessary to pay, as and when the Senior Obligations to be refinanced are redeemed, the applicable redemption price to refund such Senior Obligations (but not more than such amounts) or (C) a combination of (A) and (B), and (iv) Annual Debt Service in respect of Senior Obligations, after the incurrence of such Additional Senior Obligations, in each year of the remaining term of the TIFIA Loan, must be projected to be less than the Annual Debt Service in respect of Senior Obligations projected for each such year in the Base Case Financial Model or the most recent Revised Financial Model, as applicable; and

(c) if the proceeds thereof will be used for any reason not described in clause (a) or (b) above, such Additional Senior Obligations must receive an Investment Grade Rating at the time of issuance and the Borrower's Authorized Representative shall have certified to the TIFIA Lender, and the General Engineering Consultant shall have confirmed, (i) that there will be no fundamental change in the use of the Project or the System, and the activity or project to which such Additional Senior Obligations will be applied could not reasonably be expected to result in a Material Adverse Effect, and (ii) the following coverage ratios for each Calculation Period from the date of issuance of such Additional Senior Obligations through the Final Maturity Date (each based on a certified revenue forecast prepared by the Traffic Consultant and satisfactory to the TIFIA Lender): (A) the Senior Debt Service Coverage Ratio (excluding Junior Lien Obligations) is not less than 1.40; (B) the Senior Debt Service Coverage Ratio (including Junior Lien Obligations) is not less than 1.20; (C) the Subordinate Lien Debt Service Coverage Ratio is not less than 1.20; and (D) the Total Debt Service Coverage Ratio is not less than 1.10;

provided that (i) for each of clauses (a) through (c) above, (x) no Event of Default under any Indenture Document or this Agreement has occurred and is continuing and (y) the Nationally Recognized Rating Agency that provided the most recent public ratings of the Senior Obligations and the TIFIA Loan in accordance with Section 16(j) shall have confirmed that the incurrence of such Additional Senior Obligations shall not result in a downgrade of the then-existing credit ratings of the Senior Obligations or the TIFIA Loan to a rating lower than 'BBB-' or the equivalent public rating from a Nationally Recognized Rating Agency and (ii) for each of clauses (a) and (c) above, repayment of the principal amount of such Additional Senior Obligations does not commence until on or after the Debt Service Payment Commencement Date.

**“Additional Subordinate Lien Obligations”** shall mean Subordinate Lien Obligations authorized to be issued or incurred under Section 708 of the Indenture and secured by a lien on, pledge of and security interest in the Trust Estate, subject and subordinate to the lien on, pledge of and security interest in the Trust Estate established for the benefit and security of the Senior Lien Obligations and the Junior Lien Obligations (each as defined in the Indenture), respectively.

**“Agreement”** has the meaning provided in the preamble.

**“Annual Debt Service”** means for any Calculation Period with respect to all Outstanding Obligations or to all Senior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations or Other Obligations, respectively, (a) the principal amount and interest paid or payable or Maturity Amount paid or payable with respect to such Obligations in the Calculation Period, plus (b) Reimbursement Obligations with respect to such Obligations paid or payable by the Borrower in such Calculation Period (but only to the extent not duplicative of such principal and interest or Maturity Amount), plus (c) the amounts, if any, paid or payable by the Borrower in such Calculation Period with respect to Hedging Agreements, minus (d) the amounts, if any, paid or payable to the Borrower in such Calculation Period with respect to Hedging Agreements, provided that the difference between the amounts described in clauses (c) and (d) shall be included only to the extent that such difference would not be recognized as a result of the application of the assumptions set forth in clauses (i) through (vi) below, and minus (e) all amounts that are deposited to the credit of a debt service fund or the Construction Fund for the payment of interest on Senior Lien Obligations or Junior Lien Obligations, as the case may be, from original proceeds from the sale of such Obligations or from any other lawfully available source (other than the Revenue Fund or any moneys that would constitute Revenues in the subject Calculation Period), and that are used or scheduled to be used to pay interest on such Obligations during any Calculation Period. The following assumptions shall be used to calculate the Annual Debt Service for any Calculation Period:

(i) any amounts described in clauses (a), (b) and (c) above that are due on the first day of a Borrower Fiscal Year shall be deemed due in the preceding Borrower Fiscal Year;

(ii) in determining the principal amount or Maturity Amount paid or payable with respect to Obligations or Reimbursement Obligations in each Calculation Period, payment shall be assumed to be made in accordance with any amortization schedule established for such Obligations, including amounts paid or payable pursuant to any mandatory redemption schedule for such Obligations;

(iii) if any of the Obligations or proposed Obligations constitutes Balloon Obligations or Short-Term Obligations, then such amounts thereof as constitute Balloon Obligations or Short-Term Obligations shall be treated as if such Obligations are to be amortized in substantially equal annual installments of principal and interest, or Maturity Amount, over the shorter of (A) the useful life of the improvements financed with the proceeds of such Balloon Obligations or Short-Term Obligations, or (B) a period of thirty (30) years, in each case as calculated by, and set forth in a certificate of, a Borrower’s Authorized Representative; provided, that anything to the contrary herein notwithstanding, during the Calculation Period preceding the final maturity date of such Balloon Obligations



and, in the case of Short-Term Obligations in each Calculation Period, all of the principal or Maturity Amount thereof shall be considered to be due on the maturity or due date of such Balloon Obligations or Short-Term Obligations, unless the Borrower satisfies the requirements of either clause (A) or clause (B) below prior to the beginning of such Calculation Period:

(A) a Borrower's Authorized Representative certifies to the TIFIA Lender in writing that the Borrower has entered into a firm commitment (subject to customary conditions) with an underwriter to issue refunding Bonds or other Obligations to redeem or repay the Balloon Obligations or Short-Term Obligations on or prior to the maturity date thereof and provides a copy of such commitment to the TIFIA Lender, in which case the amount of debt service in respect of such Balloon Obligations or Short-Term Obligations during such Calculation Period shall be replaced by the amount of debt service certified by such Borrower's Authorized Representative as being payable during such Calculation Period pursuant to such committed refunding Bonds or other Obligations; provided, that if such refunding Bonds constitute Balloon Obligations, then such Bonds shall be amortized on a level basis over a period of thirty (30) years from the maturity date of such obligations (or, to the extent the Borrower expects such refunding Bonds or other Obligations to have a final maturity of less than thirty (30) years, then such shorter period); or

(B) (1) a Borrower's Authorized Representative certifies to the TIFIA Lender in writing that (x) the Borrower intends to redeem or repay such Balloon Obligations or Short-Term Obligations on or prior to the maturity date thereof with proceeds of refunding Bonds or other Obligations; (y) the Borrower has received preliminary approval from its board of directors authorizing the issuance of such refunding Bonds or other Obligations to redeem or repay such Balloon Obligations or Short-Term Obligation; and (z) all Outstanding Bonds of the same lien priority as such Balloon Obligations or Short-Term Obligations have an existing rating of at least BBB- or the equivalent public rating by one or more Nationally Recognized Rating Agencies; and (2) the Borrower delivers to the TIFIA Lender a Revised Financial Model; provided, that if the Borrower satisfies the requirements under this clause (B), then the amount of debt service in respect of such Balloon Obligations or Short-Term Obligations for such Calculation Period shall be replaced by the amount of debt service certified by such Borrower's Authorized Representative as being payable during such Calculation Period pursuant to such refunding Bonds or other Obligations, subject to the following requirements: (I) if the refunding Bonds or other Obligations are Variable Interest Rate Bonds, the interest rate thereon is assumed to be the Assumed Variable Rate; (II) if the refunding Bonds or other Obligations are fixed rate Bonds, the interest rate thereon is assumed to be the rate received by the Borrower as demonstrated by preliminary bond pricing information, plus 150 basis points; (III) the principal and interest payable with respect to such refunding Bonds or other Obligations during such Calculation Period must be at least equal to the principal and interest that would have been payable during such Calculation Period if such refunding Bonds or other Obligations were amortized on a level basis over a period of thirty (30) years from the maturity date of the Balloon Obligation or Short-Term Obligation (or, to the extent the Borrower expects such refunding Bonds or other Obligations to have a final maturity of less than thirty (30) years, then such shorter

period); and (IV) if such refunding Bonds or other Obligations are expected to include Capital Appreciation Bonds, the difference between the original principal amount and the Maturity Amount of the Capital Appreciation Bonds shall be determined as if such difference was interest, calculated as provided in clause (I) of this provision to the extent such Capital Appreciation Bonds are Variable Interest Rate Bonds;

(iv) as to any Calculation Period prior to the date of any calculation, such requirements shall be calculated solely on the basis of Obligations which were Outstanding as of the first day of such period; and as to any future Calculation Period such requirements shall be calculated solely on the basis of Obligations Outstanding as of the date of calculation plus any Obligations then proposed to be issued;

(v) if any of the Obligations or proposed Obligations constitute Variable Interest Rate Bonds, then, subject to the following proviso, interest in future periods shall be based on the Assumed Variable Rate; provided, however, if the Authority has entered into a Hedging Agreement with respect to a series of Obligations constituting Variable Interest Rate Bonds that provides for the Borrower to pay a fixed interest rate during any future period, the fixed interest rate payable by the Borrower under the Hedging Agreement during such future period shall be assumed to be the interest rate on such Obligations if the notional amount under the Hedging Agreement is equal to or greater than the Outstanding principal amount or Maturity Amount of the Obligations and reduces in the amounts and on the dates that the Obligations mature;

(vi) any Put Bonds outstanding during such period which by their terms are required to be paid by the Borrower upon tender by the holder thereof shall be assumed to mature on the earliest to occur of (A) the stated maturity date thereof, (B) the date provided in an applicable Supplemental Indenture, or (C) if the Credit Facility securing such Put Bonds expires within six (6) months or less of the date of calculation and has not been renewed or replaced, the expiration date of such Credit Facility;

(vii) the principal amount of any Put Bonds tendered to the Borrower for payment that have not yet been purchased in lieu of such payment by the Borrower shall be deemed to mature on the date required to be paid pursuant to such tender; and

(viii) any Soft Put Bonds shall be deemed to bear interest at the fixed rate established for the rate period applicable to such Soft Put Bonds on the date such calculation is made and, after the expiration of such rate period, shall be deemed to bear interest at the applicable stepped coupon rate, with all principal payments in respect of such Soft Put Bonds to be payable on the maturity dates established for such Soft Put Bonds.

**“Anticipated TIFIA Loan Disbursement Schedule”** means the schedule set forth as **Exhibit B**, reflecting the anticipated disbursement of proceeds of the TIFIA Loan, as such schedule may be amended from time to time pursuant to Section 4(d).

**“Anti-Corruption Laws”** means all laws, rules and regulations of any jurisdiction from time to time concerning or relating to bribery or corruption.

“**Anti-Money Laundering Laws**” means all U.S. and other applicable laws, rules and regulations of any jurisdiction from time to time concerning or related to anti-money laundering, including but not limited to those contained in the Bank Secrecy Act and the Patriot Act.

“**Application**” has the meaning provided in the recitals.

“**Assumed Variable Rate**” means in the case of:

(a) Variable Interest Rate Bonds, the greater of:

(i) the average interest rate on such Variable Interest Rate Bonds for the most recently completed one hundred twenty (120) month period or the period such Variable Interest Rate Bonds have been outstanding if it is less than one hundred twenty (120) months, or

(ii) the rate to be determined pursuant to clause (b) below assuming the outstanding Variable Interest Rate Bonds were being issued on the date of calculation; and

(b) proposed Variable Interest Rate Bonds, either

(i) to be issued on the basis that, in the opinion of bond counsel to be delivered at the time of the issuance thereof, interest on such Variable Interest Rate Bonds would be excluded from gross income for federal income tax purposes, the greater of (i) the average of the Securities Industry and Financial Markets Association Swap Index (the “**SIFMA Index**”) for the twelve (12) month period ending seven (7) days preceding the date of calculation plus 100 basis points, or (ii) the average of the SIFMA Index for the one hundred twenty (120) month period ending seven (7) days preceding the date of calculation plus 100 basis points, or

(ii) to be issued as Variable Interest Rate Bonds not described in clause (I), the greater of the (i) average of the London Interbank Offered Rate (“**LIBOR**”) for the time period most closely resembling the reset period for the Variable Interest Rate Bonds for the twelve (12) month period ending seven (7) days preceding the date of calculation plus 100 basis points, or (ii) average of LIBOR for the time period most closely resembling the reset period for the Variable Interest Rate Bonds for the one hundred twenty (120) month period ending seven (7) days preceding the date of calculation plus 100 basis points; provided, that if the SIFMA Index or LIBOR shall cease to be published, the index to be used in its place shall be that index which the Borrower, in consultation with the Financial Consultant (as defined in the Indenture), determines most closely replicates such index, as set forth in a certificate of the Borrower’s Authorized Representative filed with the Trustee.

Notwithstanding the foregoing, in no event shall the Assumed Variable Rate be in excess of the maximum interest rate allowed by law on obligations of the Borrower.

“**Award Certificate**” means the Award Certificate executed and delivered by a Borrower’s Authorized Representative pursuant to Section 2.1 of the TIFIA Supplemental Indenture in connection with the execution and delivery of this Agreement and the TIFIA Note.

**“Balloon Obligations”** means Obligations (other than Short-Term Obligations) of a particular issue or series of Obligations of which 25% or more of the principal or Maturity Amount matures in the same consecutive twelve-month period and is not required by the documents pursuant to which such Obligations were issued to be amortized by payment or redemption prior to such consecutive twelve-month period.

**“Bank Secrecy Act”** means the Bank Secrecy Act of 1970 (Titles I and II of Pub. L. No. 91-508, codified at 12 U.S.C. and 31 U.S.C. §§ 1829b and 1951-1959 and 31 U.S.C. §§ 312, 5311-5313, and 5316-5322), as amended from time to time, and any successor statute of similar import, and the regulations promulgated thereunder.

**“Base Case Financial Model”** means a financial model prepared by the Borrower forecasting the revenues and expenditures of the Project and the System for time periods through the Final Maturity Date and based upon assumptions and methodology provided by the Borrower and acceptable to the TIFIA Lender as of the Effective Date, which model shall be provided to the TIFIA Lender as a fully functional Microsoft Excel-based financial model.

**“Bond”** means any bonds or any other evidences of indebtedness for borrowed money issued by the Borrower, from time to time, pursuant to the Indenture and the terms of the applicable Supplemental Indenture.

**“Bond Proceeds Funded Account”** means the account created within the Senior Lien Debt Service Reserve Fund and so designated by Section 3.10(a) of the Twelfth Supplemental Indenture.

**“Bondholder”** means, with respect to any Bond, the registered owner of such Bond.

**“Borrower”** has the meaning provided in the preamble.

**“Borrower Fiscal Year”** means (a) as of the Effective Date, a fiscal year of the Borrower commencing on July 1 of any calendar year and ending on June 30 of the immediately succeeding calendar year, or (b) such other fiscal year as the Borrower may hereafter adopt after giving thirty (30) days’ prior written notice to the TIFIA Lender, as provided in Section 17(h).

**“Borrower’s Authorized Representative”** means any Person who shall be designated as such pursuant to Section 26.

**“Business Day”** means any day other than (a) a Saturday or Sunday, (b) a day on which offices of the Government are authorized to be closed or on which commercial banks are authorized or required by law, regulation or executive order to be closed in New York, New York, Austin, Texas or the city and state in which the Trustee has its principal corporate trust office, or (c) a day on which New York Stock Exchange is closed.

**“Calculation Date”** means each January 1 and July 1 occurring after the Effective Date.

**“Calculation Period”** means a twelve (12) month period ending on a Calculation Date.

**“CAMPO”** means the Capital Area Metropolitan Planning Organization.

**“Capital Appreciation Bonds”** means any Permitted Debt as to which interest is payable only at the maturity of such Permitted Debt.

**“Capital Expenditures”** means expenditures made or liabilities incurred for the acquisition of any assets, improvements or replacements thereto that have a useful life of more than one (1) year and that are capitalized in accordance with GAAP.

**“Capitalized Interest Period”** means the period from (and including) the Effective Date to (but excluding) the first day of the initial Payment Period.

**“Code”** means the Internal Revenue Code of 1986, as amended from time to time.

**“Commercial Paper Agreement”** means any issuing and paying agent agreement and any reimbursement agreement entered into by the Borrower in connection with the issuance of commercial paper notes.

**“Compounded Amount”** means, with respect to a Capital Appreciation Bond or a Convertible Bond, as of any particular date of calculation, the original principal amount thereof, plus all interest accreted and compounded to the particular date of calculation, determined as follows:

(a) as of any Compounding Date (which shall include the Conversion Date for a Convertible Bond), the amount shown as the Compounded Amount for such Compounding Date in the Compounded Amount Table relating to a particular Capital Appreciation Bond or Convertible Bond; and

(b) as of any date that is not a Compounding Date, the amount set forth in the Compounded Amount Table relating to a particular Capital Appreciation Bond or Convertible Bond for the last preceding Compounding Date, plus the portion of the difference between such amount and the amount set forth in the Compounded Amount Table for the next succeeding Compounding Date that the number of days (based on 30-day months) from such last preceding Compounding Date to the date for which determination is being made bears to the total number of days (based on 30-day months) from such last preceding Compounding Date to the next succeeding Compounding Date.

**“Compounded Amount Table”** means, with respect to a Capital Appreciation Bond or Convertible Bond, the table attached as an exhibit to the Supplemental Indenture relating to the obligations issued as Capital Appreciation Bonds or Convertible Bonds that shows the rounded original principal amounts at the issuance date thereof and the Compounded Amounts per \$5,000 Maturity Amount (or such other Maturity Amount specified in a Supplemental Indenture) on the Compounding Dates for each maturity to its maturity or, with respect to Convertible Bonds, to the date at which the original principal amount of the applicable obligation plus all interest accreted and compounded equals the Maturity Amount, as the case may be.

**“Compounding Dates”** means the dates specified in a Supplemental Indenture on which interest on Capital Appreciation Bonds and Convertible Bonds will be compounded.

**“Congress”** has the meaning provided in the recitals.

“**Construction Fund**” means the Construction Fund established pursuant to Section 519 of the Indenture.

“**Construction Contract**” means that certain Design-Build Agreement for the 183 North Mobility Project, dated March 2, 2021, by and between the Borrower and Great Hills Constructors.

“**Construction Period**” means the period from the Effective Date through the Substantial Completion Date.

“**Construction-Related Contractor**” means Great Hills Constructors.

“**Construction Schedule**” means (a) the initial schedule or schedules on which the construction timetables for the Project are set forth, attached as **Schedule II**, and (b) any updates thereto included in the Financial Plan most recently provided to the TIFIA Lender pursuant to Section 22(a).

“**Control**” means, when used with respect to any particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or partnership or other ownership interests, by contract or otherwise; and the terms “**Controlling**” and “**Controlled by**” have meanings correlative to the foregoing.

“**Conversion Date**” means, with respect to Convertible Bonds, the date at which the original principal amount of an obligation plus all interest accreted and compounded equals the Maturity Amount.

“**Convertible Bonds**” means Bonds on which interest accretes from the date of issuance of such Bonds to the Conversion Date but is not payable until maturity or prior redemption in the same manner as Capital Appreciation Bonds and on which interest on the Maturity Amount accrues and is payable on a periodic basis from the Conversion Date to maturity, all as set forth in a Supplemental Indenture relating to such Bonds.

“**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, [January 2021] as the base period.

“**Credit Enhancer**” means any party (other than the TIFIA Lender) providing a Credit Facility with respect to Obligations.

“**Credit Facility**” means any letter of credit, standby bond purchase agreement, line of credit, policy of bond insurance, surety bond, guarantee or similar instrument, or any agreement relating to the reimbursement of any payment thereunder (or any combination of the foregoing) (other than this Agreement), which is obtained by the Borrower and is issued by a financial institution, insurance provider or other Person and which provides security or liquidity in respect of any Permitted Debt.

**“Debt Service Payment Commencement Date”** means the earlier of (a) January 1, 2029 and (b) the Semi-Annual Payment Date immediately preceding the fifth (5th) anniversary of the Substantial Completion Date.

**“Default Rate”** means an interest rate equal to the sum of (a) the TIFIA Interest Rate plus (b) 200 basis points.

**“Development Default”** means (a) the Borrower fails to diligently prosecute the work related to the Project or (b) the Borrower fails to complete the Project by the Projected Substantial Completion Date.

**“Effective Date”** means the date of this Agreement.

**“Electronic Signature”** means any electronic symbol, or process attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign such contract or record pursuant to the Federal Electronic Signatures in Global and National Commerce Act and the Texas Uniform Electronic Transactions Act, as amended from time to time.

**“Eligible Project Costs”** means amounts included in the Project Budget, substantially all of which are paid by or for the account of the Borrower in connection with the Project, including prior Project expenditures, all of which shall arise from the following:

(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 Project and improvements to land), environmental mitigation, construction contingencies and acquisition of equipment; or

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

**“Eligible Project Costs Documentation”** means all invoices and records evidencing Eligible Project Costs in connection with the reimbursement of such Eligible Project Costs or for the purpose of paying or redeeming, in whole or part, Project BANs the proceeds of which were used to pay such documented Eligible Project Costs.

**“Environmental Laws”** has the meaning provided in Section 14(s).

**“ERISA”** means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute of similar import, and the regulations thereunder, in each case as in effect from time to time.

**“ERISA Affiliate”** means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

**“Event of Default”** has the meaning provided in Section 20(a).

**“Event of Loss”** means any event or series of events that causes any portion of the System or the Project to be damaged, destroyed or rendered unfit for normal use for any reason whatsoever, including through a failure of title, or any loss of such property, or a condemnation.

**“Executive Director”** has the meaning provided in the preamble hereto.

**“Existing Indebtedness”** means indebtedness of the Borrower that has been issued or incurred prior to the Effective Date, as listed and described in Schedule III.

**“Federal Fiscal Year”** or **“FFY”** means the fiscal year of the Government, which is the twelve (12) month period that ends on September 30 of the specified calendar year and begins on October 1 of the preceding calendar year.

**“FHWA”** means the Federal Highway Administration, an agency of the USDOT.

**“FHWA Division Office”** means the FHWA, Texas Division in Austin, Texas.

**“Final Maturity Date”** means the earlier of (a) the date that is thirty-five (35) years from the Substantial Completion Date and (b) January 1, 2056.

**“Financial Plan”** means (a) the financial plan to be delivered within sixty (60) days after the Effective Date in accordance with Section 22(a), and (b) any updates thereto required pursuant to Section 22(a).

**“Financial Statements”** has the meaning provided in Section 14(z).

**“GAAP”** means generally accepted accounting principles as defined by the Financial Accounting Standards Board, or such other nationally recognized professional body, in effect from time to time in the United States of America, and as implemented by the Governmental Accounting Standards Board.

**“General Engineering Consultant”** means Atkins, a member of the SNC-Lavalin Group, WSP USA Inc., or any additional or replacement engineering firm or firms selected and engaged by the Borrower pursuant to Section 714 of the Indenture to carry out the duties imposed on the General Engineering Consulting under the Indenture Documents.

**“General Fund”** means the General Fund established pursuant to Section 519 of the Indenture.

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

**“Government Obligations”** means (a) direct obligations of, or obligations on which the timely payment of principal and interest are fully and unconditionally guaranteed by, the Government, (b) bonds, debentures or notes issued by any of the following federal agencies: Banks for Cooperatives, Federal Intermediate Credit Banks, Federal Home Loan Banks, Export-Import Bank of the United States, Government National Mortgage Association or Federal Land



Banks, (c) obligations issued or guaranteed by a Person controlled or supervised by and acting as an instrumentality of the Government pursuant to authority granted by the Congress, and (d) evidences of ownership of proportionate interests in future interest or principal payments on obligations specified in clauses (a), (b) and (c) of this definition held by a bank or trust company as custodian and which underlying obligations are not available to satisfy any claim of the custodian or any Person claiming through the custodian or to whom the custodian may be obligated, in each case.

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

**“Governmental Authority”** means any federal, state, provincial, county, city, town, village, municipal or other government or governmental department, commission, council, court, board, bureau, agency, authority or instrumentality (whether executive, legislative, judicial, administrative or regulatory), of or within the United States of America or its territories or possessions, including the State and its counties and municipalities, and their respective courts, agencies, instrumentalities and regulatory bodies, or any entity that acts “on behalf of” any of the foregoing, whether as an agency or authority of such body.

**“Hedging Agreement”** means (a) the ISDA Master Agreement and any related credit support annex, schedules and confirmations, to be entered into by the Borrower and a Hedging Bank, (b) any other agreement entered into, or to be entered into, by the Borrower and a Hedging Bank for a Hedging Transaction, and (c) any other documentation directly relating to the foregoing.

**“Hedging Banks”** means any Qualified Hedge Provider that becomes a party to a Hedging Agreement and its permitted successors (to the extent such successors are also Qualified Hedge Providers).

**“Hedging Obligations”** means, collectively, the payment of (a) all scheduled amounts payable to the Hedging Banks by the Borrower under the Hedging Agreements (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower), net of all scheduled amounts payable to the Borrower by such Hedging Banks, and (b) all other indebtedness, fees, indemnities and other amounts payable by the Borrower to the Hedging Banks under such Hedging Agreements, net of all other indebtedness, fees, indemnities and other amounts payable by the Hedging Banks to the Borrower under such Hedging Agreements; provided, that Hedging Obligations shall not include Hedging Termination Obligations. For the avoidance of doubt, all calculations of such amounts payable under the Hedging Agreements shall be made in accordance with the terms of the applicable Hedging Agreements.

**“Hedging Termination Obligations”** means the aggregate amount payable to the Hedging Banks by the Borrower upon the early termination or early unwind of all or a portion of the Hedging Agreements, net of all amounts payable to the Borrower by such Hedging Banks upon the early unwind of all or a portion of such Hedging Agreements. For the avoidance of doubt, all

calculations of such amounts payable under the Hedging Agreements shall be made in accordance with the terms of the applicable Hedging Agreements.

**“Hedging Transaction”** means any interest rate protection agreement, interest rate swap transaction, interest rate “cap” transaction, interest rate future, interest rate option or other similar interest rate hedging arrangement commonly used in loan transactions to hedge against interest rate increases and not for any speculative purpose.

**“Indemnitee”** has the meaning provided in Section 18.

**“Indenture”** means that certain Master Trust Indenture, dated as of February 1, 2005, between the Borrower and the Trustee.

**“Indenture Documents”** means the Indenture, each Supplemental Indenture then in effect, each Commercial Paper Agreement, each Hedging Agreement, and each Credit Facility.

**“Initial Senior Obligations”** means the Senior Lien Revenue Bonds, Series 2021B, issued by the Borrower pursuant to the Twenty-Seventh Supplemental Indenture.

**“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, conservatorship, or similar law now or hereafter in effect.

**“Interim Payment Date”** means any day occurring during a Payment Period that (a) is a date on which interest on or principal of Senior Obligations, Subordinate Lien Obligations or Other Obligations is scheduled to be paid and (b) is not a Semi-Annual Payment Date.

**“Interim Payment Period”** means, at any time that interest on or principal of any Senior Obligations, Subordinate Lien Obligations or Other Obligations is scheduled to be paid on an Interim Payment Date, the period from and including the immediately preceding Payment Date to but excluding the date immediately prior to such Interim Payment Date.

**“Investment Grade Rating”** means a public rating no lower than ‘BBB-’, ‘Baa3’ or the equivalent public rating from a Nationally Recognized Rating Agency.

**“ISDA Master Agreement”** means a master agreement, entered into by the Borrower and a Hedging Bank, in the form published by the International Swaps and Derivatives Association, Inc.

**“Junior Lien Debt Service Fund”** means the Junior Lien Debt Service Fund established pursuant to Section 504(a) of, and as defined in, the Indenture.

**“Junior Lien Debt Service Reserve Fund”** means the Junior Lien Debt Service Reserve Fund established pursuant to Section 504(a) of, and as defined in, the Indenture.

**“Junior Lien Debt Service Reserve Fund Requirement”** means the amount, if any, specified in the Supplemental Indentures authorizing Junior Lien Obligations as the “Junior Lien Debt Service Reserve Requirement” or, if not so specified, \$0.

**“Junior Lien Obligations”** means an obligation or evidences of indebtedness for borrowed money of the Borrower of any kind or class, including bonds, notes, bond anticipation notes, commercial paper and other obligations, issued or incurred as Junior Lien Obligations under and in accordance with the Indenture and any Supplemental Indenture.

**“LIBOR”** has the meaning provided in the definition of “Assumed Variable Rate.”

**“Lien”** means any mortgage, pledge, hypothecation, assignment, mandatory deposit arrangement, encumbrance, attachment, lien (statutory or other), charge or other security interest, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever, including any sale-leaseback arrangement, any conditional sale or other title retention agreement, any financing lease having substantially the same effect as any of the foregoing, and the filing of any financing statement or similar instrument under the UCC or any other applicable law.

**“Loan Amortization Schedule”** means the loan amortization schedule set forth in **Exhibit G**, as amended from time to time in accordance with Section 7 and Section 9(h).

**“Loss Proceeds”** means any proceeds of insurance resulting from any Event of Loss.

**“Maintenance Contract”** means the System-wide Performance Based Maintenance Contract (Contract No. 20PROGXXX02M), dated as of June 30, 2020, between the Borrower and DBi Services, LLC, and any replacement thereto in accordance with Section 16(e)(iv).

**“Maintenance Expenses”** means the Borrower’s reasonable and necessary expenses of repair and maintenance of the System, including periodic roadway resurfacing and repair, replacement of toll collection, vehicle identification, toll integration and video enforcement equipment and all administrative and engineering expenses relating to repair and maintenance of the System and any other expenses required to be paid by the Borrower as shown in the Annual Maintenance Budget (as defined in the Indenture) for the System (without duplication of any Major Maintenance Costs).

**“Major Maintenance”** means all necessary periodic major overhaul and repair (excluding any maintenance or repair of a routine or ordinary course nature) of the System, including the equipment and systems of the Project, of the type described in Section 514 of the Indenture.

**“Major Maintenance Costs”** means all expenses incurred or to be incurred by the Borrower relating to Major Maintenance (without duplication of any Maintenance Expenses).

**“Material Adverse Effect”** means a material adverse effect on (a) the Project (until the Substantial Completion Date), the System or the Revenues, (b) the business, operations, properties, condition (financial or otherwise) or prospects of the Borrower with respect to the System, (c) the legality, validity or enforceability of any material provision of any Indenture Document, TIFIA Loan Document, any Principal Project Contract or the Project Development Agreement, (d) the ability of the Borrower or any other Principal Project Party to enter into, perform or comply with any of its material obligations under any Indenture Document, TIFIA Loan Document or Principal Project Contract to which it is a party, (e) the ability of the Borrower or TxDOT to perform or comply with any of its material obligations under the Project Development Agreement, (f) the

validity, enforceability or priority of the Lien provided under the Indenture Documents on the Trust Estate in favor of the Secured Parties or (g) the TIFIA Lender's rights or remedies available under any TIFIA Loan Document.

**"Maturity Amount"** means the Compounded Amount of a Capital Appreciation Bond or a Convertible Bond due on its maturity.

**"Nationally Recognized Rating Agency"** means any nationally recognized statistical rating organization identified as such by the Securities and Exchange Commission.

**"NEPA"** means the National Environmental Policy Act of 1969, as amended, and any successor statute of similar import, and regulations thereunder, in each case as in effect from time to time.

**"NEPA Determination"** means that certain Finding of No Significant Impact for the Project issued by TxDOT on April 26, 2016 (as approved upon re-evaluation on February 6, 2020), in accordance with NEPA.

**"Net Cash Flow"** means, with respect to any period, an amount equal to all Revenues received by the Borrower during such period after the payment of all Operating Expenses and Maintenance Expenses paid or to be paid during such period from Revenues; provided, that when calculated with respect to any future period, Net Cash Flow shall be based on Projected Revenues and projected Operating Expenses and Maintenance Expenses during such period.

**"Net Loss Proceeds"** means remaining Loss Proceeds after excluding any proceeds of business interruption insurance, delay-in-start-up insurance, proceeds covering liability of the Borrower to third parties, and Loss Proceeds used or to be used by the Borrower to repair or restore the Project or the System.

**"Non-System Project"** means one or more facilities and other real and personal property, or any interest therein and improvements thereto, which the Borrower now owns or hereafter acquires, designs, constructs, maintains, operates, finances, improves, reconstructs, rehabilitates, leases or otherwise undertakes for transportation or transportation related purposes but that is not included in the System.

**"Noteholder"** means, when used with respect to the TIFIA Note, the TIFIA Lender and when used with respect to any other Obligation in the form of a note, the registered owner of such Obligation.

**"Obligations"** means all indebtedness of the Borrower payable from Revenues incurred or assumed by the Borrower for borrowed money (including indebtedness arising under Credit Facilities) and all other financing obligations of the Borrower related to the System that, in accordance with Accounting Principles (as defined in the Indenture), are included as a liability on a balance sheet for the System books and records, including, any bonds, notes, certificates or other obligations, as the case may be, authenticated and delivered under and pursuant to the Indenture as Senior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations or Other Obligations. For the purpose of determining the "Obligations" payable from the Revenues, any Defeased Obligation (as defined in the Indenture) shall be excluded.

“**OFAC**” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“**Operating Expenses**” means the Borrower’s reasonable and necessary expenses of operation of the System, including, without limiting the generality of the foregoing, expenses for toll collection, all premiums for insurance and payments into any self-insurance reserve fund, all administrative and engineering expenses relating to operation of the System, fees and expenses of the Traffic Consultants, the General Engineering Consultant, the Trustee and of any paying agents appointed pursuant to Section 912 of the Indenture, periodic fees or charges required to maintain a Credit Facility in respect of a debt service reserve fund under the Indenture Documents, legal expenses, expenses for public safety officers in the employment of or under contract to the Borrower for the purpose of performing public safety duties in connection with the System and any other expenses required to be paid by the Borrower as shown in the Annual Operating Budget (as defined in the Indenture) for the System.

“**Operating Fund**” means the Operating Fund established pursuant to Section 504(a) of, and as defined in, the Indenture.

“**Organizational Documents**” means: (a) with respect to any Person that is a Governmental Authority, (i) the constitutional and statutory provisions that are the basis for the existence and authority of such Governmental Authority, including any enabling statutes, ordinances or public charters and any other organic laws establishing such Governmental Authority and (ii) the bylaws, code of regulations, operating procedures or other organizational documents of or adopted by such Governmental Authority by which such Governmental Authority, its powers, operations or procedures or its securities, bonds, notes or other obligations are governed or from which such powers are derived; and (b) with respect to a Person that is not a Governmental Authority, (i) to the extent such Person is a corporation, the certificate or articles of incorporation and the by-laws of such Person, (ii) to the extent such Person is a limited liability company, the certificate of formation or articles of formation or organization and operating or limited liability company agreement of such Person and (iii) to the extent such Person is a partnership, joint venture, trust or other form of business, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization or formation of such Person.

“**Other Obligations**” means all obligations of any kind or class, including bonds, notes, bond anticipation notes, commercial paper and other obligations issued or incurred as Other Obligations under and in accordance with Section 709 of the Indenture and any Supplemental Indenture.

“**Outstanding**” means, when used with reference to Obligations, as of any date, Obligations theretofore or thereupon being authenticated and delivered under the Indenture except:

(a) Obligations cancelled by the Trustee or delivered to the Trustee for cancellation at or prior to such date;

(b) Obligations in lieu of or in substitution for which other Obligations shall have been authenticated and delivered pursuant to Article III or Section 406 or Section 1006 of the Indenture; and

(c) Obligations paid or deemed to have been paid as provided in Section 1102 of the Indenture.

**“Outstanding TIFIA Loan Balance”** means the aggregate principal amount drawn by the Borrower pursuant to this Agreement and then outstanding (including capitalized interest) with respect to the TIFIA Loan, as determined in accordance with Section 7.

**“Patriot Act”** means the USA PATRIOT Act, also known as the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56, as amended from time to time, and any successor statute of similar import, and the regulations promulgated thereunder.

**“Payment Date”** means each Semi-Annual Payment Date or Interim Payment Date.

**“Payment Default”** has the meaning provided in Section 20(a)(i).

**“Payment Period”** means any period of six (6) months from (and including) a Semi-Annual Payment Date to (but excluding) the immediately succeeding Semi-Annual Payment Date, commencing with the six (6) month period ending on the date immediately prior to the Debt Service Payment Commencement Date.

**“Permitted Debt”** means:

- (a) Existing Indebtedness set forth in **Schedule III**;
- (b) the TIFIA Loan;
- (c) Additional Senior Obligations that satisfy each of the requirements in the definition thereof;

(d) Additional Subordinate Lien Obligations (i) that satisfy each of the conditions and requirements in the Indenture Documents for the issuance thereof and (ii) with respect to which the Subordinate Lien Debt Service Coverage Ratio for each Calculation Period from the date of issuance of such Additional Subordinate Lien Obligations through the Final Maturity Date is not less than 1.20 (based on a certified revenue forecast prepared by the Traffic Consultant and satisfactory to the TIFIA Lender);

(e) Additional Other Obligations (as defined in the Indenture) (i) that satisfy each of the conditions and requirements in the Indenture Documents for the issuance thereof and (ii) with respect to which the Total Debt Service Coverage Ratio for each Calculation Period from the date of issuance of such Additional Other Obligations through the Final Maturity Date is not less than 1.10 (based on a certified revenue forecast prepared by the Traffic Consultant and satisfactory to the TIFIA Lender);

(f) reimbursement obligations in respect of letters of credit and other financial obligations of the Borrower, whether arising under the Principal Project Contracts, Additional Project Contracts or under other agreements executed by the Borrower in connection with the Project or the System for Total Project Costs, Operating Expenses, Maintenance Expenses, Major Maintenance Costs or Capital Expenditures, the face value of which letters of credit and other financial obligations at any time outstanding do not, in the aggregate, exceed \$5,000,000;

(g) purchase money obligations or capitalized leases incurred to finance discrete items of equipment not comprising an integral part of the Project, which obligations and leases are included in Operating Expenses, Maintenance Expenses, Major Maintenance Costs or Capital Expenditures and do not require payments by the Borrower in any Borrower Fiscal Year in excess of \$500,000 in the aggregate;

(h) trade accounts payable (other than for borrowed money) so long as such trade accounts payable are payable not later than ninety (90) days after the respective goods are delivered or the respective services are rendered;

(i) working capital loans the proceeds of which are used to pay Operating Expenses, Maintenance Expenses, Major Maintenance Costs or Capital Expenditures; provided that the principal amount of such loans shall not exceed \$5,000,000 in the aggregate at any time and shall be repaid within three (3) years of the incurrence of such loans;

(j) indebtedness incurred in respect of Qualified Hedges;

(k) any bond, note, certificate, warrant, lease, contract or other financial obligation or security of the Borrower that is not, in whole or in part, secured by a Lien on, or payable from, the Revenues or any other part of the Trust Estate, including a bond, note, certificate, warrant, lease, contract or other financial obligation or security of the Borrower issued or entered into to finance Non-System Projects;

(l) indebtedness in an aggregate principal amount (including capitalized interest) not to exceed \$15,000,000 that is secured by a Lien on, or payable from, the Revenues or any other part of the Trust Estate, the proceeds of which are used to finance Non-System Projects and that (i) satisfies each of the conditions and requirements in the Indenture Documents for the issuance thereof and (ii) satisfies each of the conditions and requirements set forth in, as applicable, (A) clause (c) of the definition of “Additional Senior Obligations, with such indebtedness that constitutes Additional Senior Obligations, (B) clause (f) of this definition, with respect to Additional Subordinate Lien Obligations and (C) clause (g) of this definition, with respect to Additional Other Obligations; and

(m) commercial paper notes that at all times satisfy the requirements of Section 17(a)(v).

**“Permitted Hedging Termination”** means the early termination, in whole or in part, of any Qualified Hedge (a) at the request of the Borrower as a result of a determination by the Borrower that such (or any part of such) Qualified Hedge is no longer necessary or required under the terms of this Agreement, (b) pursuant to the terms of any Hedging Agreement evidencing such

Qualified Hedge that provides for the notional amount of such Qualified Hedge to amortize or otherwise be reduced from time to time or (c) as may be required pursuant to Section 16(o)(vii).

“**Permitted Investments**” means, with respect to the investment of the proceeds of the TIFIA Loan or amounts on deposit in any construction or reserve account established and maintained pursuant to the Indenture Documents, and to the extent not less stringent than the requirements in the definition of “Permitted Investments” in the Indenture, the following:

- (a) Government Obligations;
- (b) certificates of deposit where the certificates are collaterally secured by securities of the type described in clause (a) of this definition and held by a third party as escrow agent or custodian, of a market value not less than the amount of the certificates of deposit so secured, including interest, but this collateral is not required to the extent the certificates of deposit are insured by the Government;
- (c) repurchase agreements with counterparties that have an Acceptable Credit Rating, when collateralized by securities of the type described in clause (a) of this definition and held by a third party as escrow agent or custodian, of a market value not less than the amount of the repurchase agreement so collateralized, including interest;
- (d) investment agreements or guaranteed investment contracts rated, or with any financial institution whose senior long-term debt obligations are rated, or guaranteed by a financial institution whose senior long-term debt obligations are rated, in each case, in one of the two (2) highest Rating Categories for comparable types of obligations by any Nationally Recognized Rating Agency; and
- (e) money market funds that invest solely in obligations of the United States of America, its agencies and instrumentalities, and having a rating by a Nationally Recognized Rating Agency equal to the then applicable rating of the United States of America by such Nationally Recognized Rating Agency.

“**Permitted Liens**” means:

- (a) Liens imposed pursuant to the Indenture Documents;
- (b) Liens imposed by law for taxes that are not yet due or are being contested in compliance with Section 16(n);
- (c) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are being contested in compliance with Section 16(n);
- (d) pledges and deposits made in the ordinary course of business in compliance with workers’ compensation, unemployment insurance, and other social security laws or regulations;



(e) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

(f) judgment Liens in respect of judgments that do not constitute an Event of Default under Section 20(a)(vii);

(g) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that, in any case, do not secure any monetary obligations, interfere with the ordinary conduct of business of the Borrower, or, if such real property is being incorporated into or used in connection with the Project, do not materially detract from the value of the affected property or impair operation or maintenance of the System;

(h) any Lien on any property or asset of the Borrower existing on the Effective Date; provided, that (i) such Lien shall not apply to any other property or asset of the Borrower not covered by such Lien as of the Effective Date, and (ii) such Lien shall secure only those obligations which it secures on the Effective Date and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(i) any Lien existing on any property or asset prior to the acquisition thereof by the Borrower; provided, that (i) such Lien is not created in contemplation of or in connection with such acquisition, (ii) such Lien shall apply solely to the acquired asset and not to any other property or assets of the Borrower, and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition, and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof; and

(j) purchase money security interests in equipment hereafter acquired by the Borrower; provided, that (i) such security interests secure indebtedness for borrowed money permitted by Section 17(a), (ii) such security interests are incurred, and the indebtedness secured thereby is created, within ninety (90) days after such acquisition, (iii) the indebtedness secured thereby does not exceed the fair market value of such equipment at the time of such acquisition, and (iv) such security interests do not apply to any other property or assets (other than accessions to such equipment) of the Borrower.

**“Person”** means and includes an individual, a general or limited partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated organization and any Governmental Authority.

**“Principal Project Contracts”** means (a) the Construction Contract, (b) any guarantee of the obligations of a Principal Project Party and (c) any replacement of any of the foregoing.

**“Principal Project Party”** means any Person (other than the Borrower) that is a party to a Principal Project Contract.

**“Project”** means the 183 North Mobility Project, which is generally comprised of improvements within the US 183 corridor between SH 45 North/RM 620 in Williamson County and Loop 1 in Travis County, including: (a) the addition of two (2) tolled managed lanes in each

direction, transitions along US 183 north of SH 45 North/RM 620 and south of Loop 1, and direct connectors to and from Loop 1 managed lanes with transitions along Loop 1 to RM 2222 and (b) the addition of a fourth general purpose lane in each direction, constructed southbound from approximately Lake Creek Parkway to the entrance ramp from SH 45 North, southbound from north of McNeil Drive/Spicewood Springs Road to Loop 1, and northbound between Braker Lane and McNeil Drive/Spicewood Springs Road, a shared use path, sidewalks, and bicycle/pedestrian facilities, all as more fully described in the 183 North Mobility Project Engineer's Report, dated March 9, 2021.

**“Project Accounts”** means the Construction Fund, the Revenue Fund, the Operating Fund, the Renewal and Replacement Fund, the Senior Lien Debt Service Fund, the Senior Lien Debt Service Reserve Fund, the Bond Proceeds Funded Account (under the Senior Lien Debt Service Reserve Fund), the Revenue Funded Account (under the Senior Lien Debt Service Reserve Fund), the Springing Lien Account (under the Senior Lien Debt Service Reserve Fund), the Junior Lien Debt Service Fund, the Junior Lien Debt Service Reserve Fund, the Subordinate Lien Debt Service Fund, the TIFIA Debt Service Account (under the Subordinate Lien Debt Service Fund), the Subordinate Lien Debt Service Reserve Fund, the TIFIA Debt Service Reserve Account (under the Subordinate Lien Debt Service Reserve Fund), and the Other Obligations Fund (as defined in the Indenture).

**“Project BANs”** means the Subordinate Lien Revenue Bond Anticipation Notes, Series 2021C, issued by the Borrower pursuant to the Twenty-Eighth Supplemental Trust Indenture in the aggregate principal amount of \$244,185,000, a portion of the proceeds of which shall be applied to the payment of Eligible Project Costs.

**“Project Budget”** means the budget for the Project in the aggregate amount of \$[\_\_\_\_\_], attached to this Agreement as **Schedule I**, showing a summary of Total Project Costs for the Project, a summary of all Eligible Project Costs with a breakdown by type of Eligible Project Cost, and the estimated sources and uses of funds for the Project, as amended from time to time with the approval of the TIFIA Lender.

**“Project Development Agreement”** means that certain Amended and Restated Project Development Agreement, dated as of March 4, 2021, between TxDOT and the Borrower.

**“Projected Revenues”** means Revenues projected by the Traffic Consultant to be received in the Calculation Period in question, taking into account (a) any revisions of the Tolls, including new or expanded discounts, toll exemptions or similar adjustments, that have been approved by the Borrower and that will be effective during such Calculation Period, (b) any additional Tolls that the Traffic Consultant estimates will be received by the Borrower following the completion of the project then being constructed (or to be constructed, in the case of a Project to be funded from proceeds of additional indebtedness proposed to be incurred by the Borrower), and (c) any revisions of the Tolls expected to be implemented by the Borrower, as evidenced by a certificate of a Borrower's Authorized Representative delivered to the TIFIA Lender, and included as assumptions in a traffic and revenue report of the Traffic Consultant.

**“Projected Substantial Completion Date”** means June 12, 2025, as such date may be adjusted in accordance with Section 23(b).

**“Put Bonds”** means any bond which by its terms may be tendered by and at the option of the holder thereof for payment prior to the stated maturity or redemption date thereof either (a) by the Borrower and by the Person and/or from the source specified in a Supplemental Indenture or (b) without recourse to the Borrower, by the Person and/or from the source specified in a Supplemental Indenture. For all purposes of this Agreement, Soft Put Bonds shall not be Put Bonds.

**“Qualified Hedge”** means, to the extent from time-to-time permitted by law, with respect to Senior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations or Other Obligations, any Hedging Transaction entered into with a Qualified Hedge Provider and meeting the requirements of Section 16(o).

**“Qualified Hedge Provider”** means any bank or trust company that has an Acceptable Credit Rating, is authorized to engage in the banking business, and is organized under or licensed as a branch or agency under the laws of the United States or any state thereof.

**“Qualified Issuer”** means any bank or trust company that has an Acceptable Credit Rating, is authorized to engage in the banking business, and is organized under or licensed as a branch or agency under the laws of the United States or any state thereof.

**“Rate Coverage Test”** has the meaning set forth in Section 16(l).

**“Rating Category”** means one of the generic rating categories of a Nationally Recognized Rating Agency without regard to any refinement or gradation of such rating by a numerical modifier or otherwise.

**“Reimbursement Agreement”** means an agreement between the Borrower and one or more Credit Enhancers pursuant to which, among other things, such Credit Enhancer issues a Credit Facility with respect to Obligations of one or more series and the Borrower agrees to reimburse such Credit Enhancer for any drawings made thereunder.

**“Reimbursement Obligation”** means the obligation of the Borrower pursuant to a Reimbursement Agreement to repay any amounts drawn under a Credit Facility and to pay interest on such drawn amounts pursuant to such Reimbursement Agreement, which Reimbursement Obligation is secured by the Trust Estate on a parity with the Senior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations or Other Obligations, as appropriate.

**“Related Documents”** means the TIFIA Loan Documents, the Indenture Documents, , and the Principal Project Contracts.

**“Renewal and Replacement Fund”** means the Renewal and Replacement Fund established pursuant to Section 504(a) of, and as defined in, the Indenture.

**“Requisition”** has the meaning provided in Section 4(a).

**“Reserve Accounts”** means the Senior Lien Debt Service Reserve Fund, the Junior Lien Debt Service Reserve Fund, the Subordinate Lien Debt Service Reserve Fund, including the TIFIA Debt Service Reserve Account, and the Renewal and Replacement Fund.

**“Revenue Fund”** means the Revenue Fund established pursuant to Section 504(a) of, and as defined in, the Indenture.

**“Revenue Funded Account”** means the account created within the Senior Lien Debt Service Reserve Fund and so designated by Section 3.10(a) of the Twelfth Supplemental Indenture.

**“Revenues”** means all income and revenues derived from the operation of the System, including (a) all Tolls received by or on behalf of the Borrower, (b) the proceeds of any insurance covering business interruption loss relating to the System or a portion thereof, (c) any liquidated damages for delayed completion under a construction contract relating to the System or a portion thereof, (d) any other sources of revenues or funds of the Borrower that the Borrower chooses to designate as “Revenues” pursuant to a Supplemental Indenture, and (e) the interest and income earned on any fund or account where said interest or income is required to be credited to the Revenue Fund pursuant to the Indenture. “Revenues” do not include payments in respect of any Supplemental Security.

**“Revised Financial Model”** means the Base Case Financial Model, as it may be updated from time to time pursuant to Section 22(a)(ii).

**“Sanctioned Country”** means, at any time, a country or territory which is itself the subject or target of any Sanctions.

**“Sanctioned Person”** means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC or the U.S. Department of State, (b) any Person operating, organized or resident in a Sanctioned Country, or (c) any Person owned or controlled by any such Person or Persons.

**“Sanctions”** means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the Government, including those administered by OFAC or the U.S. Department of State.

**“Secretary”** means the United States Secretary of Transportation.

**“Secured Obligations”** means the Senior Obligations, the obligations of the Borrower under this Agreement and the TIFIA Note, the other Subordinate Lien Obligations, the Other Obligations, the Hedging Obligations, the Hedging Termination Obligations, and any Other Obligations that are secured by the Trust Estate pursuant to the Indenture Documents.

**“Secured Parties”** means the Trustee (on behalf of the owners of Obligations issued under the Indenture Documents), the TIFIA Lender, any other Noteholders, any Bondholders, and, as applicable, the Hedging Banks and issuers of any Credit Facility.

**“Semi-Annual Payment Date”** means each January 1 and July 1.

**“Senior Debt Service Coverage Ratio”** means, for any Calculation Period, the ratio of Net Cash Flow for such Calculation Period to Annual Debt Service in respect of all Outstanding Senior Obligations for such Calculation Period; provided, that solely for the purposes of calculating the Rate Coverage Test pursuant to Section 16(l), the Borrower may take into

consideration any amounts received, or reasonably expected to be received, by the Borrower from or as a result of Supplemental Security that the Borrower has pledged for the benefit of any Senior Obligations.

**“Senior Lien Debt Service Fund”** means the Senior Lien Debt Service Fund established pursuant to Section 504(a) of, and as defined in, the Indenture.

**“Senior Lien Debt Service Reserve Fund”** means the Senior Lien Debt Service Reserve Fund established pursuant to Section 504(a) of, and as defined in, the Indenture.

**“Senior Lien Debt Service Reserve Fund Requirement”** means the amount, if any, specified in the Supplemental Indentures authorizing Senior Lien Obligations as the “Senior Lien Debt Service Reserve Requirement” or, if not so specified, \$0.

**“Senior Lien Obligations”** means an obligation or evidences of indebtedness for borrowed money of the Borrower of any kind or class, including bonds, notes, bond anticipation notes, and other obligations (but excluding commercial paper), issued or incurred as Senior Lien Obligations under and in accordance with the Indenture and any Supplemental Indenture.

**“Senior Obligations”** means Existing Indebtedness that constitutes Senior Lien Obligations and Additional Senior Obligations.

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

**“Short-Term Obligations”** means all Obligations that mature in less than 365 days and are issued as Short-Term Obligations pursuant to Sections 706, 707, 708 or 709 of the Indenture. In the event a Credit Enhancer has extended a line of credit or the Borrower has undertaken a commercial paper or similar program, only amounts actually borrowed under such line of credit or program and repayable in less than 365 days shall be considered Short-Term Obligations and the full amount of such commitment or program shall not be treated as Short-Term Obligations to the extent that such facility remains available but undrawn.

**“Soft Put Bonds”** means Bonds for which the interest rate is fixed for an initial rate period, after which time period the Bonds will either (a) be fully remarketed and converted into a subsequent rate period, converted to a fixed rate until the maturity date of such bonds, or refunded as of the end of such initial or any subsequent rate period, or (b) shall bear interest at the Stepped Coupon Rate for the Stepped Rate Period (as each such term is defined in the Twelfth Supplemental Indenture).

**“Springing Lien Account”** means the account and the sub-accounts thereunder with respect to the TIFIA Note, each created within the Senior Lien Debt Service Reserve Fund and so designated in accordance with Section 3.10(a) of the Twelfth Supplemental Indenture.

**“State”** has the meaning provided in the preamble.

**“Subordinate Lien Debt Service Coverage Ratio”** means, for any Calculation Period, the ratio of Net Cash Flow for such Calculation Period to Annual Debt Service in respect of all

Outstanding Senior Obligations and Subordinate Lien Obligations for such Calculation Period; provided, that solely for the purposes of calculating the Rate Coverage Test pursuant to Section 16(l), the Borrower may take into consideration any amounts received, or reasonably expected to be received, by the Borrower from or as a result of Supplemental Security that the Borrower has pledged for the benefit of any Subordinate Lien Obligations.

**“Subordinate Lien Debt Service Fund”** means the Subordinate Lien Debt Service Fund established pursuant to Section 504(a) of, and as defined in, the Indenture.

**“Subordinate Lien Debt Service Reserve Fund”** means the Subordinate Lien Debt Service Reserve Fund established pursuant to Section 504(a) of, and as defined in, the Indenture.

**“Subordinate Lien Debt Service Reserve Fund Requirement”** means the amount or amounts, if any, specified in the Supplemental Indentures authorizing Subordinate Lien Obligations as the “Subordinate Lien Debt Service Reserve Requirement” or, if not so specified, \$0.

**“Subordinate Lien Obligations”** means an obligation or evidences of indebtedness for borrowed money of the Borrower of any kind or class, including bonds, notes, bond anticipation notes, commercial paper and other obligations, issued or incurred as Subordinate Lien Obligations under and in accordance with the Indenture and any Supplemental Indenture.

**“Subordinated Hedging Termination Obligations”** means Hedging Termination Obligations under any Hedging Agreements, other than those arising as a result of a Permitted Hedging Termination or as a result of a tax or illegality event or upon failure of the Borrower to pay any Hedging Obligations when due.

**“Subsequent Qualified Hedge”** has the meaning provided in Section 16(o)(iii).

**“Substantial Completion”** means the opening of the Project to vehicular traffic.

**“Substantial Completion Date”** means the date on which Substantial Completion occurs.

**“Supplemental Indenture”** means any trust indenture supplemental to or amendatory of the Indenture, executed and delivered by the Borrower and the Trustee in accordance with Article X of the Indenture and any applicable requirements in this Agreement.

**“Supplemental Security”** means (a) any Credit Facility or other credit enhancement for specified indebtedness of the Borrower and (b) any funds received by or obligations payable to the Borrower, other than Revenues, which the Borrower chooses to include as security for specified Senior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations or Other Obligations pursuant to a Supplemental Indenture, as provided in Section 518 of the Indenture.

**“System”** means the CTRMA Turnpike System, as it exists on the Effective Date, together with (a) the Project, (b) any other Project (as defined in the Indenture) that is included in the System in accordance with the requirements of this Agreement (including Section 17(o)) and the Indenture Documents, and (c) other roads, bridges, tunnels or other toll facilities for which the Borrower has operational responsibility that, in the case of each clause (a), (b), and (c), the Borrower designates

as part of the CTRMA Turnpike System by official action of its board of directors in accordance with the requirements of this Agreement (including Section 17(o)) and the Indenture Documents.

**“System Development Cessation”** means, as of any date, no pre-design, design, engineering, procurement or construction activities related to a new and unfinished project are in progress and none are scheduled to commence for a period of five (5) or more years from such date according to the then-current strategic plan or capital program.

**“TIFIA”** has the meaning provided in the recitals.

**“TIFIA Bankruptcy Related Event”** means, with respect to any Person (a) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of such Person or any of its debts, or of a substantial part of the assets thereof, under any Insolvency Laws, or (ii) the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for such Person or for a substantial part of the assets thereof and, in any case referred to in the foregoing subclauses (i) and (ii), such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered, (b) such Person shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official therefor or for a substantial part of the assets thereof, (ii) generally not be paying its debts as they become due unless such debts are the subject of a bona fide dispute, or become unable to pay its debts generally as they become due, (iii) solely with respect to the Borrower, fail to make two (2) consecutive payments of TIFIA Debt Service in accordance with the provisions of Section 9, (iv) make a general assignment for the benefit of creditors, (v) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition with respect to it described in clause (a) of this definition, (vi) commence a voluntary proceeding under any Insolvency Law, or file a voluntary petition seeking liquidation, reorganization, an arrangement with creditors or an order for relief under any Insolvency Law, (vii) file an answer admitting the material allegations of a petition filed against it in any proceeding referred to in the foregoing subclauses (i) through (vi), inclusive, of this clause (b), or (viii) take any action for the purpose of effecting any of the foregoing, including seeking approval or legislative enactment by any Governmental Authority to authorize commencement of a voluntary proceeding under any Insolvency Law, (c) solely with respect to the Borrower, (i) the Trustee shall commence a process pursuant to which all or a substantial part of the Trust Estate may be sold or otherwise disposed of in a public or private sale or disposition pursuant to a foreclosure of the Liens thereon securing the Senior Obligations or any Subordinate Lien Obligations, or (ii) the Trustee shall commence a process pursuant to which all or a substantial part of the Trust Estate may be sold or otherwise disposed of pursuant to a sale or disposition of such Trust Estate in lieu of foreclosure, or (d) solely with respect to the Borrower, the Trustee shall transfer, pursuant to directions issued by the Bondholders, funds on deposit in any of the Project Accounts upon the occurrence and during the continuation of an Event of Default under the Indenture Documents for application to the prepayment or repayment of any principal amount of the Senior Obligations or any Subordinate Lien Obligations other than in accordance with the provisions of the Indenture.

**“TIFIA Debt Service”** means with respect to any Semi-Annual Payment Date occurring on or after the Debt Service Payment Commencement Date, the principal portion of Outstanding TIFIA Loan Balance and any interest payable thereon (including interest accruing after the date of

any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower), including, in each case, the amount (a) set forth in **Exhibit G** and (b) due and payable on such Semi-Annual Payment Date in accordance with the provisions of Section 9(c).

“**TIFIA Debt Service Account**” means the Debt Service Account 2021 TIFIA NOTE SUB LIEN under the Subordinate Lien Debt Service Fund, established pursuant to the TIFIA Supplemental Indenture.

“**TIFIA Debt Service Reserve Account**” means the Debt Service Reserve Account 2021 TIFIA NOTE SUB LIEN initially established within the Subordinate Lien Debt Service Reserve Fund pursuant to the TIFIA Supplemental Indenture; provided, that upon the occurrence of an event of default under Section 801(d) of the Indenture, all amounts on deposit in the TIFIA Debt Service Reserve Account in respect of the portions of the TIFIA Loan held either by the TIFIA Lender, or any other federal government agency or instrumentality shall be transferred to the Springing Lien Account and held for the benefit of the TIFIA Note and separate and apart from all other funds in the Senior Lien Debt Service Reserve Fund.

“**TIFIA Debt Service Reserve Required Balance**” means an amount equal to the maximum annual TIFIA Debt Service in respect of any Borrower Fiscal Year during the term of the TIFIA Loan as set forth in **Schedule IV** and as described in Section 16(k)(ii).

“**TIFIA Interest Rate**” has the meaning provided in Section 6.

“**TIFIA Lender**” has the meaning provided in the preamble.

“**TIFIA Lender’s Authorized Representative**” means the Executive Director and any other Person who shall be designated as such pursuant to Section 27.

“**TIFIA Loan**” has the meaning provided in the recitals.

“**TIFIA Loan Documents**” means this Agreement, the TIFIA Note, the Indenture, the TIFIA Supplemental Indenture and the Award Certificate.

“**TIFIA Note**” means the promissory note delivered by the Borrower in substantially the form of **Exhibit A**.

“**TIFIA Supplemental Indenture**” means that certain Twenty-Ninth Supplemental Trust Indenture, dated as of [\_\_\_\_\_] 1, 2021, between the Borrower and the Trustee, in connection with the execution and delivery of this Agreement and the TIFIA Note.

“**Toll Maintenance Services Contract**” means that certain Maintenance Services Contract for Toll Collection System, dated March 3, 2007, between the Borrower and Kapsch TrafficCom USA (f/k/a Caseta Technologies, Inc.).

“**Toll Services Agreement**” means that certain Agreement for Pay by Mail, Violations Processing, Collections and Customer Services, dated as of March 8, 2018, between the Borrower and Cofiroute USA, LLC.



**“Toll Software License”** means that certain Software License Agreement, effective as of April 26, 2007, between the Borrower and Kapsch TrafficCom USA, Inc. (f/k/a Caseta Technologies, Inc.).

**“Toll System Contracts”** means the Toll Maintenance Services Contract, the Toll System Implementation Agreement, the Toll Services Agreement, the Toll Software License and any Additional Project Contract related to the tolling services and facilities provided with respect to the System.

**“Toll System Implementation Agreement”** means that certain Contract for Toll System Implementation, dated as of April 27, 2005, between the Borrower and Kapsch TrafficCom USA, Inc. (f/k/a Caseta Technologies, Inc.).

**“Tolls”** means all rates, rents, fees, charges, fines or other income derived by the Borrower from the vehicular usage of the System and the rights of the Borrower to receive the same.

**“Total Debt Service Coverage Ratio”** means, for any Calculation Period, the ratio of Net Cash Flow for such Calculation Period to the sum of Annual Debt Service in respect of all Obligations for such Calculation Period; provided, that solely for the purposes of calculating the Rate Coverage Test pursuant to Section 16(l), the Borrower may take into consideration any amounts received, or reasonably expected to be received, by the Borrower from or as a result of Supplemental Security that the Borrower has pledged for the benefit of any Obligations.

**“Total Project Costs”** means (a) the 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 costs of issuance; (b) amounts, if any, required by the Indenture Documents or the TIFIA Loan Documents to be paid into any fund or account upon the incurrence of the TIFIA Loan or any Senior Obligations; (c) payments when due (whether at the maturity of principal, the due date of interest, or upon optional or mandatory prepayment) during the Construction Period in respect of any indebtedness of the Borrower or any Credit Facility maintained by the Borrower, in each case in connection with the Project (other than the TIFIA Loan); and (d) costs of equipment and supplies and initial working capital and reserves required by the Borrower for the commencement of operation of the Project, including general administrative expenses and overhead of the Borrower.

**“Traffic and Revenue Study”** means the Central Texas Regional Mobility Authority 183A, 290E, SH 71 Express, SH 45 SW, 183S and 183N Express Lanes, 2021 Traffic and Revenue Study, dated March 5, 2021.

**“Traffic Consultant”** means Stantec Consulting Services, Inc., and any replacement traffic consultant firm selected by the Borrower and not objected to by the TIFIA Lender within fifteen (15) Business Days after receiving notice from the Borrower of the name of the proposed traffic consultant, together with supporting information regarding the qualifications of the proposed traffic consultant.

**“Trust Estate”** has the meaning provided in the Indenture.

“**Trustee**” means Regions Bank (as successor to JPMorgan Chase Bank, National Association), an Alabama banking corporation, and its successors in trust under the Indenture.

“**TTC Minute Order**” means Minute Order 115406, approved January 31, 2019, by the Texas Transportation Commission.

“**Twenty-Eighth Supplemental Indenture**” shall mean the Twenty-Eighth Supplemental Trust Indenture, dated as of April 1, 2021, between the Borrower and the Trustee, authorizing the Initial Senior Obligations.

“**Twenty-Seventh Supplemental Indenture**” shall mean the Twenty-Seventh Supplemental Trust Indenture, dated as of April 1, 2021, between the Borrower and the Trustee, authorizing the Project BANs.

“**TxDOT**” means the Texas Department of Transportation or any successor agency.

“**Uncontrollable Force**” means any cause beyond the control of the Borrower, including: (a) a hurricane, tornado, flood or similar occurrence, landslide, earthquake, fire or other casualty, strike or labor disturbance, freight embargo, act of a public enemy, explosion, war, blockade, terrorist act, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, sabotage, or act of God; (provided, that the Borrower shall not be required to settle any strike or labor disturbance in which it may be involved); or (b) 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 and further provided that such events (or the effects of such events) could not have been avoided by the exercise of caution, due diligence, or reasonable efforts by the Borrower; 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.

“**Uniform Commercial Code**” or “**UCC**” means the Uniform Commercial Code, as in effect from time to time in the State.

“**USDOT**” means the United States Department of Transportation.

“**Variable Interest Rate**” means a variable interest rate to be borne by any Permitted Debt. The method of computing such variable interest rate shall be specified in the Supplemental Indenture pursuant to which such Permitted Debt is incurred. Such Supplemental Indenture shall also specify either: (a) the particular period or periods of time for which each value of such variable interest rate shall remain in effect; or (b) the time or times upon which any change in such variable interest rate shall become effective.

“**Variable Interest Rate Bonds**” means Permitted Debt which bears a Variable Interest Rate but does not include any Permitted Debt for which the interest rate has been fixed during the remainder of the term thereof to maturity; provided, however, that Permitted Debt bearing a Variable Interest Rate shall not be deemed Variable Interest Rate Bonds if the Borrower has entered into a Qualified Hedge with respect to such Permitted Debt during the period for which such Qualified Hedge is in effect; provided, further, that Permitted Debt bearing a fixed rate of

interest shall be deemed Variable Interest Rate Bonds to the extent that the Borrower has entered into a Qualified Hedge pursuant to which the Borrower is obligated to pay a floating rate of interest and receives a fixed rate of interest and shall be deemed to bear interest at the lesser of the rate determined pursuant to clause (e) of the definition of the term Annual Debt Service or the maximum interest rate, if any, payable pursuant to such Qualified Hedge.

**“Variable Interest Rate Senior Obligations”** means any Senior Obligations under the Indenture Documents that accrue interest at a Variable Interest Rate.

**SECTION 2. Interpretation.** Unless the context shall otherwise require, the words “hereto,” “herein,” “hereof” and other words of similar import refer to this 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. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” Whenever the Borrower’s knowledge is implicated in this Agreement or the phrase “to the Borrower’s knowledge” or a similar phrase is used in this Agreement, the Borrower’s knowledge or such phrase(s) shall be interpreted to mean to the best of the Borrower’s knowledge after reasonable and diligent inquiry and investigation. Unless the context shall otherwise require, references to any Person shall be deemed to include such Person’s successors and permitted assigns. Unless the context shall otherwise require, references to preambles, recitals, sections, subsections, clauses, schedules, exhibits, appendices and provisions are to the applicable preambles, recitals, sections, subsections, clauses, schedules, exhibits, appendices and provisions of this Agreement. The schedules and exhibits to this Agreement, and the appendices and schedules to such exhibits, are hereby incorporated by reference and made an integral part of this Agreement. The headings or titles of this 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, lease or other document shall be deemed to include any amendments or supplements to, or modifications or restatements or replacements of, such documents that are approved from time-to-time 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 37 and signed by a duly authorized representative of such party.

**SECTION 3. TIFIA Loan Amount.** The principal amount of the TIFIA Loan shall not exceed \$250,289,625 in the aggregate (excluding interest that is capitalized in accordance with the terms hereof). TIFIA Loan proceeds shall be disbursed from time-to-time in accordance with Section 4 and Section 13(b).

**SECTION 4. Disbursement Conditions.**

(a) **General Provisions regarding Disbursements.** TIFIA Loan proceeds shall be disbursed solely in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower in connection with the Project, and may be used to pay or redeem Project BANs to the extent the proceeds thereof have been previously applied to the payment of Eligible Project Costs incurred by or on behalf of the Borrower from time to time in connection with the Project. Each

such disbursement of the TIFIA Loan shall be made pursuant to a requisition and certification (a “**Requisition**”) in the form set forth in **Appendix One to Exhibit D**, along with all documentation and other information required thereby submitted by the Borrower to the TIFIA Lender, all in accordance with the procedures of **Exhibit D** and subject to (i) the conditions set forth therein and the additional conditions set forth below in this Section 4, (ii) the conditions set forth in Section 13(a) having been satisfied as of the Effective Date, and (iii) the conditions set forth in Section 13(b) having been satisfied as of the disbursement date; provided, however, that no disbursement of TIFIA Loan proceeds shall be made on or after the date that is one (1) year after the Substantial Completion Date.

(b) [Reserved].

(c) Delivery of Requisitions; TIFIA Lender Approval. The Borrower shall deliver copies of the Requisition to the TIFIA Lender, the Servicer (if any) and the FHWA Division Office on or before the first (1st) day of the month before the month for which a disbursement is requested, or the next succeeding Business Day if such first (1st) day is not a Business Day. Subject to Section 4(f), if the TIFIA Lender does not expressly deny the Requisition, disbursements of funds shall be made on the fifteenth (15th) day of the month for which a disbursement has been requested, or on the next succeeding Business Day if such fifteenth (15th) day is not a Business Day.

(d) Anticipated TIFIA Loan Disbursement Schedule. The Borrower may amend the date of disbursement in the Anticipated TIFIA Loan Disbursement Schedule by submitting a revised version thereof to the TIFIA Lender no later than thirty (30) days prior to the proposed effective date of such amendment, together with a detailed explanation of the reasons for such revision.

(e) Eligible Project Costs Documentation.

(i) The Borrower anticipates that it will draw down all of the proceeds of the TIFIA Loan to reimburse the Borrower for Eligible Project Costs paid by or on behalf of the Borrower prior to such disbursement of such TIFIA Loan proceeds, including for the purpose of paying or redeeming the Project BANs. The Borrower shall deliver concurrently to the TIFIA Lender, the FHWA Division Office, and the Servicer (if any) copies of all invoices and other records evidencing Eligible Project Costs (the “**Eligible Project Costs Documentation**”), irrespective of whether such costs were paid with the proceeds of the Project BANs; provided that the Borrower must deliver all Eligible Project Costs Documentation associated with any Eligible Project Costs included in a Requisition delivered to the TIFIA Lender, the FHWA Division Office, and the Servicer (if any) by the applicable following date: (A) Eligible Project Costs Documentation with respect to Eligible Project Costs for which the Borrower has received and approved an invoice prior to July [\_\_\_], 2021 shall be delivered in accordance with Section 13(a)(xxii) and (B) Eligible Project Costs Documentation with respect to Eligible Project Costs for which the Borrower has received and approved an invoice after July [\_\_\_], 2021 shall be delivered by the last Business Day of the month immediately following the month in which such invoice was received by the Borrower.

(ii) Each time the Borrower delivers Eligible Project Costs Documentation to the TIFIA Lender, the FHWA Division Office, and the Servicer (if any), the Borrower shall also deliver to such entities a certificate, duly executed by the Borrower's Authorized Representative, certifying as to the following:

(A) the amount of Eligible Project Costs financed from the proceeds of the Project BANs for the period of time for which such Eligible Project Costs Documentation is being provided;

(B) that such proceeds of the Project BANs were expended solely in connection with the payment or reimbursement of Eligible Project Costs;

(C) the amount of Eligible Project Costs paid by or on behalf of the Borrower from sources other than Project BANs and identifying such sources; and

(D) that there does not currently exist any Event of Default or an event or condition that, with the lapse of time or giving of notice, would constitute an Event of Default (a "**Prospective Event of Default**") or, if there does currently exist an Event of Default or Prospective Event of Default, the certificate shall specify all the actions that the Borrower is taking to remedy such Event of Default or Prospective Event of Default.

(iii) The Eligible Project Costs Documentation and the certificate delivered pursuant to this Section 4(e) must be satisfactory to the TIFIA Lender. The Eligible Project Costs Documentation must provide sufficient detail to enable the TIFIA Lender to verify that such costs are Eligible Project Costs paid by or on behalf of the Borrower. The Eligible Project Costs Documentation and the certificate must provide sufficient detail to enable the TIFIA Lender to verify that proceeds of the Project BANs were expended for Eligible Project Costs and to audit such other Eligible Project Costs paid by or on behalf of the Borrower. The certificate and the Eligible Project Costs Documentation are intended to document Eligible Project Costs in connection with the reimbursement of such Eligible Project Costs or for the purpose of paying or redeeming, in whole or part, only those Project BANs in respect of which the proceeds were used to pay such documented Eligible Project Costs. The TIFIA Lender shall review each such certificate for compliance with TIFIA disbursement requirements. Within fourteen (14) Business Days following the receipt of the Eligible Project Costs Documentation and the accompanying certificate, the TIFIA Lender shall deliver a notice to the Borrower confirming the Eligible Project Costs set forth in the certificate that have been approved, or notifying the Borrower as to which Eligible Project Costs have not been approved, and confirming the cumulative amount of Eligible Project Costs approved as of the notice date. Such approved amounts of Eligible Project Costs will be disbursed at such time as the Borrower submits a Requisition in respect of such approved amounts in accordance with clauses (a) and (c) above. The Borrower shall not submit a Requisition that seeks reimbursement of any Eligible Project Costs for which the Eligible Project Costs Documentation and certificate were not delivered to the TIFIA Lender, the FHWA

Division Office, and the Servicer (if any) at least one (1) month prior to the date such Requisition is submitted.

(f) Notwithstanding anything to the contrary set forth in this Agreement (including this Section 4, Section 13 or **Exhibit D**, but specifically excluding Section 4(b)), in no event shall the TIFIA Lender have any obligation to make any disbursement of proceeds of the TIFIA Loan to the Borrower if the TIFIA Lender's ability to make such disbursement is impaired as a result of a partial or total shutdown of the operations of any federal department or agency (including USDOT or any of its agencies), or any contractor of any such department or agency, due to a lapse in appropriations by Congress.

**SECTION 5. Term.** The term of the TIFIA Loan shall extend from the Effective Date to the Final Maturity Date, or to such earlier date as all amounts due or to become due to the TIFIA Lender hereunder have been irrevocably paid in full in immediately available funds.

**SECTION 6. Interest Rate.** The interest rate with respect to the Outstanding TIFIA Loan Balance shall be [\_\_\_\_\_] percent ([\_\_\_\_\_]%) per annum (the "**TIFIA Interest Rate**"). Interest will be computed on the Outstanding TIFIA Loan Balance (as well as on any past due interest to the extent permitted under State law) from time-to-time on the basis of a 365-day or 366-day year, as appropriate, for the actual number of days elapsed; provided, however, in the event of a Payment Default, the Borrower shall pay interest on the Outstanding TIFIA Loan Balance and, to the extent permitted by State law, on any interest accrued thereon but unpaid as of the applicable Semi-Annual Payment Date (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower) at the Default Rate from (and including) its due date to (but excluding) the date of actual payment. Upon the occurrence of any other Event of Default, the Borrower shall pay interest on the Outstanding TIFIA Loan Balance and, to the extent permitted by State law, on any interest accrued thereon but unpaid as of the applicable Semi-Annual Payment Date (including interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower) at the Default Rate from (and including) the date such Event of Default first occurred to (but excluding) the earlier to occur of (a) the date such Event of Default has been waived by the TIFIA Lender and (b) the date the Outstanding TIFIA Loan Balance of the TIFIA Loan and any interest accrued thereon (at the applicable Default Rate) but unpaid has been irrevocably paid in full in immediately available funds. Notwithstanding anything in this Agreement to the contrary, the maximum net effective interest rate on the TIFIA Loan (and the TIFIA Note) shall never exceed the highest lawful rate permitted under Chapter 1204, Texas Government Code, as amended.

**SECTION 7. Outstanding TIFIA Loan Balance and Revisions to Exhibit G and the Loan Amortization Schedule.** The Outstanding TIFIA Loan Balance will be (a) increased on each occasion on which the TIFIA Lender disburses loan proceeds hereunder, by the amount of such disbursement of loan proceeds, (b) increased on each occasion on which interest is capitalized pursuant to the provisions of Section 9(b), by the amount of interest so capitalized, and (c) decreased upon each payment or prepayment of the Outstanding TIFIA Loan Balance, by the amount of principal so paid. The TIFIA Lender may in its discretion at any time and from time-to-time, or when so requested by the Borrower, advise the Borrower by written notice of the

amount of the Outstanding TIFIA Loan Balance as of the date of such notice, and its determination of such amount in any such notice shall be deemed conclusive absent manifest error. Upon any determination of the Outstanding TIFIA Loan Balance (including as of the Debt Service Payment Commencement Date and as of the date of any prepayment of the TIFIA Loan), the TIFIA Lender shall make revisions to **Exhibit G** pursuant to Section 9(h) and in such event shall provide the Borrower with a copy of such **Exhibit G** 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 Agreement or the other TIFIA Loan Documents. The Loan Amortization Schedule in **Exhibit G**, as of the Effective Date, has been determined based on the Anticipated TIFIA Loan Disbursement Schedule in effect on the Effective Date.

#### SECTION 8. Security and Priority; Flow of Funds.

(a) As security for the TIFIA Loan, the Borrower shall pledge, assign and grant, or shall cause to be pledged, assigned and granted, to the Trustee for the benefit of the TIFIA Lender, a Lien on the Trust Estate in accordance with the provisions of the Indenture Documents. The TIFIA Loan shall be secured by a Lien on the Trust Estate subordinate, during any period when an event of default under Section 801(d) of the Indenture has not occurred, only (except as otherwise required by law) to the Lien on the Trust Estate of the Senior Obligations, Hedging Obligations, and Hedging Termination Obligations (other than Subordinated Hedging Termination Obligations) in respect of Senior Obligations. Upon the occurrence of an event of default under Section 801(d) of the Indenture, the TIFIA Loan shall be secured by a first priority security interest in the Trust Estate pari passu with the Senior Lien Obligations and Hedging Obligations and Hedging Termination Obligations (other than Subordinated Hedging Termination Obligations) in respect of such Senior Lien Obligations; provided, that the TIFIA Loan shall not be secured by or payable from or have any access to any amounts in the Bond Proceeds Funded Account within the Senior Lien Debt Service Reserve Fund.

(b) Except (i) for Permitted Liens, or (ii) to the extent otherwise provided in Section 8(a), the Trust Estate will be free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge of the Borrower created under the Indenture Documents, and all organizational, regulatory or other necessary action on the part of the Borrower with respect to granting such pledge under the Indenture Documents has been duly and validly taken.

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

(d) All Revenues shall be deposited in the Revenue Fund and applied in the order of priority set forth in **Exhibit M**, and in accordance with the requirements specified in Section 505 of the Indenture.

#### SECTION 9. Payment of Principal and Interest.

(a) Payment Dates. The Borrower agrees to pay the principal of and interest on the TIFIA Loan by making payments in accordance with the provisions of this Agreement and the Indenture Documents on each Semi-Annual Payment Date, beginning on the Debt Service Payment Commencement Date, and on each other date on which payment thereof is required to be made hereunder (including the Final Maturity Date and any other applicable date); provided, that if any such date is not a Business Day, payment shall be made on the next Business Day following such date. Any payment in respect of the TIFIA Note shall be treated as a payment of the TIFIA Loan.

(b) Capitalized Interest Period. No payment of the principal of or interest on the TIFIA Loan is required to be made during the Capitalized Interest Period. On each January 1 and July 1 occurring during the Capitalized Interest Period and on the Semi-Annual Payment Date immediately following the end of the Capitalized Interest Period, interest accrued on the TIFIA Loan in the six (6) month period ending immediately prior to such date shall be capitalized and added to the Outstanding TIFIA Loan Balance. Within thirty (30) days after the end of the Capitalized Interest Period, the TIFIA Lender shall give written notice to the Borrower stating the Outstanding TIFIA Loan Balance as of the close of business on the Semi-Annual Payment Date immediately following the end of such 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 other TIFIA Loan Documents.

(c) Payment of TIFIA Debt Service. On each Semi-Annual Payment Date occurring on or after the Debt Service Payment Commencement Date the Borrower shall pay TIFIA Debt Service in an amount equal to the amounts set forth in respect of such Semi-Annual Payment Date in **Exhibit G**, as the same may be revised as provided in Section 7, which payments shall be made in accordance with Section 9(f).

(d) [Reserved].

(e) Accrual of Amounts on Interim Payment Dates.

(i) If any Senior Obligations, Subordinate Lien Obligations or Other Obligations require the payment of principal or interest on any Interim Payment Date after the Debt Service Payment Commencement Date, the Borrower shall promptly notify the Servicer (if any) and the TIFIA Lender thereof in writing, identifying the period covered by such Interim Payment Period and the Interim Payment Date.

(ii) On any such Interim Payment Date occurring on or after the Debt Service Payment Commencement Date, the Borrower shall, in accordance with the applicable Indenture Documents, transfer or otherwise deposit, or cause to be transferred or otherwise deposited, into the TIFIA Debt Service Account, an amount equal to the amount of TIFIA Debt Service due and payable on the next succeeding Semi-Annual Payment Date (as shown in **Exhibit G**, as the same may be revised as provided in Section 7 and Section 9(h)) multiplied by a fraction, the numerator of which is equal to the number of months contained in the Interim Payment Period ending on such Interim Payment Date and the denominator of which is equal to six (6).



(iii) In the event that an Interim Payment Date is other than the first Business Day of a calendar month, the method for calculating any amount required to be transferred or deposited into the TIFIA Debt Service Account pursuant to this Section 9(e) shall be determined at such time by the parties hereto.

(f) Manner of Payment. Payments under this Agreement for the TIFIA Note shall be made by wire transfer, on or before each Semi-Annual Payment Date, in immediately available funds in accordance with payment instructions provided by the TIFIA Lender pursuant to Section 37, as modified in writing from time-to-time by the TIFIA Lender. The Borrower may make any such payment or portion thereof (or direct the Trustee to make such payment) with funds then on deposit in the TIFIA Debt Service Account.

(g) Final Maturity Date. Notwithstanding anything herein to the contrary, the Outstanding TIFIA Loan Balance and any accrued interest thereon shall be due and payable in full on the Final Maturity Date or such earlier date on which payment in full may be due pursuant to and in accordance with Section 20(a)(v).

(h) TIFIA Note; Adjustments to Loan Amortization Schedule. As evidence of the Borrower's obligation to repay the TIFIA Loan, the Borrower shall execute and deliver to the TIFIA Lender, on or prior to the Effective Date, the TIFIA Note substantially in the form of **Exhibit A**, having a maximum principal amount not to exceed \$250,289,625 (excluding capitalized interest) and bearing interest at the TIFIA Interest Rate. The TIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in **Exhibit G** from time-to-time, as provided in Section 7 to reflect (i) the amount of each disbursement made under this Agreement, (ii) the date and amount of any principal or interest due and payable or to become due and payable by the Borrower under this Agreement, (iii) each repayment or prepayment in respect of the principal amount of the TIFIA Loan, and (iv) such other information as the TIFIA Lender may determine is necessary for administering the TIFIA Loan and this Agreement. Any calculations described above shall be rounded up to the nearest whole cent. Absent manifest error, the TIFIA Lender's determination of such matters as set forth in **Exhibit G** shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other TIFIA Loan Document.

(i) No Defeasance. Anything to the contrary in any Indenture Document notwithstanding, the TIFIA Loan (as represented by this Agreement and the TIFIA Note) shall not be subject to defeasance and no amounts in respect of the TIFIA Loan shall be considered or deemed to have been paid until the TIFIA Lender shall have received irrevocable payment in immediately available funds in accordance with the requirements for payment set forth in this Agreement.

(j) Surrender of TIFIA Note. Upon the TIFIA Lender's receipt of confirmation that payment in full in immediately available funds of the Outstanding TIFIA Loan Balance (including capitalized interest) and any unpaid interest and fees with respect thereto has occurred, the TIFIA Lender shall surrender the TIFIA Note to the Borrower or its representative at the principal office of the TIFIA Lender.

SECTION 10. Prepayment.

(a) Mandatory. The Borrower shall prepay the TIFIA Loan in whole or in part, without penalty or premium:

(i) following the TIFIA Lender's determination that a System Development Cessation has occurred, on each Semi-Annual Payment Date, in an amount equal to all amounts deposited into the account established pursuant to Section 16(k)(ix) during the six (6) month period preceding such Semi-Annual Payment Date pursuant to and in accordance with the Indenture; and

(ii) following the determination of any Net Loss Proceeds, as provided in Section 16(q)(ii).

The Borrower shall provide written notice to the TIFIA Lender at least two (2) Business Days prior to the date on which it makes any mandatory prepayment; provided, that the Borrower's failure to deliver such notice shall not diminish, impair or otherwise affect the Borrower's obligation to make any such mandatory prepayment as and when the circumstances requiring such mandatory prepayment have occurred. Each prepayment pursuant to this Section 10(a) shall be accompanied by a certificate signed by the Borrower's Authorized Representative identifying the provision of this Agreement pursuant to which such prepayment is being made and containing a calculation in reasonable detail of the amount of such prepayment.

(b) Optional. The Borrower may prepay the TIFIA Loan in whole or in part (and, if in part, the amounts thereof to be prepaid shall be determined by the Borrower; provided, however, that such prepayments shall be in minimum principal amounts of \$1,000,000), at any time or from time-to-time, without penalty or premium, by paying to the TIFIA Lender such principal amount of the TIFIA Loan 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 TIFIA Loan 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 TIFIA Lender, which notice shall also specify the amount of unpaid interest accrued to the date of such prepayment on the amount of principal to be prepaid that the Borrower intends to pay concurrently with such prepayment, if any. In the case of any optional prepayment, such written notice shall be delivered to the TIFIA Lender not less than ten (10) days or more than thirty (30) days prior to the date set for prepayment. At any time between delivery of such written notice and the applicable optional prepayment, the Borrower may, without penalty or premium, rescind its announced optional prepayment by further written notice to the TIFIA Lender. Anything in this Section 10(b) to the contrary notwithstanding, the failure by the Borrower to make any optional prepayment shall not constitute a breach or default under this Agreement.

(c) General. Upon the TIFIA Lender's receipt of confirmation that payment in full in immediately available funds of the Outstanding TIFIA Loan Balance (including capitalized interest) and any unpaid interest and fees with respect thereto has occurred as a result of a mandatory or optional prepayment, the TIFIA Lender shall surrender the TIFIA Note to the Borrower or its representative at the principal office of the TIFIA Lender. If the Borrower prepays only part of the Outstanding TIFIA Loan Balance, the TIFIA Lender may make a notation on

**Exhibit G** indicating the amount of principal of and interest on the TIFIA Note then being prepaid. Absent manifest error, the TIFIA Lender's determination of such matters as set forth on **Exhibit G** shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower's obligations hereunder or under any other TIFIA Loan Document. All such partial prepayments of principal shall be applied on a pro rata basis (based on the principal amount due on each remaining Semi-Annual Payment Date prior to the Final Maturity Date, before giving effect to such prepayment) to reduce all future principal payments due on the TIFIA Note. If said monies shall not have been so paid on the prepayment date, such principal amount of the TIFIA Note shall continue to bear interest until payment thereof at the TIFIA Interest Rate, in the case of any optional prepayment, and at the Default Rate, in the case of any mandatory prepayment.

SECTION 11. [Reserved].

SECTION 12. Compliance with Laws. The Borrower shall, and shall require its contractors and subcontractors for the Project at all tiers to, comply in all material respects with all applicable laws, rules, regulations, executive orders, and court or administrative decrees, orders and judgments. The list of federal laws attached as **Exhibit E** is illustrative of the type of requirements generally applicable to transportation projects and is not intended to be exhaustive. The FHWA Division Office has oversight responsibility for the Project, including ensuring compliance in all material respects with all applicable provisions of federal law. The Borrower agrees that there will be no irreversible or irretrievable commitment of resources, including physical construction, before all State and/or federal environmental permits required for commencement of construction of the relevant portion of the Project to which such resources relate are finalized and approved by the appropriate resource agencies. In the event that an environmental permit that has not been obtained is required after construction has begun, the Borrower shall take immediate steps to acquire that permit. If the Borrower begins construction before all required permits have been obtained, the Borrower shall assume the risk of any loss associated therewith.

SECTION 13. Conditions Precedent.

(a) Conditions Precedent to Effectiveness. Notwithstanding anything in this Agreement to the contrary, this Agreement shall not become effective until each of the following conditions precedent shall have been satisfied or waived in writing by the TIFIA Lender:

(i) The Borrower shall have duly executed and delivered to the TIFIA Lender this Agreement, the other TIFIA Loan Documents and the letter of instruction related to the TIFIA Loan, each in form and substance satisfactory to the TIFIA Lender.

(ii) The Borrower shall have delivered to the TIFIA Lender certified, complete, and fully executed copies of each of the Indenture Documents (including all documents in connection with the Initial Senior Obligations and the Project BANs), together with any amendments, waivers or modifications thereto, and each such agreement shall be in full force and effect and in form and substance satisfactory to the TIFIA Lender, and all conditions contained in such documents to the closing of the transactions contemplated thereby shall have been fulfilled or effectively waived (provided, that, for

purposes of this Section 13(a)(ii), any such waiver shall be subject to the TIFIA Lender's consent in its sole discretion).

(iii) Counsel to the Borrower shall have rendered to the TIFIA Lender legal opinions satisfactory to the TIFIA Lender in its sole discretion (including those opinions set forth in **Exhibit H-1**) and bond counsel to the Borrower shall have rendered to the TIFIA Lender legal opinions satisfactory to the TIFIA Lender in its sole discretion (including those opinions set forth in **Exhibit H-2**).

(iv) The Borrower shall have delivered to the TIFIA Lender a duly executed certificate from the Trustee in the form attached hereto as **Exhibit J**.

(v) The Borrower shall have provided a certificate from the Borrower's Authorized Representative as to the absence of debarment, suspension or voluntary exclusion from participation in Government contracts, procurement and non-procurement matters substantially in the form attached hereto as **Exhibit C** with respect to the Borrower and its principals (as defined in 2 C.F.R. § 180.995).

(vi) The Borrower shall have provided to the TIFIA Lender satisfactory evidence that the Project has been included in (A) the metropolitan transportation improvement program adopted by the federally designated metropolitan planning organization for the region, (B) the State transportation plan, and (C) the State transportation improvement program approved by the USDOT or its designated agency, in each case to the extent required by 23 U.S.C. §§ 134 and 135, and 23 U.S.C. § 602(a)(3), as applicable; and the financial plan for each such program or plan shall reflect the amount of the TIFIA Loan and all other federal funds to be used for the Project as sources of funding for the Project.

(vii) The Borrower shall have provided evidence to the TIFIA Lender's satisfaction, no more than ninety (90), but no less than fourteen (14), days prior to the Effective Date, of the assignment by at least two (2) Nationally Recognized Rating Agencies of an Investment Grade Rating to the Initial Senior Obligations and a public rating on the TIFIA Loan and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(viii) The Borrower shall have delivered to the TIFIA Lender a certificate from the Borrower's Authorized Representative in the form attached hereto as **Exhibit K** (A) as to the satisfaction of certain conditions precedent set forth in this Section 13(a) as required by the TIFIA Lender, (B) designating the Borrower's Authorized Representative, and (C) confirming such person's position and incumbency.

(ix) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that as of the Effective Date the aggregate of all committed sources of funds shown in the Base Case Financial Model and in the Project Budget to pay Total Project Costs have been committed and allocated to the Borrower by the providers thereof and that such funds shall be sufficient to pay all Total Project Costs necessary to achieve Substantial Completion.

(x) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that as of the Effective Date, (A) the aggregate amount of all indebtedness under the Indenture Documents in connection with the Project, as shown in the Base Case Financial Model and in the Project Budget to pay Total Project Costs, has been issued and fully and completely funded and deposited to the appropriate account within the Construction Fund and (B) such funds, together with funds available under the Project Development Agreement, are expected to be sufficient to pay all Total Project Costs needed to achieve Substantial Completion.

(xi) The Borrower shall have delivered to the TIFIA Lender an original fully executed counterpart (or a certified copy) of the Traffic and Revenue Study, in form and substance acceptable to the TIFIA Lender, accompanied by a letter from the preparer of such study, dated as of [\_\_\_\_], 2021, and certifying that the assumptions and projections contained in the Traffic and Revenue Study are reasonable and that such Traffic and Revenue Study may be relied upon by the TIFIA Lender.

(xii) The Borrower shall have provided to the TIFIA Lender certified, complete, and fully executed copies of each Principal Project Contract, the Project Development Agreement, the Maintenance Contract and each Toll System Contract, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date and each such agreement shall be in full force and effect and in form and substance satisfactory to the TIFIA Lender.

(xiii) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that (A) the Borrower has obtained all Governmental Approvals necessary to commence construction of the Project, including the TTC Minute Order, (B) the Borrower has obtained all Governmental Approvals necessary to enter into and borrow amounts under this Agreement and to issue the Initial Senior Obligations and Project BANs, including any Governmental Approvals required from TxDOT or the State Attorney General, and (C) all such Governmental Approvals described in clauses (A) and (B) above are final, non-appealable, and in full force and effect (and are not subject to any notice of violation, breach, or revocation as of the Effective Date).

(xiv) The Borrower shall have delivered to the TIFIA Lender a certified Base Case Financial Model on or prior to the Effective Date, which Base Case Financial Model shall (A) demonstrate that projected Net Cash Flows are sufficient to meet the Loan Amortization Schedule, (B) demonstrate a Subordinate Lien Debt Service Coverage Ratio for each Calculation Period through the Final Maturity Date that is not less than 1.20, and (C) shall otherwise be in form and substance acceptable to the TIFIA Lender in its sole discretion.

(xv) The Borrower shall have paid in full all invoices delivered to the Borrower prior to the Effective Date by the TIFIA Lender (or by advisors to the TIFIA Lender that have direct billing arrangements with the Borrower) for the reasonable fees and expenses of the TIFIA Lender's counsel and financial advisors and any auditors or other consultants employed by the TIFIA Lender for the purposes hereof.

(xvi) The Borrower shall have (A) provided evidence satisfactory to the TIFIA Lender of compliance with NEPA, (B) complied with all applicable requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*), and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) and shall have provided evidence satisfactory to the TIFIA Lender of such compliance upon request by the TIFIA Lender and (C) complied with the requirements of 2 C.F.R. §§ 180.300 and 180.330 and shall have provided evidence satisfactory to the TIFIA Lender of such compliance upon request by the TIFIA Lender.

(xvii) The TIFIA Lender shall have delivered its initial TIFIA Lender's Authorized Representative certificate.

(xviii) The Borrower shall have delivered such other agreements, documents, instruments, opinions and other items required by the TIFIA Lender, all in form and substance satisfactory to the TIFIA Lender, including evidence that all other funding requirements for the Project have been met (including evidence of other funding sources or funding commitments).

(xix) The Borrower shall have (A) obtained a Federal Employer Identification Number, (B) obtained a Data Universal Numbering System number, and (C) registered with, and obtained confirmation of active registration status from, the federal System for Award Management ([www.SAM.gov](http://www.SAM.gov)).

(xx) The Borrower shall have delivered to the TIFIA Lender (A) certificates of insurance evidencing (1) that the Borrower, with respect to the System and its operation, and the Borrower and the Construction-Related Contractor, with respect to the Project and its operations, has obtained insurance that meets the requirements of Section 16(f) and (2) that each liability policy (other than workers' compensation insurance) reflects the TIFIA Lender as an additional insured (on a primary non-contributory basis) and (B) at the TIFIA Lender's request, copies of such insurance policies.

(xxi) The Borrower shall have provided to the TIFIA Lender evidence that the Borrower is duly organized and validly existing under the Constitution and laws of the State, particularly Chapter 370 of the Texas Transportation Code, as the same may be amended and supplemented from time to time, with full power, authority and legal right to own its properties and carry on its business and governmental functions as now conducted, including the following documents, each certified by the Borrower's Authorized Representative: (A) a copy of its Organizational Documents, as in effect on the Effective Date (and certified by the Secretary of State of the State, to the extent applicable), which Organizational Documents shall be in full force and effect and shall not have been amended since the date of the last amendment thereto shown on the certificate; and (B) a copy of all resolutions authorizing the Borrower to execute and deliver, and to perform its obligations under each of the TIFIA Loan Documents, and such resolutions have not been subsequently modified, rescinded or amended, are in full force and effect in the form adopted, and are the only resolutions adopted by the Borrower relating to the matters described therein.

(xxii) The Borrower shall have provided the TIFIA Lender the Eligible Project Costs Documentation described in Section 4(e)(i) with respect to Eligible Project Costs for which the Borrower has received and approved an invoice prior to [\_\_\_\_\_], 2021, in form and substance satisfactory to the TIFIA Lender and in sufficient time prior to the Effective Date to permit the TIFIA Lender and the FHWA Division Office to review such costs.

(xxiii) The Borrower shall have provided to the TIFIA Lender (A) certified, complete and fully executed copies of each performance security instrument delivered to or by the Borrower pursuant to any Principal Project Contract, the Project Development Agreement, the Maintenance Contract or any Toll System Contract, each of which performance security instruments shall be in compliance with the requirements for such performance security pursuant to the applicable Principal Project Contract, Maintenance Contract or Toll System Contract and (B) evidence to the TIFIA Lender's satisfaction that the performance security instruments to be delivered or received by the Borrower under any Principal Project Contract, Maintenance Contract or Toll System Contract as of the Effective Date have been obtained and delivered and that each such instrument is in full force and effect.

(xxiv) Borrower shall have delivered to the TIFIA Lender a copy of that certain 183 North Mobility Project Engineer's Report, dated as of March 9, 2021, prepared by the General Engineering Consultant in connection with the Project, including, among other things, a conclusion that the total estimated cost for the Project described therein and the time frame to achieve Substantial Completion are reasonable, subject to such conditions that are customary for such reports, and which General Engineering Consultant's report may be relied upon by the TIFIA Lender.

(xxv) The representations and warranties of the Borrower set forth in this Agreement (including Section 14), in each other Related Document and in the Project Development Agreement shall be true and correct, as of the Effective Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(xxvi) The Borrower shall have provided the TIFIA Lender with evidence satisfactory to the TIFIA Lender that, as of the Effective Date (A) the maximum principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed thirty-three percent (33%) of reasonably anticipated Eligible Project Costs and (B) as required pursuant to § 603(b)(9) of the Act, the total federal assistance provided to the Project, including the maximum principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), does not exceed eighty percent (80%) of Eligible Project Costs.

(xxvii) The Borrower shall have provided a certificate from the Borrower's Authorized Representative as to the prohibition on the use of appropriated funds for lobbying substantially in the form attached hereto as **Exhibit N** in accordance with 49 C.F.R. §20.100(b).

(b) Conditions Precedent to Disbursements. The TIFIA Lender shall have no obligation to make any disbursement of TIFIA Loan proceeds to the Borrower until each of the following conditions precedent has been satisfied or waived in writing by the TIFIA Lender:

(i) The Project shall have achieved Substantial Completion and the Borrower shall have delivered to the TIFIA Lender the Certificate of Substantial Completion in the form of **Exhibit L**.

(ii) The Borrower shall have provided to the TIFIA Lender an updated Project Budget indicating the total amount of Eligible Project Costs incurred by the Borrower as of the date of the applicable Requisition, including a description of any line item for which cost overruns occurred compared to the Project Budget set forth in **Schedule I** as of the Effective Date, the amount of each such line item cost overrun, the amount of contingency allocated to cover such line item cost overrun and the aggregate amount of contingency actually utilized.

(iii) The Borrower shall have provided the Financial Plan, or the most recent update thereto, in each case in accordance with Section 22(a).

(iv) The Borrower shall have confirmed that amortization of the principal amount of the Initial Senior Obligations does not commence before the Debt Service Payment Commencement Date.

(v) To the extent not previously delivered to the TIFIA Lender, the Borrower shall have delivered to the TIFIA Lender certified, complete and fully executed copies of any Indenture Documents entered into after the Effective Date.

(vi) To the extent not previously delivered to the TIFIA Lender, the Borrower shall have provided certified copies of all documentation requested by the TIFIA Lender or required to be delivered pursuant to Section 16(b) or Section 17(e) (including, in each case, any amendment, modification or supplement thereto) entered into after the Effective Date.

(vii) The Borrower shall have demonstrated to the TIFIA Lender's satisfaction that all Governmental Approvals necessary as of the time of the applicable disbursement for the development, construction, operation and maintenance of the Project have been issued and are in full force and effect.

(viii) Each of the insurance policies obtained by the Borrower and by the Construction-Related Contractor in satisfaction of the conditions in Section 13(a)(xx) is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.

(ix) At the time of, and immediately after giving effect to, a disbursement of TIFIA Loan proceeds then currently requested, (A) no Event of Default hereunder or event of default under any other Related Document or under the Project Development Agreement and (B) no event that with the giving of notice or the passage of time or both would constitute an Event of Default hereunder or event of default under any



Related Document or under the Project Development Agreement, in each case, shall have occurred and be continuing.

(x) The representations and warranties of the Borrower set forth in this Agreement (including Section 14), in each other Related Document, and in the Project Development Agreement shall be true, correct and complete as of each date on which a disbursement of the TIFIA Loan is made, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).

(xi) No Material Adverse Effect, or any event or condition that could reasonably be expected to result in a Material Adverse Effect, shall have occurred since, with respect to the initial disbursement of the TIFIA Loan, the date the Borrower submitted the Application to the TIFIA Lender and, with respect to the second disbursement, the date of the initial disbursement of proceeds of the TIFIA Loan.

(xii) The Borrower shall have delivered to the TIFIA Lender a Requisition that complies with the provisions of Section 4, and such Requisition has not been expressly denied by the TIFIA Lender.

(xiii) The Borrower shall have paid in full all invoices delivered to the Borrower prior to the date of disbursement by the TIFIA Lender (or by advisors to the TIFIA Lender that have direct billing arrangements with the Borrower) for the reasonable fees and expenses of the TIFIA Lender's counsel and financial advisors and any auditors or other consultants employed by the TIFIA Lender for the purposes hereof.

(xiv) To the extent not previously delivered to the TIFIA Lender, the Borrower shall have provided to the TIFIA Lender certified, complete and fully executed copies of each performance security instrument delivered to or by the Borrower pursuant to any Principal Project Contract, the Project Development Agreement, the Maintenance Contract or any Toll System Contract as of the date of disbursement of the TIFIA Loan, each of which performance security instruments shall be (A) in compliance with the requirements for such performance security pursuant to the applicable Principal Project Contract, Project Development Agreement, Maintenance Contract or Toll System Contract and (B) in full force and effect.

**SECTION 14. Representations and Warranties of Borrower.** The Borrower hereby makes the following representations and warranties, as of the Effective Date and, as to each of the representations and warranties below other than those contained in clauses (b) and (l) of this Section, as of each date on which any disbursement of the TIFIA Loan is requested or made.

(a) Organization; Power and Authority. The Borrower is a body politic and corporate and a political subdivision of the State, duly organized, validly existing and in good standing under the laws of the State, has full legal right, power and authority to enter into the Related Documents then in existence and the Project Development Agreement, to execute and deliver this Agreement and the TIFIA Note, and to carry out and consummate all transactions

contemplated hereby and thereby and has duly authorized the execution, delivery and performance of the Related Documents and the Project Development Agreement.

(b) Officers' Authorization. As of the Effective Date, the officers of the Borrower executing (or that have previously executed) the Related Documents and the Project Development Agreement, and any certifications or instruments related thereto, to which the Borrower is a party are (or were at the time of such execution) duly and properly in office and fully authorized to execute the same.

(c) Due Execution; Enforceability. Each Related Document in effect as of any date on which this representation and warranty is made and the Project Development Agreement has been duly authorized, executed and delivered by the Borrower and constitutes the legal, valid and binding agreement of the Borrower enforceable in accordance with its terms, except as such enforceability (i) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally, and (ii) is subject to general principles of equity (regardless of whether enforceability is considered in equity or at law).

(d) Non-Contravention. The execution and delivery of the Related Documents to which the Borrower is a party and the Project Development Agreement, the consummation of the transactions contemplated in the Related Documents and the Project Development Agreement and the fulfillment of or compliance with the terms and conditions of the Related Documents and the Project Development Agreement will not (i) conflict with the Borrower's Organizational Documents, (ii) conflict in any material respect with, or constitute a violation, breach or default (whether immediately or after notice or the passage of time or both) by the Borrower of or under, any applicable law, administrative rule or regulation, or any applicable court or administrative decree or order, (iii) conflict in any material respect with, or constitute a violation, breach or default (whether immediately or after notice or the passage of time or both) by the Borrower of or under 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 or assets are otherwise subject or bound, or (iv) result in the creation or imposition of any Lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower other than Permitted Liens.

(e) Consents and Approvals. 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 Authority is necessary in connection with (i) the execution and delivery by the Borrower of the Related Documents and the Project Development Agreement, except as have been obtained or made and as are in full force and effect, or (ii) (A) the consummation of any transaction contemplated by the Related Documents or the Project Development Agreement or (B) the fulfillment of or compliance by the Borrower with the terms and conditions of the Related Documents and the Project Development Agreement, except as have been obtained or made and as are in full force and effect or as are ministerial in nature and can reasonably be expected to be obtained or made in the ordinary course on commercially reasonable terms and conditions when needed.

(f) Litigation. As of the Effective Date, there is no action, suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation, in any case before or by any court

or other Governmental Authority pending or, to the knowledge of the Borrower, threatened against or affecting all or any portion of the System, the Project, or the ability of the Borrower to execute, deliver and perform its obligations under the Related Documents or the Project Development Agreement. As of the Effective Date and as of each other date on which the representations and warranties herein are made or confirmed, there is no action, suit, proceeding or, to the knowledge of the Borrower, any inquiry or investigation before or by any court or other Governmental Authority pending or, to the knowledge of the Borrower, threatened against or affecting the System, the Project, the Borrower or the assets, properties or operations of the Borrower, that in any case could reasonably be expected to result in a Material Adverse Effect. To the Borrower's knowledge, there are no actions of the type described above pending or, threatened against or affecting any of the Principal Project Parties, except for matters arising after the Effective Date that (i) could not reasonably be expected to result in a Material Adverse Effect or (ii) could not reasonably be expected to adversely affect the Borrower's ability to receive Revenues in amounts sufficient to meet the financial projections contained in the Base Case Financial Model (or any Revised Financial Model, to the extent any Revised Financial Model has been submitted to the TIFIA Lender). The Borrower is not in default (and no event has occurred and is continuing that, with the giving of notice or the passage of time or both, could constitute a default) with respect to any Governmental Approval, which default could reasonably be expected to result in a Material Adverse Effect.

(g) Security Interests. The Indenture Documents, Chapter 370, Texas Transportation Code, as amended, and Chapter 1208, Texas Government Code, as amended, establish, in favor of the Trustee for the benefit of the TIFIA Lender, the valid and binding Liens on the Trust Estate that they purport to create, irrespective of whether any party has notice of the pledge and without the need for any physical delivery or transfer of control, filing of a document, or another act. Such Liens are in full force and effect and, subject to Section 8(a), are not subordinate or junior to any other Liens in respect of the Trust Estate except for the Permitted Liens associated with Senior Obligations, and not pari passu with any obligations other than the other Subordinate Lien Obligations. The Borrower has duly and lawfully taken all actions required under this Agreement, the Indenture Documents and applicable laws for the pledge of the Trust Estate pursuant to and in accordance with the Indenture Documents. The Borrower is not in breach of any covenants set forth in Section 16(a) of this Agreement or in the Indenture Documents with respect to the matters described in Section 16(a). All taxes and filing fees, if any, that are due and payable in connection with the execution, delivery or recordation of any Indenture Documents or any instruments, certificates or financing statements in connection with the foregoing, have been paid. Pursuant to Chapter 1208, Texas Government Code and Section 9.109 of the UCC, none of the creation, perfection, validity, enforceability or priority of the security interest in the Trust Estate granted pursuant to the Indenture Documents is governed by Chapter 9 of the UCC.

(h) No Debarment; Compliance with Flowdown Requirements. The Borrower has fully complied with its verification obligations under 2 C.F.R. § 180.320 and confirms that, to its knowledge, neither the Borrower nor any of its principals (as defined in 2 C.F.R. § 180.995) is debarred, suspended or voluntarily excluded from participation in Government contracts, procurement or non-procurement matters or delinquent on a Government debt as more fully set forth in the certificate delivered pursuant to Section 13(a)(iv) (*Conditions Precedent to Effectiveness*). Further, the Borrower has fully complied with 2 C.F.R. Part 180, including Subpart C, in particular §§ 180.300 and 180.330, and with 2 C.F.R. § 1200.332. The Borrower is not aware

of any non-compliance by any of its contractors or subcontractors with the applicable requirements of 2 C.F.R. Part 180.

(i) Accuracy of Representations and Warranties. The representations, warranties and certifications of the Borrower set forth in this Agreement, the other Related Documents and the Project Development Agreement are true and accurate, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and accurate as of such earlier date).

(j) Compliance with Federal Requirements. The Borrower has complied, with respect to the Project, with all applicable requirements of NEPA, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*), and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*).

(k) Transportation Improvement Program. The Project has been included in (i) the metropolitan transportation improvement program adopted by the federally designated metropolitan planning organization for the region, (ii) the State transportation plan, and (iii) the State transportation improvement program approved by the USDOT or its designated agency, in each case to the extent required by 23 U.S.C. §§ 134 and 135 and 23 U.S.C. § 602(a)(3), as applicable. The financial plan for each such program or plan reflects amounts equal to or greater than the amount of the TIFIA Loan and all other federal funds to be used for the Project as sources of funding for the Project.

(l) Credit Ratings. The Initial Senior Obligations have received an Investment Grade Rating from at least two (2) Nationally Recognized Rating Agencies, the TIFIA Note has received a public rating from at least two (2) Nationally Recognized Rating Agencies, and written evidence of such ratings has been provided to the TIFIA Lender prior to the Effective Date, and no such rating has been reduced, withdrawn or suspended as of the Effective Date.

(m) No Defaults. The Borrower is not in default under the terms of any Related Document or the Project Development Agreement, and no event has occurred or condition exists which, with the giving of notice or the passage of time or both, would constitute an Event of Default.

(n) Governmental Approvals. All Governmental Approvals required as of the Effective Date and any subsequent date on which this representation is made (or deemed made) for the undertaking and completion by the Borrower of the Project and for the operation and management of the System have been obtained or effected and are in full force and effect and there is no basis for, nor proceeding that is pending or threatened that could reasonably be expected to result in, the revocation of any such Governmental Approval.

(o) Principal Project Contracts. Each Principal Project Contract and Project Development Agreement is in full force and effect and all conditions precedent to the obligations of the respective parties under each Principal Project Contract and Project Development Agreement have been satisfied. To the extent requested by the TIFIA Lender pursuant to Section 16(b), the Borrower has delivered to the TIFIA Lender a fully executed, complete and correct copy of each Principal Project Contract, Additional Project Contract, and other contract requested

pursuant thereto (including in each case all exhibits, schedules and other attachments) that is in effect, including any amendments or modifications thereto and any related credit support instruments or side letters. No event has occurred that gives the Borrower or, to the Borrower's knowledge, any Principal Project Party, the right to terminate any such Principal Project Contract. No event has occurred that, to the Borrower's knowledge, gives TxDOT the right to terminate the Project Development Agreement. To the Borrower's knowledge, no event has occurred that gives a party (other than the Borrower) to the Maintenance Contract or any Toll System Contract the right to terminate such agreement. The Borrower is not in breach of any material term in or in default under any of such agreements or contracts, and to the knowledge of the Borrower no party to any of such agreements or contracts is in breach of any material term therein or in default thereunder. The Borrower is not party to any material Project-related agreements other than the Related Documents, the Project Development Agreement, the Toll System Contracts and the Maintenance Contract in effect as of any date on which this representation and warranty is made.

(p) Information. The information furnished by the Borrower to the TIFIA Lender, when taken as a whole, does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein not misleading as of the date made or furnished; provided, that no representation or warranty is made with respect to projections or other forward-looking statements provided by or on behalf of the Borrower (including the Base Case Financial Model, any Revised Financial Model and the assumptions therein) except that the assumptions in the Base Case Financial Model and any Revised Financial Model were reasonable in all material respects when made.

(q) OFAC; Anti-Corruption Laws.

(i) None of the Borrower nor, to the knowledge of the Borrower, any Principal Project Party is a Sanctioned Person.

(ii) None of the Borrower nor, to the knowledge of the Borrower, any Principal Project Party is in violation of or, since the date that is five (5) years prior to the Effective Date, has violated: (A) any applicable Anti-Money Laundering Laws; (B) any applicable Sanctions; (C) any applicable Anti-Corruption Laws; or (D) any applicable anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal.

(iii) There are no pending or, to the knowledge of the Borrower, threatened claims or investigations by any Governmental Authority against, or any internal investigations conducted by, the Borrower with respect to any possible or alleged violations of any Sanctions, Anti-Money Laundering Laws, Anti-Corruption Laws, or any anti-drug trafficking or anti-terrorism laws.

(iv) To the knowledge of the Borrower, there are no pending or threatened claims or investigations by any Governmental Authority against, or any internal investigations conducted by, any Principal Project Party with respect to any possible or alleged violations of any Sanctions, Anti-Money Laundering Laws, Anti-Corruption Laws, or any anti-drug trafficking or anti-terrorism laws.

(v) No use of proceeds of the TIFIA Loan or other transaction contemplated by this Agreement or any other Related Document will violate any applicable Sanctions, Anti-Money Laundering Laws, or Anti-Corruption Laws, or any applicable anti-drug trafficking or anti-terrorism laws.

(r) Compliance with Law. The Borrower is in compliance in all material respects with, and has conducted (or caused to be conducted) its business and government functions and the business and operations of the System in compliance in all material respects with, all applicable laws (other than Environmental Laws, which are addressed in Section 14(s)) including those set forth in **Exhibit E**, to the extent applicable. To the Borrower's knowledge, each Principal Project Party is, and has caused its respective contractors and subcontractors to be, in compliance in all material respects with all applicable laws, including those set forth in **Exhibit E**, to the extent applicable. No notice of violation of any applicable law has been issued, entered or received by (i) the Borrower or, (ii) to the Borrower's knowledge (and solely in respect of the Project, the System, or the Principal Project Contracts), any Principal Project Party, other than, in each case, notices of violations that are immaterial.

(s) Environmental Matters. The Borrower and, to the Borrower's knowledge, each Principal Project Party is in compliance with all laws applicable to the Project relating to (i) air emissions, (ii) discharges to surface water or ground water, (iii) noise emissions, (iv) solid or liquid waste disposal, (v) the use, generation, storage, transportation or disposal of toxic or hazardous substances or wastes, (vi) biological resources (such as threatened and endangered species), and (vii) other environmental, health or safety matters, including all laws applicable to the Project referenced in the notice "Federal Environmental Statutes, Regulations, and Executive Orders Applicable to the Development and Review of Transportation Infrastructure Projects," 79 Fed. Reg. 22756 (April 23, 2014) (or any successor Federal Register notice of similar import), which document is available at <http://www.transportation.gov/policy/transportation-policy/environment/laws> ("**Environmental Laws**"). All Governmental Approvals for the Project relating to Environmental Laws have been, or, when required, will be, obtained and are (or, as applicable, will be) in full force and effect. The Borrower has not received any written communication or notice, whether from a Governmental Authority, employee, citizens group or any other Person that alleges that the Borrower is not in full compliance with all Environmental Laws and Governmental Approvals relating thereto in connection with the Project and the System and, to the Borrower's knowledge, there are no circumstances that may prevent or interfere with full compliance in the future by the Borrower with any such Environmental Law or Governmental Approval. The Borrower has provided to the TIFIA Lender all material assessments, reports, results of investigations or audits, and other material information in the possession of or reasonably available to the Borrower regarding the Borrower's or the Project's compliance with (A) Environmental Laws and (B) Governmental Approvals relating to Environmental Laws that are required for the Project and the System.

(t) Sufficient Rights and Utilities. The Borrower possesses either valid legal and beneficial title to, leasehold title in, or other valid legal rights with respect to the real property relating to the Project and the System, in each case as is necessary and sufficient as of the date this representation is made for the construction, operation, maintenance and repair of the Project and the System. As of any date on which this representation and warranty is made, the Construction Contract, the Project Development Agreement, and the Governmental Approvals as have been

obtained and are in full force and effect are sufficient (i) during the Construction Period, for the then current stage of development and construction in accordance with the Construction Schedule and the Project Budget and (ii) after the Construction Period, for the operation and maintenance of the Project in accordance with all applicable laws, rules, regulations, executive orders, and court or administrative decrees, orders and judgments. All utility services, means of transportation, facilities and other materials necessary for the construction and operation of the System and the Project (including, as necessary, gas, electrical, water and sewage services and facilities) are, or will be when needed, available to the Project and arrangements in respect thereof have been made on commercially reasonable terms.

(u) Insurance. The Borrower is in compliance with all insurance obligations required under each Principal Project Contract and the Indenture Documents and has implemented all of the insurance requirements under Section 715 of the Indenture.

(v) Title. The Borrower has valid legal and beneficial title to the Revenues and the Trust Estate, in each case free and clear of any Lien of any kind, except for Permitted Liens.

(w) No Liens. Except for Permitted Liens, the Borrower has not created, and is not under any obligation to create, and has not entered into any transaction or agreement that would result in the imposition of, any Lien on the Trust Estate or upon the Project, the System or the Revenues.

(x) Intellectual Property. The Borrower owns, or has adequate licenses or other valid rights to use, all patents, trademarks, service marks, trade names, copyrights, franchises, formulas, licenses and other rights with respect thereto, and has obtained assignment of all licenses and other rights of whatsoever nature, in each case necessary for the Project and the System and the operation of its business. To the Borrower's knowledge, there exists no conflict with the rights or title of any third party with respect to the intellectual property described in the preceding sentence. Excluding the use of commercially available "off-the-shelf" software, to the Borrower's knowledge, no product, process, method, substance, part or other material produced or employed or presently contemplated to be produced by or employed by the Project or the System infringes or will infringe any patent, trademark, service mark, trade name, copyright, franchise, formula, license or other intellectual property right of any third party.

(y) Investment Company Act. The Borrower is not, and after applying the proceeds of the TIFIA Loan will not be, required to register as an "investment company" within the meaning of the Investment Company Act of 1940, as amended, and is not "controlled" by a company required to register as an "investment company" under the Investment Company Act of 1940, as amended.

(z) Financial Statements. Each income statement, balance sheet and statement of cash flows (collectively, "**Financial Statements**") delivered to the TIFIA Lender pursuant to Section 22(c) has been prepared in accordance with GAAP and presents fairly, in all material respects, the financial condition of the Borrower as of the respective dates of the balance sheets included therein and the results of operations of the Borrower for the respective periods covered by the statements of income included therein. Except as reflected in such Financial Statements,

there are no liabilities or obligations of the Borrower of any nature whatsoever for the period to which such Financial Statements relate that are required to be disclosed in accordance with GAAP.

(aa) Taxes. The Borrower is not required to file tax returns with any Governmental Authority.

(bb) ERISA. Neither Borrower nor any ERISA Affiliate maintains or otherwise has any liability in respect of any plan or other arrangement that is subject to ERISA or Section 412 of the Code.

(cc) Sufficient Funds. The aggregate of (i) all funds that are undrawn but fully and completely committed under the Indenture Documents and this Agreement, (ii) all delay payments and insurance proceeds in respect of any casualty loss (other than any proceeds of business interruption insurance, delay-in-start-up insurance and proceeds covering liability of the Borrower to third parties) received by the Borrower or to which the Borrower is entitled in accordance with the applicable insurance policies, and Principal Project Contracts, and (iii) all funds available under any other unused funding that is committed and available, will be sufficient to pay all Total Project Costs necessary to achieve Substantial Completion.

(dd) Existing Indebtedness. The Borrower does not have any outstanding indebtedness other than Existing Indebtedness and indebtedness incurred as of the Effective Date pursuant to this Agreement. The Project BANs have been validly issued in accordance with all requirements of the Indenture, applicable laws and the Borrower's Organizational Documents.

(ee) Patriot Act. The Borrower is not required to establish an anti-money laundering compliance program pursuant to the Patriot Act.

SECTION 15. Representations and Warranties of TIFIA Lender. The TIFIA Lender hereby makes the following representations and warranties as of the Effective Date.

(a) Power and Authority. The TIFIA Lender has all requisite power and authority to make the TIFIA Loan and to perform all transactions contemplated by the Related Documents to which it is a party.

(b) Due Execution; Enforceability. The Related Documents to which the TIFIA Lender is a party have been duly authorized, executed and delivered by the TIFIA Lender, and are legally valid and binding agreements of the TIFIA Lender, enforceable in accordance with their terms.

(c) Officers' Authorization. The officers of the TIFIA Lender executing each of the Related Documents to which the TIFIA Lender is a party are duly and properly in office and fully authorized to execute the same on behalf of the TIFIA Lender.

SECTION 16. Affirmative Covenants. The Borrower covenants and agrees as follows until the date the TIFIA Note and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in immediately available funds, unless the TIFIA Lender waives compliance in writing:



(a) Securing Liens. 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 in connection with assuring, conveying, granting, assigning, securing and confirming the Lien on the Trust Estate (whether now existing or hereafter arising) granted to the Trustee for the benefit of the TIFIA Lender pursuant to the Indenture Documents, or intended so to be granted pursuant to the Indenture Documents, or which the Borrower may become bound to grant, and the Borrower shall at all times maintain the Trust Estate free and clear of any pledge, Lien, charge or encumbrance thereon or with respect thereto that has priority over, or equal rank with, the Liens created by the Indenture Documents, other than (i) Permitted Liens and (ii) to the extent provided in Section 8(a) with respect to priority, and the Borrower shall duly and validly take all organizational, regulatory or other necessary action to that end at all times. The Borrower shall at all times, to the extent permitted by law, defend, preserve and protect the Liens on the Trust Estate granted pursuant to the Indenture Documents and all the rights of the Trustee for the benefit of the TIFIA Lender under the Indenture Documents against all claims and demands of all Persons whomsoever, subject to Permitted Liens.

(b) Copies of Documents.

(i) Except as otherwise agreed by the TIFIA Lender in writing, the Borrower shall provide to the TIFIA Lender copies of any draft offering documents or Indenture Documents (together with any related cash flow projections) relating to the incurrence of indebtedness that is subject to the consent of the TIFIA Lender pursuant to Section 17(a) at least thirty (30) days prior to the proposed effective date thereof.

(ii) The Borrower shall provide to the TIFIA Lender copies of fully executed versions of any Indenture Documents and final versions of any offering documents, as well as copies of any continuing disclosure documents, related to the issuance of indebtedness by the Borrower (including Permitted Debt) that is payable out of Revenues or supported by a Lien on the Trust Estate within ten (10) days following the issuance of such indebtedness.

(iii) The Borrower shall provide written notice to the TIFIA Lender of the Borrower's intent to enter into an Additional Project Contract and, if such Additional Project Contract is subject to approval by the TIFIA Lender pursuant to Section 17(e), shall provide drafts of any such Additional Project Contracts, together with any related contracts, side letters or other understandings at least thirty (30) days prior to the proposed effective date thereof. If the TIFIA Lender requests a copy of any Additional Project Contract that is not subject to approval by the TIFIA Lender, the Borrower shall provide a copy of the final or near final draft of such Additional Project Contract, together with any related contracts, side letters or other understandings, prior to the execution thereof and, if requested by the TIFIA Lender, shall provide to the TIFIA Lender an executed version of such Additional Project Contract, together with any related contracts, side letters or other understandings, within ten (10) days following execution and delivery thereof.

(iv) The Borrower shall provide written notice to the TIFIA Lender of the Borrower's intent to enter into (A) any contract for the operation, repair, maintenance

or tolling of the Project, including any master contract that provides for goods or services to multiple projects or assets (including the Project) within the System, in each case that involves payments that exceed \$3,000,000 (inflated annually by CPI) in any year under such contract or group of related contracts or (B) material contracts, including any construction contracts that have not been fully performed, for any new project to be included in the System. Upon request by the TIFIA Lender, the Borrower shall provide drafts of any such contract, together with any related contracts, side letters or other understandings at least thirty (30) days prior to the proposed effective date thereof. If requested by the TIFIA Lender, the Borrower shall provide to the TIFIA Lender an executed version of any such contract, together with any related contracts, side letters or other understandings, within ten (10) days following execution and delivery thereof.

(v) Except as otherwise agreed by the TIFIA Lender in writing, the Borrower will provide to the TIFIA Lender (x) copies of any proposed amendments, modifications, replacements of, or supplements to any Related Document or to the Project Development Agreement at least thirty (30) days prior to the effective date thereof and (y) complete, correct and fully executed copies of any amendment, modification or supplement to any Related Document or to the Project Development Agreement within ten (10) days after execution thereof.

(c) Use of Proceeds. The Borrower shall use the proceeds of the TIFIA Loan for purposes permitted by applicable law and as otherwise permitted under this Agreement and the other Related Documents.

(d) Prosecution of Work; Verification Requirements.

(i) The Borrower shall diligently prosecute the work relating to the Project and complete the Project in accordance with the applicable Construction Schedule, and in accordance with customary standards of the Borrower's industry related to such work.

(ii) The Borrower shall cause the Construction-Related Contractor and any party to an Additional Project Contract related to the construction of the Project to comply with all applicable laws and legal or contractual requirements with respect to any performance security instrument delivered by the Construction-Related Contractor (or such other contractor) to the Borrower and shall require (and enforce such requirement) that any letter of credit provided pursuant to any Principal Project Contract meets the requirements therefor set forth in such Principal Project Contract. The Borrower shall not waive the surety financial requirements relating to any payment, performance or warranty bond pursuant to the Construction Contract without the TIFIA Lender's prior written consent.

(iii) The Borrower shall comply with 2 C.F.R. Part 180, including Subpart C, in particular §§ 180.300 and 180.320, and with 2 C.F.R. § 1200.332.

(e) Operations and Maintenance.

(i) The Borrower shall (i) operate and maintain the System (A) in a reasonable and prudent manner, and (B) substantially in accordance with all applicable

laws, rules, regulations, executive orders, and court or administrative decrees, orders and judgments, and (ii) maintain the System in good repair, working order and condition and in accordance with the requirements of all applicable laws, each applicable Related Document and the Project Development Agreement. 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 Governmental Approvals and any other rights, licenses, franchises and authorizations material to the conduct of its business.

(ii) The Borrower shall ensure that the counterparties to the Maintenance Contract and each Toll System Contract have such creditworthiness and experience as is appropriate under good industry practice to perform the work required under the Maintenance Contract and such Toll System Contract and are not suspended or debarred or subject to a proceeding to suspend or debar from bidding, proposing or contracting with any federal or state department or agency. The Borrower shall ensure that the counterparties to the Maintenance Contract and each Toll System Contract provide and maintain for the benefit of the Borrower any performance bond or other performance security instrument required under the Maintenance Contract or such Toll System Contract.

(iii) The Borrower shall notify the TIFIA Lender nine (9) months prior to any expiration of the Maintenance Contract or a Toll System Contract (or any replacement thereof), which notice shall indicate the Borrower's then-current plan for the performance of the work performed under the Maintenance Contract and such Toll System Contract following expiration of any such Maintenance Contract or Toll System Contract. After giving such notice, the Borrower shall thereafter keep the TIFIA Lender regularly informed as to any change in its plan for the performance of, as applicable, the operations and maintenance work or tolling work on the System and its progress toward the procurement of any replacement Maintenance Contract or Toll System Contract, including quarterly reports concerning the conduct of any such procurement, its negotiations with potential contractors and any other information reasonably requested by the TIFIA Lender.

(iv) If a TIFIA Bankruptcy Related Event occurs with respect to the counterparty to the Maintenance Contract or a Toll System Contract, the Borrower shall either:

(A) replace such counterparty within ninety (90) days after the occurrence of such TIFIA Bankruptcy Related Event with a new counterparty that (I) possesses similar or greater creditworthiness (including credit support) as the counterparty being replaced, (II) possesses similar or greater technical capability and relevant experience as the counterparty being replaced, considered as of the time the Maintenance Contract or Toll System Contract, as applicable, was executed, as certified by the General Engineering Consultant (or otherwise reasonably acceptable to the TIFIA Lender), and (III) is not, at the time of such replacement, suspended or debarred or subject to a proceeding to suspend or debar from bidding, proposing or contracting with any federal or state department or agency; or

(B) within ninety (90) days after the occurrence of such TIFIA Bankruptcy Related Event, demonstrate to the TIFIA Lender's satisfaction that (I) TxDOT,

pursuant to a written contract with the Borrower, a copy of which is provided to the TIFIA Lender prior to the expiration of such ninety (90) day period, has undertaken to perform the full scope of work of the replaced counterparty to the Maintenance Contract or Toll System Contract, or (II) the Borrower is capable of fully performing the full scope of work of the replaced counterparty to such Maintenance Contract or Toll System Contract and has undertaken the performance of such work (with written confirmation to such effect provided by the General Engineering Consultant to the TIFIA Lender), in each case of clause (I) or (II) above within the budget for Operating Expenses, Maintenance Expenses and Major Maintenance Costs set forth in the Financial Plan most recently submitted to the TIFIA Lender or, in the case of a Toll System Contract, within the line item for such contract set forth in the applicable budget in the Financial Plan most recently submitted to the TIFIA Lender.

(f) Insurance.

(i) The Borrower shall at all times during the construction of the Project maintain or cause to be maintained insurance for the Project with responsible insurers, as is customarily maintained in the United States with respect to works and properties of like character, against accident to, loss of or damage to such works or properties, which shall include liability coverage and pollution and other environmental liability and remediation related coverage. The Borrower shall cause each Principal Project Party to obtain and maintain casualty and liability insurance in accordance with the requirements of the applicable Principal Project Contract.

(ii) The Borrower shall at all times maintain insurance on the System in accordance with the requirements set forth in Section 715 of the Indenture.

(iii) The Borrower shall cause all liability insurance policies that it maintains (and, during the Construction Period, that are maintained by the Construction-Related Contractor or any contractor pursuant to an Additional Project Contract related to the construction of the Project), other than workers' compensation insurance, to reflect the TIFIA Lender as an additional insured (on a primary non-contributory basis) to the extent of its insurable interest.

(iv) The Borrower shall deliver to the TIFIA Lender (A) certifications, notices and reports of insurance consultants, (B) insurance brokers' letters and (C) certificates of insurance, in each case, as and when such materials are required to be delivered to the Trustee pursuant to the Indenture Documents and, upon the request of the TIFIA Lender, copies of underlying insurance policies obtained by or on behalf of the Borrower.

(g) Notice.

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

(A) Substantial Completion: the occurrence of Substantial Completion, such notice to be provided in the form set forth in **Exhibit L**;

(B) Events of Default: any Event of Default or any event that, with the giving of notice, the passage of time or both, would constitute an Event of Default;

(C) Litigation: (1) the filing of any litigation, suit or action against the Borrower before any arbitrator or Governmental Authority or the receipt by the Borrower in writing of any threat of litigation, suit or action or of any written claim against the Borrower that, in each case, could reasonably be expected to have a Material Adverse Effect, and any material changes in the status of such litigation, suit, action or claim, and (2) any judgments against the Borrower with award amounts in excess of \$5,000,000, either individually or in the aggregate;

(D) Delayed Governmental Approvals: any failure to receive or delay in receiving any Governmental Approval or making any required filing, notice, recordation or other demonstration to or with a Governmental Authority, in each case to the extent such failure or delay will or could reasonably be expected to result in a delay to any major milestone date (including the Projected Substantial Completion Date) set forth in the Construction Schedule, together with a written explanation of the reasons for such failure or delay and the Borrower's plans to remedy or mitigate the effects of such failure or delay;

(E) Environmental Notices: any material notice of violation under any Environmental Law related to the Project or any material changes to the NEPA Determination;

(F) Insurance Claim: any insurance claims related to the Project in excess of \$1,000,000 or related to the System in excess of \$10,000,000, either individually or in the aggregate;

(G) Amendments: except as otherwise agreed by the TIFIA Lender in writing, copies of (1) any proposed amendments to any Related Document or the Project Development Agreement at least thirty (30) days prior to the effective date thereof and (2) copies of fully executed amendments within ten (10) days following execution thereof;

(H) Defaults: any material breach or default or event of default on the part of the Borrower or any other party under any Related Document or the Project Development Agreement for which notice has been provided;

(I) Uncontrollable Force: the occurrence of any Uncontrollable Force that could reasonably be expected to result in a Material Adverse Effect;

(J) Ratings Changes: any change in the rating assigned to the Senior Obligations, the TIFIA Loan, any other Subordinate Lien Obligations or any Other Obligations by any Nationally Recognized Rating Agency that has provided a public rating on such indebtedness;

(K) 2 C.F.R. Notices: (1) that any of the information set forth in the certificate provided pursuant to Section 13(a)(iv) (Conditions Precedent to Effectiveness) was incorrect at the time the certificate was delivered or there has been a change in status of the Borrower or any of its principals with respect to the criteria set forth in 2 C.F.R. § 180.335; (2) any other notification required pursuant to 2 C.F.R. § 180.350; and (3) any violation of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the TIFIA Loan as described in 2 C.F.R. § 200.113, and the Borrower shall require its subcontractors to provide it notice of any such violation;

(L) Other Adverse Events: the occurrence of any other event or condition, including any notice of breach from a contract counterparty, that could reasonably be expected to result in a Material Adverse Effect; and

(M) Toll Rates: any changes in the toll schedule in effect as of the Effective Date for all or any portion of the System and any change in the toll rates from those set forth in the toll schedule in effect as of the Effective Date.

(ii) The Borrower shall provide the TIFIA Lender with any further information reasonably requested by the TIFIA Lender from time to time concerning the matters described in Section 16(g)(i).

(h) Remedial Action. Within thirty (30) calendar days after the Borrower learns of the occurrence of an event specified in Section 16(g)(i) (other than sub-clauses (A), (G), (L), or (M)), the Borrower's Authorized Representative shall provide a statement to the TIFIA Lender setting forth the actions the Borrower proposes to take with respect thereto.

(i) Maintain Legal Structure. The Borrower shall maintain its existence as a body politic and corporate and a political subdivision of the State, organized and existing under the laws of the State unless and until a successor public authority succeeds to the assets of the Borrower and assumes in writing all of the obligations of the Borrower hereunder and under the other TIFIA Loan Documents.

(j) Annual Rating. The Borrower shall, commencing on August 15, 2022, and thereafter not later than August 15 of each year during the term of the TIFIA Note, at no cost to the TIFIA Lender, provide to the TIFIA Lender a public rating on the Senior Lien Obligations and the TIFIA Note by a Nationally Recognized Rating Agency, together with the rating report or letter delivered by such Nationally Recognized Rating Agency in connection with each such rating, in each case prepared no earlier than July 15 of such year.

(k) Project Accounts; Permitted Investments.

(i) The Borrower shall maintain the Senior Lien Debt Service Reserve Fund (including the Bond Proceeds Funded Account, the Revenue Funded Account and, upon the occurrence of an event of default under Section 801(d) of the Indenture, the Springing Lien Account, as described in clause (ii) below) and shall maintain therein an amount not less than the aggregate Senior Lien Debt Service Reserve Fund Requirements for all Outstanding Senior Lien Obligations. The Borrower shall maintain the Junior Lien Debt Service Reserve Fund, including any subaccounts therein, if any, in an amount not

less than the aggregate Junior Lien Debt Service Reserve Fund Requirements for all outstanding Junior Lien Obligations. Subject to clause (ii) below, the Borrower shall maintain the Subordinate Lien Debt Service Reserve Fund, including a separate TIFIA Debt Service Reserve Account therein, in amounts not less than the respective Subordinate Lien Debt Service Reserve Fund Requirement, if any, with respect to each series of Subordinate Lien Obligations (including the TIFIA Debt Service Reserve Required Balance in respect of the TIFIA Loan). To the extent necessary, the Borrower shall, and shall cause the Trustee to apply, amounts in each of the above-referenced debt service reserve funds to ensure the timely payment of the related indebtedness of the Borrower; provided that any withdrawals from the Senior Lien Debt Service Reserve Fund shall be made first from the Bond Proceeds Funded Account and no withdrawals shall be made from the Revenue Funded Account until the Bond Proceeds Funded Account has been exhausted. Following the initial deposit of Bond proceeds into the Bond Proceeds Funded Account with respect to any Senior Lien Obligations, no further amounts shall be deposited into the Bond Proceeds Funded Account with respect to such Senior Lien Obligations. To the extent any amounts are withdrawn from the Bond Proceeds Funded Account, any replenishment of the Senior Lien Debt Service Reserve Fund Requirement shall be made exclusively by means of deposits into the Revenue Funded Account.

(ii) The Borrower shall commence (or shall have commenced) funding the TIFIA Debt Service Reserve Account from and after January 1, 2026, and shall fund the TIFIA Debt Service Reserve Account in an amount equal to the TIFIA Debt Service Reserve Required Balance in thirty-six (36) equal monthly transfers in accordance with **Schedule IV** and in accordance with the cash flow waterfall in Section 505 of the Indenture until the full amount of the TIFIA Debt Service Reserve Required Balance is on deposit in the TIFIA Debt Service Reserve Account. If in any month there are insufficient funds to make the required monthly transfer set forth in **Schedule IV**, the shortfall shall be made up in the next succeeding month for which sufficient funds are available. Once the TIFIA Debt Service Reserve Account has been fully funded in accordance with this Section 16(k)(ii), such transfers shall cease and the Borrower shall not transfer amounts from such account for any reason other than to enable the Borrower to make a payment of TIFIA Debt Service required hereunder at a time when there are insufficient funds on deposit in the TIFIA Debt Service Account for such payment. Following any such transfer of funds from the TIFIA Debt Service Reserve Account to the TIFIA Debt Service Account, the Borrower shall promptly deposit amounts into the TIFIA Debt Service Reserve Account in accordance with the cash flow waterfall in Section 505 of the Indenture and the provisions of Section 513 of the Indenture until the amount on deposit therein equals the TIFIA Debt Service Reserve Required Balance. Upon the occurrence of an event of default under Section 801(d) of the Indenture, (w) all amounts on deposit in the TIFIA Debt Service Reserve Account in respect of the portion of the TIFIA Loan held either by the TIFIA Lender, or any other federal government agency or instrumentality, shall be transferred to the Springing Lien Account and held for the benefit of the TIFIA Note and separate and apart from all other funds in the Senior Lien Debt Service Reserve Fund, (x) the Bond Proceeds Funded Account shall be held separate and apart from all other funds in the Senior Lien Debt Service Reserve Fund for the benefit of all Outstanding Senior Lien Obligations other than the TIFIA Note, (y) the Revenue Funded Account shall support the TIFIA Note on a pro rata and pari passu basis with all other Outstanding Senior Lien Obligations and

(z) the TIFIA Debt Service Reserve Required Balance shall no longer apply to the TIFIA Note, but instead TIFIA Debt Service shall be included in calculations of the Senior Lien Debt Service Reserve Fund Requirement.

(iii) To the extent not provided in clause (i) or (ii) above, the Borrower shall cause the Reserve Accounts to be funded in accordance with the requirements of this Agreement and the Indenture Documents.

(iv) The Borrower shall maintain funds in the TIFIA Debt Service Reserve Account in accordance with the requirements of this Section 16(k) and the TIFIA Supplemental Indenture. The Borrower shall maintain amounts in the TIFIA Debt Service Reserve Account, as specified herein and in the TIFIA Supplemental Indenture, unless both of the following conditions have been satisfied as of a Calculation Date occurring on or after January 1, 2030: (A) the Borrower has maintained a Subordinate Lien Debt Service Coverage Ratio of at least 1.50 for four (4) consecutive semi-annual periods; and (B) the projected Subordinate Lien Debt Service Coverage Ratio for each Calculation Period during the following five (5) years, as reflected in a Revised Financial Model delivered to the TIFIA Lender as of such date, is at least 1.35. If the Borrower satisfies the conditions described above in this Section 16(k)(iv) as of or later than the dates noted in the preceding sentence, the Trustee shall be permitted to release the funds on deposit in the TIFIA Debt Service Reserve Account at the direction of the Borrower. If, at any time after the Borrower is permitted to withdraw funds from the TIFIA Debt Service Reserve Account in accordance with this Section 16(k)(iv) and prior to the irrevocable payment in full in immediately available funds of all principal of and interest on the TIFIA Loan, the Total Debt Service Coverage Ratio is less than 1.20 for two consecutive semi-annual periods ending on a Calculation Date, the Borrower shall resume transfers to the TIFIA Debt Service Reserve Account and shall fund the TIFIA Debt Service Reserve Account in an amount equal to the TIFIA Debt Service Reserve Required Balance in thirty-six (36) equal monthly transfers in accordance with the cash flow waterfall in Section 505 of the Indenture. The Borrower shall thereafter maintain funding in the TIFIA Debt Service Reserve Account in accordance with the requirements of this Section 16(k) and the TIFIA Supplemental Indenture until the subsequent date on which each of the conditions to the release of funds on deposit in such account has been satisfied.

(v) Amounts on deposit in the Project Accounts shall be held uninvested or invested in Permitted Investments. Permitted Investments must mature or be redeemable at the election of the holder as follows: (A) with respect to Permitted Investments maintained in the TIFIA Debt Service Account, the TIFIA Debt Service Reserve Account or in any debt service account in respect of Senior Obligations corresponding to amounts needed for the payment of interest, not later than the next Semi-Annual Payment Date, (B) with respect to Permitted Investments maintained in the TIFIA Debt Service Account, the TIFIA Debt Service Reserve Account or in any debt service account for Senior Obligations corresponding to amounts needed for the repayment of principal, the next Payment Date for repayment of principal in respect of such debt and (C) with respect to any other Project Accounts, on or prior to the date on which the funds invested in such Permitted Investments are reasonably expected to be needed for any payment from the applicable Project Account.



(vi) The Borrower may replace all or a portion of the required balance of any Reserve Account, in accordance with the terms of the applicable Indenture Documents, with an Acceptable Letter of Credit. If at any time an issuer of an Acceptable Letter of Credit securing a Reserve Account ceases to be a Qualified Issuer, the Borrower shall cause such letter of credit to be replaced by a new Acceptable Letter of Credit within thirty (30) days of the date on which the current issuer ceased to be a Qualified Issuer; provided, that the Borrower acknowledges and agrees that if it fails to replace the current Acceptable Letter of Credit with a new Acceptable Letter of Credit issued by a Qualified Issuer within such thirty (30) day period, the TIFIA Lender may direct the Trustee to draw immediately the full amount of such letter of credit and deposit the proceeds of such drawing into the applicable Reserve Account. Any new Acceptable Letter of Credit shall have the same terms and conditions (including expiration date and face amount) as the letter of credit being replaced, or such other terms and conditions as may be satisfactory to the TIFIA Lender. In the event that any letter of credit securing a Reserve Account is scheduled to expire prior to the Final Maturity Date, the Borrower shall replace such letter of credit with a new Acceptable Letter of Credit at least ten (10) Business Days prior to the stated expiry date of the existing letter of credit and such new Acceptable Letter of Credit shall be in an amount equal to at least the amount of expiring letter of credit. In the event that the Borrower fails to provide such new Acceptable Letter of Credit by the date required above, the Trustee shall be permitted to immediately draw the full undrawn amount of the existing letter of credit and deposit the proceeds of such drawing into the applicable Reserve Account.

(vii) Notwithstanding Section 509 of the Indenture, to the extent there are excess amounts on deposit in the Senior Lien Debt Service Reserve Fund and such excess amounts were derived from Revenues, the Borrower shall not transfer such excess amounts to the General Fund but instead shall deposit such excess amounts into the Revenue Fund.

(viii) The Borrower shall obtain the TIFIA Lender's written consent prior to transferring any funds (or Credit Facility) on deposit in or credited to the account established under the Construction Fund for the Project to a different account under the Construction Fund or to a different fund established under the Indenture Documents (other than the Revenue Fund, any debt service fund or account maintained under the Indenture and relating to the Obligations that were issued to fund the Project in whole or in part (but solely in amounts of unexpended proceeds of such Obligations), and any transfer that is necessary to maintain the tax-exempt status of the corresponding Obligations).

(ix) From and after the occurrence of a System Development Cessation (or notice thereof from the TIFIA Lender), the Borrower shall establish (or cause the Trustee to establish) a dedicated account under the General Fund for the purpose of collecting any amounts required to be paid to the TIFIA Lender pursuant to Section 10(a). Without duplication of the requirement provided in that certain TIFIA Loan Agreement, dated as of February 26, 2021, between the Borrower and the TIFIA Lender, the Borrower shall deposit into such account, on a monthly basis, an amount equal to twenty percent (20%) of any amounts available after any deposits required to be made in such month into the funds or accounts described in levels First through Tenth in of the cash flow waterfall

set forth in Section 505 of the Indenture have been made in accordance with such Section 505 of the Indenture.

(l) Rate Coverage. The Borrower, in addition to complying with the rate covenant provisions in the Indenture Documents, shall, subject to the remainder of this paragraph, fix, charge and collect rates and charges such that Net Cash Flow in each Calculation Period through the Final Maturity Date shall be projected to produce (i) a Senior Debt Service Coverage Ratio at least equal to 1.25 in each such Calculation Period, (ii) a Subordinate Lien Debt Service Coverage Ratio at least equal to 1.20 in each such Calculation Period, and (iii) a Total Debt Service Coverage Ratio at least equal to 1.00 in each such Calculation Period (clauses (i), (ii) and (iii) collectively, the “**Rate Coverage Test**”); provided, that in determining Annual Debt Service for purposes of the coverage ratio calculations required in this Section 16(l), the Borrower may disregard the proviso and sub-clauses (A) and (B) appearing in clause (iii) of the definition of “Annual Debt Service” with respect to Balloon Obligations or Short-Term Obligations. If the semi-annual coverage certificate in the form of **Exhibit O** furnished by the Borrower pursuant to Section 22 demonstrates that projected Net Cash Flow may be inadequate to satisfy the Rate Coverage Test for any Calculation Period until the latest date set forth in such coverage certificate, or if the Borrower fails to satisfy the Rate Coverage Test in respect of any Calculation Period then ended, the Borrower shall (x) within thirty (30) days after request by the TIFIA Lender, engage the Traffic Consultant to review and analyze the operations of the System and recommend actions regarding revising the rates or changing the methods of operations, or any other actions to increase the Net Cash Flow so as to satisfy the Rate Coverage Test, (y) cause the Traffic Consultant to issue its report, including any such recommended actions, no later than ninety (90) days following such engagement, and (2) either (A) implement the Traffic Consultant’s recommendation or (B) undertake an alternative course of action after demonstrating to the TIFIA Lender’s satisfaction the manifest errors contained in the Traffic Consultant’s recommended actions, or to the extent agreed upon by the TIFIA Lender, undertake an alternative course of action that is expected to ensure the Borrower’s ability to meet its payment obligations under this Agreement; provided, that the failure to maintain compliance with the Rate Coverage Test shall not constitute an Event of Default unless such non-compliance has occurred on three (3) consecutive Semi-Annual Payment Dates (including the Semi-Annual Payment Date on which such non-compliance first occurs) or such longer period agreed to by the TIFIA Lender in writing at the time the Borrower commences to implement the Traffic Consultant’s recommendations or undertake an alternative course of action pursuant to clause (2) above.

(m) SAM Registration. The Borrower shall (i) maintain its active registration status with the federal System for Award Management (www.SAM.gov) (or any successor system or registry) and (ii) within sixty (60) days prior to each anniversary of the Effective Date, provide to the TIFIA Lender evidence of such active registration status with no active exclusions reflected in such registration, in each case until the Final Maturity Date or to such earlier date as all amounts due or to become due to the TIFIA Lender hereunder have been irrevocably paid in full in immediately available funds.

(n) Material Obligations; Liens. The Borrower shall perform its material obligations pursuant to the Indenture Documents, the Principal Project Contracts, the Additional Project Contracts, the Project Development Agreement, the Maintenance Contract and the Toll System Contracts promptly and in accordance with their respective terms and shall pay and

discharge promptly all taxes, assessments and governmental charges or levies imposed upon it or upon the System, the Project, the Trust Estate, the Revenues or the Borrower's other income or profits or in respect of its property, before the same shall become delinquent or in default, as well as all lawful and material claims for labor, materials and supplies or other claims which, if unpaid, might give rise to a Lien upon such properties or any part thereof or on the Revenues or the Trust Estate; provided, however, that such payment and discharge shall not be required with respect to any such tax, assessment, charge, levy, claim or Lien so long as the validity or amount thereof shall be contested by the Borrower in good faith by appropriate proceedings and so long as the Borrower shall have set aside adequate reserves with respect thereto in accordance with and to the extent required by GAAP, applied on a consistent basis.

(o) Hedging.

(i) As a condition to the issuance of any Senior Obligations or Subordinate Lien Obligations that bear interest at a Variable Interest Rate, the Borrower shall enter into a Qualified Hedge with respect to such Senior Obligations and Subordinate Lien Obligations and shall maintain such Qualified Hedge in place until the earlier to occur of (i) the maturity date of any such Senior Obligations or Subordinate Lien Obligations and (ii) the Final Maturity Date; provided, that the requirements of this Section 16(o) shall not apply to commercial paper notes to the extent issued in accordance with the requirements of this Agreement (including Section 17(a)(v)). Each Qualified Hedge must have an aggregate stated notional amount of not less than (A) during the Construction Period, at least ninety percent (90%) and not more than one hundred ten percent (110%) of the aggregate principal amount of the Variable Interest Rate Senior Obligations projected to be outstanding during such time period and (B) at all other times, at least ninety-eight percent (98%) and not more than one hundred two percent (102%) of the aggregate principal amount of the Variable Interest Rate Senior Obligations projected to be outstanding until the maturity of such Variable Interest Rate Senior Obligations. Any such Qualified Hedge shall have a payment profile that is reasonably consistent with the expected draw and repayment schedule of the applicable Variable Interest Rate Senior Obligations subject to such Qualified Hedge. Such Qualified Hedge shall have a stated maturity or termination date not earlier than the earlier to occur of (x) the Final Maturity Date and (y) the final maturity date of the Variable Interest Rate Senior Obligations subject to such Qualified Hedge.

(ii) Each Qualified Hedge shall provide for a fixed interest rate or interest rate cap resulting in fixed payment amounts payable by the Borrower to the Qualified Hedge Provider. The Borrower's obligations to pay Hedging Obligations and Hedging Termination Obligations shall be from the sources and in the priority specified in the Indenture Documents. The Borrower shall ensure that, as of the day following the termination date of any Qualified Hedge that for any reason terminates before the final maturity date of the Variable Interest Rate Senior Obligations subject to such Qualified Hedge, (A) a Subsequent Qualified Hedge (as defined below) is in full force and effect or (B) the Variable Interest Rate Senior Obligations have been converted to a fixed rate, in each case in accordance with this Agreement and the Indenture Documents.

(iii) Any Hedging Transaction entered into subsequent to the termination of a Qualified Hedge (a “**Subsequent Qualified Hedge**”) shall (A) be a Qualified Hedge, (B) commence no later than the termination date of the Qualified Hedge that is terminating and (C) terminate no earlier than the earlier to occur of (1) the Final Maturity Date and (2) the final maturity date of the Variable Interest Rate Senior Obligations subject to such Subsequent Qualified Hedge.

(iv) The Borrower shall not commence seeking any bids from any Qualified Hedge Provider for a Subsequent Qualified Hedge unless, at least thirty (30) days prior thereto, the Borrower has delivered to the TIFIA Lender evidence satisfactory to the TIFIA Lender and certified by the Borrower’s Authorized Representative that the process to be utilized by the Borrower for selecting such Subsequent Qualified Hedge is a competitive process designed to obtain a fair market price and to avoid conflicts of interest. At the time the Subsequent Qualified Hedge is priced, the Borrower shall provide to the TIFIA Lender a certificate from a qualified third party acceptable to the TIFIA Lender to the effect that either the underlying LIBOR based fixed rate or the price of acquiring such Subsequent Qualified Hedge is a fair price based on the interest rate market at the time such Qualified Hedge is priced.

(v) The Trustee shall be granted a security interest in each Qualified Hedge and payments due under each Qualified Hedge in order to secure the Borrower’s obligations under the TIFIA Loan Documents. The Hedging Agreements shall provide that all payments due thereunder to the Borrower shall be made directly to the Trustee for deposit and disbursement in accordance with the Indenture Documents.

(vi) The Borrower shall neither terminate (other than Permitted Hedging Terminations), transfer, nor consent to any transfer (other than to a Qualified Hedge Provider) of any existing Qualified Hedge without the TIFIA Lender’s prior written consent as long as the Borrower is required to maintain a Qualified Hedge pursuant to this Agreement.

(vii) If at any time a Hedging Bank no longer satisfies the requirements for a Qualified Hedge Provider, the Borrower shall, within thirty (30) days of the date on which such Hedging Bank failed to qualify as a Qualified Hedge Provider, either (A) cause the Hedging Bank to cash collateralize the mark-to-market value of the Hedging Termination Obligations (in accordance with the credit support annex or similar requirements of the applicable Hedging Agreement) or provide a guarantee for such amount from an entity with an Acceptable Credit Rating, or (B) cause such disqualified Hedging Bank to be replaced by a Qualified Hedge Provider, whether by means of a transfer of the disqualified Hedging Bank’s Hedging Agreement to a Qualified Hedge Provider or by means of a termination of such disqualified Hedging Bank’s Hedging Agreement and replacement thereof by a Hedging Agreement with a Qualified Hedge Provider on terms and conditions that satisfy the requirements of this Section 16(o); provided, that if the disqualified Hedging Bank’s highest credit rating from any Nationally Recognized Rating Agency is less than ‘A-’, ‘A3’ or the equivalent, clause (A) shall not apply and the Borrower shall be required to cause such disqualified Hedging Bank to be replaced by a Qualified Hedge Provider pursuant to clause (B).

(p) Replacement Consultants. The Borrower shall provide to the TIFIA Lender written notice of the Borrower's intent to select any replacement General Engineering Consultant or Traffic Consultant, together with the name and a summary of the relevant experience and qualifications of the proposed replacement.

(q) Events of Loss; Loss Proceeds.

(i) If an Event of Loss shall occur with respect to the Project, the System or any part of the foregoing, the Borrower shall (A) diligently pursue all of its rights to compensation against all relevant insurers, reinsurers and Governmental Authorities, as applicable, in respect of such event and (B) pay or apply all Loss Proceeds stemming from such event in accordance with Section 16(q)(ii) and, to the extent applicable, Section 10(a)(ii).

(ii) The Borrower shall cause the relevant insurers, reinsurers and Governmental Authorities, as applicable, to pay all Loss Proceeds directly to the Trustee as loss payee and, if paid to the Borrower, shall be received in trust and for the benefit of the Trustee segregated from other funds of the Borrower, and shall be paid over to the Trustee in the same form as received (with any necessary endorsement). To the extent the Borrower has not applied or entered into contractual commitments to apply Loss Proceeds within eighteen (18) months of receipt thereof, such Loss Proceeds shall be considered Net Loss Proceeds and the Borrower shall deposit, or cause the Trustee to deposit, such Loss Proceeds to the Revenue Fund and shall make a mandatory prepayment of the Outstanding TIFIA Loan Balance pursuant to Section 10(a)(ii) with the amount of such Loss Proceeds remaining available after payment of all amounts at level Seventh of the cash flow waterfall set forth in Section 505 of the Indenture. If Net Loss Proceeds remain after application of Loss Proceeds in accordance with this Section 16(q)(ii) and pursuant to Section 519(g) of the Indenture, the Borrower shall deposit, or cause the Trustee to deposit, such Loss Proceeds to the Revenue Fund and shall make a mandatory prepayment of the Outstanding TIFIA Loan Balance pursuant to Section 10(a)(ii) with the amount of such Loss Proceeds remaining available after payment of all amounts at level Seventh of the cash flow waterfall set forth in Section 505 of the Indenture.

(r) Immunity. If and to the extent the Borrower hereafter expressly and validly waives or is determined by a final non-appealable judgment of a court of competent jurisdiction to have waived sovereign or governmental immunity from suit or from liability, the TIFIA Lender shall, to the extent of the scope of such waiver, be entitled to the full benefits of such waiver as to the matters for which immunity has been waived, as though such waiver were expressly set forth in this Agreement.

(s) Patriot Act. If the anti-money laundering provisions of the Patriot Act become applicable to the Borrower, then the Borrower will provide written notice to the TIFIA Lender of the same and will promptly establish an anti-money laundering compliance program that complies with all requirements of the Patriot Act.

(t) Cargo Preference Act. Pursuant to 46 C.F.R. Part 381, the Borrower hereby agrees as follows, and shall insert the following clauses in contracts entered into by the Borrower

pursuant to which equipment, materials or commodities may be transported by ocean vessel in carrying out the Project:

(i) At least fifty percent (50%) of any equipment, materials or commodities procured, contracted for or otherwise obtained with TIFIA Loan proceeds, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available.

(ii) Within twenty (20) days following the date of loading for shipments originating within the United States or within thirty (30) Business Days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (i) above shall be furnished to both the TIFIA Lender and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

(u) Lobbying. The Borrower shall comply with all applicable certification, declaration and/or disclosure requirements under 49 C.F.R. Part 20.

(v) Reporting Subawards and Executive Compensation. To the extent applicable, the Borrower shall comply, and shall require each subrecipient to comply, with the reporting requirements set forth in **Exhibit P** hereto.

SECTION 17. Negative Covenants. The Borrower covenants and agrees to comply with the following covenants until the date the TIFIA Note and the obligations of the Borrower under this Agreement (other than contingent indemnity obligations) are irrevocably paid in full in immediately available funds, unless the TIFIA Lender waives compliance in writing:

(a) Indebtedness.

(i) Except for Permitted Debt, the Borrower shall not without the prior written consent of the TIFIA Lender issue or incur any indebtedness secured by the Trust Estate; provided, that following the occurrence, and during the continuation, of an Event of Default the Borrower shall not incur any indebtedness payable from or supported by the Trust Estate, including Permitted Debt, without the prior written consent of the TIFIA Lender.

(ii) The Borrower shall not issue Additional Subordinate Lien Obligations or Additional Other Obligations that require (A) the payment of interest on such Additional Subordinate Lien Obligations or Additional Other Obligations, as applicable, prior to the Debt Service Payment Commencement Date or (B) the commencement of amortization of the principal amount of such Additional Subordinate Lien Obligations or Additional Other Obligations, as applicable, prior to the commencement of amortization of the principal amount of the TIFIA Loan; provided, that the provisions of this Section 17(a)(ii) are not applicable to Additional Subordinate Lien Obligations or Additional Other Obligations issued to refinance Subordinate Lien Obligations or Other Obligations, respectively, if Annual Debt Service in respect of Subordinate Lien Obligations or Other Obligations, respectively, after the incurrence of

such Additional Subordinate Lien Obligations or Additional Other Obligations, in each year of the remaining term of the TIFIA Loan, is projected to be equal to or less than the Annual Debt Service in respect of Subordinate Lien Obligations or Other Obligations, respectively, for each such year in the Base Case Financial Model or the most recent Revised Financial Model, as applicable.

(iii) Prior to the incurrence of Permitted Debt described in clauses (c), (d), (e), (f), (g), (i), (l) and (m) of the definition thereof, the Borrower shall provide to the TIFIA Lender a certificate signed by the Borrower's Authorized Representative, demonstrating to the TIFIA Lender's satisfaction that such proposed indebtedness is authorized pursuant to this Section 17(a) and satisfies the applicable requirements under the definitions of "Permitted Debt" and "Additional Senior Obligations," as applicable.

(iv) To the extent any Permitted Debt consists of Put Bonds, the Borrower must maintain a Credit Facility that will pay any amounts payable by the Borrower in respect of such Put Bonds; provided, that no Credit Facility shall be required for Soft Put Bonds. No Qualified Hedge shall be required for Soft Put Bonds.

(v) Commercial paper indebtedness may be issued or incurred by the Borrower only if each of the following requirements is satisfied: (A) each tranche of such commercial paper indebtedness has a maturity date that is no longer than two hundred seventy (270) days from the date of issuance or incurrence thereof; (B) the aggregate outstanding amount of all commercial paper indebtedness of the Borrower does not (and will not, following the issuance of any such commercial paper indebtedness) exceed \$50,000,000; (C) such commercial paper indebtedness is issued as Junior Lien Obligations or Subordinate Lien Obligations (and in no event is or becomes a Senior Lien Obligation); and (D) such commercial paper indebtedness is supported by a letter of credit or cash collateral in an amount sufficient at any time to repay in full the aggregate outstanding amount of such commercial paper indebtedness and the interest accrued thereon. In addition to the foregoing, commercial paper indebtedness may be issued by the Borrower only if the credit rating of the TIFIA Loan at the time of the issuance or incurrence of such commercial paper indebtedness (and immediately following the issuance or incurrence of such commercial paper indebtedness) is and shall not be lower than an Investment Grade Rating from each Nationally Recognized Rating Agency that most recently provided a rating on the TIFIA Loan. If the credit rating of the TIFIA Loan from any Nationally Recognized Rating Agency falls below an Investment Grade Rating at any time following the issuance or incurrence of commercial paper indebtedness by the Borrower, the Borrower shall only be permitted to issue or incur new commercial paper indebtedness for the purpose of rolling over or refinancing any then outstanding commercial paper indebtedness (and for no other purpose) and the principal amount of such new commercial paper indebtedness shall not exceed the amount of the commercial paper indebtedness that is being refinanced.

(b) No Lien Extinguishment or Adverse Amendments. The Borrower shall not, and shall not permit any Person to, without the prior written consent of the TIFIA Lender, either (i) extinguish or impair the Liens on the Trust Estate granted pursuant to the Indenture Documents, (ii) amend, modify, replace or supplement any Related Document or the Project Development

Agreement in a manner that could adversely affect the TIFIA Lender (in the TIFIA Lender's reasonable determination) in connection with the TIFIA Loan, (iii) waive or permit a waiver of any provision of any Related Document or the Project Development Agreement in a manner that could adversely affect the TIFIA Lender (in the TIFIA Lender's reasonable determination) in connection with the TIFIA Loan or (iv) terminate, assign, amend or modify, or waive timely performance by any party of material covenants under any Principal Project Contract, the Project Development Agreement, the Maintenance Contract or the Toll System Contracts, except in each case for termination, assignment, amendment, modification or waiver that could not reasonably be expected to have a Material Adverse Effect (in the TIFIA Lender's reasonable determination).

(c) No Prohibited Liens. Except for Permitted Liens, the Borrower shall not create, incur, assume or permit to exist any Lien on the Project, the System, the Revenues, the Trust Estate or the Borrower's respective rights therein. The Borrower shall not collaterally assign any of its rights under or pursuant to any Principal Project Contract, any Additional Project Contract subject to TIFIA Lender consent pursuant to Section 17(e), any Maintenance Contract, the Toll System Contracts, or the Project Development Agreement and shall not permit a Lien to encumber the Borrower's rights or privileges under any such contract, unless pursuant to the Indenture Documents in favor of the Trustee on behalf of the Secured Parties.

(d) Supplemental Security. At any time while the TIFIA Loan remains outstanding, the Borrower shall not grant Supplemental Security of the type described in clause (b) of the definition of Supplemental Security to any Obligations the proceeds of which will be applied, in whole or in part, to the payment of Total Project Costs. At any time while the TIFIA Loan remains outstanding, the Borrower shall not grant Supplemental Security of the type described in clause (b) of the definition of Supplemental Security to any Additional Senior Obligations unless such Supplemental Security is granted to all Senior Obligations then outstanding (including the TIFIA Note upon the occurrence of an event of default under Section 801(d) of the Indenture) on a ratable basis.

(e) Additional Project Contracts. The Borrower shall not, without the prior written consent of the TIFIA Lender, (i) enter into any Additional Project Contract (or series of related contracts) that commits the Borrower to spend, or is reasonably expected to involve expenditures by the Borrower of, more than \$10,000,000, or (ii) enter into any Additional Project Contract (or series of related contracts) that commits the Borrower to spend, or is reasonably expected to involve expenditures by the Borrower of, amounts that either: (A) exceed \$5,000,000 in any Borrower Fiscal Year, unless such Additional Project Contract is accounted for in the Financial Plan most recently submitted to the TIFIA Lender and the amount committed for (or reasonably expected to be spent on) such Additional Project Contract in any Borrower Fiscal Year does not exceed the amounts reflected in such Financial Plan; or (B), alone or when aggregated with other Total Project Costs in the same line item of the applicable budget set forth in the Financial Plan most recently submitted to the TIFIA Lender, would cause aggregate Total Project Costs for such line item in any Borrower Fiscal Year to exceed the amounts for such line item for any Borrower Fiscal Year reflected in the budget in the Financial Plan most recently submitted to the TIFIA Lender.

(f) No Prohibited Sale, Lease or Assignment. The Borrower shall not sell, lease or assign its rights in and to the Project or the System, a substantial portion of the assets included



in the Project or the System, or its rights and obligations under any Related Document, any Additional Project Contract subject to TIFIA Lender consent pursuant to Section 17(e), any Maintenance Contract, any Toll System Contract, or the Project Development Agreement, in each case unless such sale, lease or assignment (i) could not reasonably be expected to result in a Material Adverse Effect and (ii) is made by the Borrower in the ordinary course of business.

(g) Transactions with other Governmental Authorities. Except for the transactions expressly contemplated in the Project Development Agreement and in the other Related Documents, the Borrower shall not (i) sell, lease or transfer its rights in and to any property or assets constituting part of the Project or the System to any other Person, (ii) purchase or acquire any property or assets of any other Governmental Authority, or (iii) otherwise engage in any transactions with any other Governmental Authority that (in each case of clauses (i), (ii) or (iii)) could reasonably be expected to result in a Material Adverse Effect.

(h) Organizational Documents; Borrower Fiscal Year. The Borrower shall not at any time (i) amend or modify its Organizational Documents (other than any amendment or modification that is of a ministerial nature and that is not adverse to the interests of any Secured Party under the Indenture Documents or in the Trust Estate) without the prior written consent of the TIFIA Lender or (ii) adopt any fiscal year other than the Borrower Fiscal Year, except with thirty (30) days' prior written notice to the TIFIA Lender.

(i) No Prohibited Business. The Borrower will not at any time engage in any business or activity other than the design, construction, operation and maintenance of the System (including the Project) and activities and purposes authorized by the Constitution and laws of the State, including, particularly Chapter 370 of the Texas Transportation Code, as the same may be amended and supplemented from time to time.

(j) No Payment with Federal Funds. The Borrower shall not pay any portion of TIFIA Debt Service nor any other amount to the TIFIA Lender or the Government pursuant to the TIFIA Loan Documents with funds received directly or indirectly from the Government; provided, however, that the Borrower may prepay the TIFIA Loan in whole or in part with the proceeds of a validly issued Federal credit instrument pursuant to, and in accordance with, Section 10.

(k) Change in Legal Structure; Mergers and Acquisitions. The Borrower shall not, and shall not agree to, (i) acquire by purchase or otherwise the business, property or fixed assets of, or equity interests or other evidence of beneficial ownership interests in, any Person, other than purchases or other acquisitions of inventory or materials or spare parts or Capital Expenditures, each in the ordinary course of business in compliance with the annual budget set forth in the Financial Plan most recently submitted to the TIFIA Lender; or (ii) reorganize, consolidate with or merge into another Person unless (A) such merger or consolidation is with or into another entity established and Controlled by the State, and in each case, including reorganization, does not adversely affect or impair to any extent or in any manner (1) the Revenues or the other elements of the Trust Estate, or (2) the availability of the Revenues for the payment and security of the obligations of the Borrower under this Agreement, and (B) the Borrower provides to the TIFIA Lender, no later than sixty (60) days prior to the date of reorganization, consolidation or merger, prior written notice of such reorganization, consolidation or merger and

the agreements and documents authorizing the reorganization, consolidation or merger, satisfactory in form and substance to the TIFIA Lender. The documents authorizing any reorganization, consolidation or merger shall contain a provision, satisfactory in form and substance to the TIFIA Lender, that, following such reorganization, consolidation or merger, the successor will assume, by operation of law or otherwise, the due and punctual performance and observance of all of the covenants, representations, warranties, agreements and conditions of this Agreement, the other Related Documents to which the Borrower is a party, and the Project Development Agreement. In addition, the Borrower shall provide any and all information concerning such reorganization, consolidation or merger as shall have been reasonably requested by the TIFIA Lender.

(l) No Defeasance. The Borrower shall not defease the TIFIA Loan without the prior written consent of the TIFIA Lender.

(m) OFAC Compliance. The Borrower:

(i) shall not violate (A) any applicable Anti-Money Laundering Laws, (B) any applicable Sanctions, (C) Anti-Corruption Laws or (D) any applicable anti-drug trafficking or anti-terrorism laws, civil or criminal;

(ii) shall not use the proceeds of the TIFIA Loan for purposes other than those permitted by applicable law and as otherwise permitted under this Agreement and the other Related Documents;

(iii) shall ensure that each of its directors, officers, employees, and agents, shall not, directly or indirectly, use the proceeds of the TIFIA Loan or lend to, make any payment to, contribute or otherwise make available any funds to any Affiliate, joint venture partner or other Person (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any applicable Anti-Corruption Laws, (B) in any manner that would result in the violation of any applicable Anti-Money Laundering Laws, (C) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or (D) in any other manner that would result in the violation of any Sanctions by any Person (including the Executive Director, the TIFIA Lender or any Principal Project Party); or

(iv) shall not make a payment, directly or indirectly, to any Principal Project Party that has violated any of the laws referenced in Section 17(m)(i) (OFAC Compliance) or that is a Sanctioned Person.

(n) Hedging. Other than interest rate hedging transactions expressly permitted hereunder or approved in writing by the TIFIA Lender, the Borrower shall not enter into any swap or hedging transaction, including inflation indexed swap transactions, “cap” or “collar” transactions, futures, or any other hedging transaction without the prior written consent of the TIFIA Lender.

(o) Non-System Projects. The Borrower shall not cause a project that is a Non-System Project to become part of the System unless each of the following conditions are satisfied

and the Borrower delivers to the TIFIA Lender a certificate, executed by the Borrower's Authorized Representative, that demonstrates to the TIFIA Lender's satisfaction that each of these conditions has been satisfied with respect to such Non-System Project: (i) the board of directors of the Borrower has authorized the inclusion of the project in the System in accordance with all applicable laws and organizational documents; (ii) the project is included in CAMPO's then current long range transportation plan; (iii) the Borrower has delivered to the TIFIA Lender a traffic and revenue study prepared by the Traffic Consultant and acceptable to the TIFIA Lender that demonstrates that the project is either (A) a toll project that on its own is expected to produce consistently positive Net Cash Flow (assuming, solely for purposes of such calculation of Net Cash Flow, that the project constitutes the System) no later than five (5) years after such project is opened to vehicular traffic or (B) a non-toll project that on its own is expected to increase traffic on tolled portions of the System by amounts that are reasonably expected to produce incremental Revenues that consistently exceed the Operating Expenses and Maintenance Expenses payable with respect to such non-toll project by no later than five (5) years after such project is opened to vehicular traffic; (iv) the Borrower's inclusion of the project in the System complies with all applicable requirements of, and does not result in a breach or violation under, the Indenture Documents; and (v) pursuant to and in accordance with the Indenture Documents, the Borrower has established an account for the project under the Renewal and Replacement Fund, has funded such account (to the extent necessary) and has committed to fund such account with the amounts recommended from time to time by the General Engineering Consultant (in a written report, a copy of which the Borrower has provided to the TIFIA Lender), and the Borrower has committed to depositing available funds to maintain such recommended amount on deposit in such account pursuant to Indenture Documents (copies of which have been delivered to the TIFIA Lender).

SECTION 18. Indemnification. To the full extent permitted by State law, the Borrower shall indemnify the TIFIA Lender and any official, employee, agent or representative of the TIFIA 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 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 (a) the execution, delivery and performance of this Agreement, any of the other Related Documents, (b) the TIFIA Loan or the use of the proceeds thereof, or (c) 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 or the System; provided, that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and non-appealable 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 shall be entitled, at its expense, to participate in the defense thereof; provided, that such Indemnitee has the right to retain its own counsel, at the Borrower's expense, and such participation by the Borrower in the defense thereof shall not release the Borrower of any liability that it may have to such Indemnitee. Any Indemnitee against whom any indemnity claim contemplated in this Section 18 is made shall be entitled, after consultation with the Borrower and upon consultation with legal counsel wherein such Indemnitee

is advised that such indemnity claim is meritorious, to compromise or settle any such indemnity claim. Any such compromise or settlement shall be binding upon the Borrower for purposes of this Section 18. 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 (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any of the other Related Documents, the TIFIA 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 at the same level as provided for payments of TIFIA Debt Service pursuant to the cash flow waterfall in Section 505 of the Indenture and shall be payable solely from the Trust Estate, including the Revenues. The obligations of the Borrower under this Section 18 shall survive the payment or prepayment in full or transfer of the TIFIA Loan, the enforcement of any provision of this Agreement or the other Related Documents, any amendments, waivers (other than amendments or waivers in writing with respect to this Section 18) 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 TIFIA Loan. The TIFIA Lender shall not sell the TIFIA Loan at any time prior to the Substantial Completion Date. After such date, the TIFIA Lender may sell the TIFIA Loan to another entity or reoffer the TIFIA Loan into the capital markets only in accordance with the provisions of this Section 19. Such sale or reoffering shall be on such terms as the TIFIA Lender shall deem advisable. However, in making such sale or reoffering the TIFIA Lender shall not change the terms and conditions of the TIFIA Loan without the prior written consent of the Borrower. The TIFIA Lender shall provide at least sixty (60) days' prior written notice to the Borrower of the TIFIA Lender's intention to consummate such a sale or reoffering; provided, however, that no such notice shall be required during the continuation of any Event of Default. The provision of any notice pursuant to this Section 19 shall not (x) obligate the TIFIA Lender to sell, nor (y) provide the Borrower with any rights or remedies in the event the TIFIA Lender, for any reason, does not sell the TIFIA Loan. The TIFIA Lender and the Borrower agree that for so long as any Senior Obligations or Hedging Agreements remain outstanding, the provisions contained in Section 8(a) hereof and in the Indenture Documents with respect to the TIFIA Lender's right to a first priority security interest in the Trust Estate upon the occurrence of an event of default under Section 801(d) of the Indenture shall be of no force or effect with respect to any portion of the TIFIA Loan that is sold or assigned to a commercial entity. However, should an assignment or sale be made to a federal government agency or instrumentality, the federal government shall retain the right to a first priority security interest in the Trust Estate upon the occurrence of an event of default under Section 801(d) of the Indenture.

SECTION 20. Events of Default and Remedies.

(a) An "**Event of Default**" shall exist under this Agreement if any of the following occurs:

(i) Payment Default. The Borrower shall fail to pay any of the principal amount of or interest on the TIFIA Loan (including TIFIA Debt Service required to have been paid pursuant to the provisions of Section 9, and any mandatory prepayment required

pursuant to the provisions of Section 10(a)), when and as the payment thereof shall be required under this Agreement or the TIFIA Loan or on the Final Maturity Date (each such failure, a “**Payment Default**”).

(ii) Covenant Default. The Borrower shall fail to observe or perform any covenant, agreement or obligation of the Borrower under this Agreement (including any payment of fees or other amounts (other than principal and interest) payable hereunder) or other TIFIA Loan Documents (other than in the case of any Payment Default or any Development Default), and such failure shall not be cured within thirty (30) days after the earlier to occur of (A) receipt by the Borrower from the TIFIA Lender of written notice thereof, (B) the Borrower’s knowledge of such failure or (C) with respect to any non-payment of fees or amounts described above in this clause (ii), the date on which any such fees or amounts became due and payable; provided, however, that if such failure is capable of cure but cannot reasonably be cured within such thirty (30) day cure period, then no Event of Default shall be deemed to have occurred or be continuing under this clause (ii) and such thirty (30) day cure period shall be extended by up to one hundred fifty (150) additional days, if and so long as (x) within such thirty (30) day cure period, the Borrower shall commence actions reasonably designed to cure such failure and shall diligently pursue such actions until such failure is cured, and (y) such failure is cured within one hundred eighty (180) days of the date specified in either (A) or (B) above, as applicable; provided, further that no extension of the thirty (30) day cure period shall be permitted for any failure to pay any fee or other amount (excluding principal and interest) payable hereunder.

(iii) Development Default. A Development Default shall occur and such Development Default shall not be cured within thirty (30) days thereafter; provided, that no Event of Default shall be deemed to have occurred and be continuing by reason of a Development Default pursuant to clause (a) of the definition thereof, if and so long as within such thirty (30)-day period, the Borrower demonstrates to the TIFIA Lender’s reasonable satisfaction (which demonstration shall include certification by the General Engineering Consultant) that (A) the Borrower is proceeding with the construction of the Project with due diligence and will achieve Substantial Completion by the Projected Substantial Completion Date and (B) the Borrower has sufficient funds to pay all construction costs under the Construction Contract and Project Development Agreement, and all debt service and other amounts in respect of its indebtedness as originally scheduled under the Indenture Documents (including all TIFIA Debt Service). If a Development Default shall occur and is not cured, to the extent provided in the preceding sentence, TIFIA Lender may (x) suspend the disbursement of TIFIA Loan proceeds under this Agreement and (y) pursue such other remedies as provided in this Section 20. If so requested by the TIFIA Lender in connection with a Development Default that constitutes an Event of Default, the Borrower shall immediately repay any unexpended TIFIA Loan proceeds previously disbursed to the Borrower.

(iv) Misrepresentation Default. Any of the representations, warranties or certifications of the Borrower made in or delivered pursuant to this Agreement or the other TIFIA Loan Documents (or in any certificates delivered by the Borrower in connection with the foregoing) shall prove to have been false or misleading in any material respect when made or deemed made (or any representation and warranty that is subject to

a materiality qualifier shall prove to have been false or misleading in any respect); provided, that no Event of Default shall be deemed to have occurred under this clause (iv) if and so long as (A) such misrepresentation is not intentional, (B) such misrepresentation is not a misrepresentation in respect of Section 14(h), Section 14(j), Section 14(k), Section 14(q), Section 14(dd) or Section 14(ee), (C) in the reasonable determination of the TIFIA Lender, such misrepresentation has not had, and would not reasonably be expected to result in, a Material Adverse Effect, (D) in the reasonable determination of the TIFIA Lender, the facts, events or circumstances resulting in such misrepresentation are capable of being cured, (E) the facts, events or circumstances resulting in such misrepresentation are cured by the Borrower within thirty (30) days from the date on which the Borrower first became aware (or reasonably should have become aware) of such misrepresentation, and (F) the Borrower diligently pursues such cure during such thirty (30) day period.

(v) Acceleration of Obligations. Payment of the principal amount of any Senior Obligations, Subordinate Lien Obligation (other than the TIFIA Loan), Other Obligations or other Obligations shall be accelerated due to a breach or default under the Indenture Documents relating such Obligations, in which event the Outstanding TIFIA Loan Balance (in its entirety), together with all interest accrued thereon and all fees, costs, expenses, indemnities (subject to and in accordance with Section 18) and other amounts payable under this Agreement, the TIFIA Note or the other TIFIA Loan Documents shall automatically become immediately due and payable, without presentment, demand, notice, declaration, protest or other requirements of any kind, all of which are hereby expressly waived. The Parties acknowledge that as of the Effective Date acceleration is not a remedy allowed under the Indenture.

(vi) Cross Default.

(A) Any payment default shall occur under the Indenture Documents in respect of any Obligations, any breach of the representations, warranties or certifications of the Borrower made in or delivered pursuant to the Indenture Documents shall occur, or any default shall occur in respect of the performance of any covenant, agreement or obligation of the Borrower under the Indenture Documents and such breach or default shall be continuing and unwaived after the giving of any applicable notice and the expiration of any applicable grace period specified in the Indenture Documents.

(B) The Borrower shall default in the timely performance of any covenant, agreement or obligation under any Principal Project Contract or the Project Development Agreement or any such Principal Project Contract or the Project Development Agreement shall be terminated prior to its scheduled expiration (unless in any case such default or termination could not 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 or revocation thereof prior to the expiration of the applicable grace period specified in any such Principal Project Contract or in the Project Development Agreement, or to obtain an effective revocation of such termination (as the case may be); provided, however, that no Event of Default shall be deemed to have occurred or be continuing under Section 20(a)(vi)(B) if:

(1) in the case of any termination of a Principal Project Contract, the Borrower replaces such Principal Project Contract with a replacement agreement (x) entered into with another counterparty that (I) is of similar or greater creditworthiness and experience as the counterparty being replaced was at the time the applicable Principal Project Contract was originally executed (or otherwise reasonably acceptable to the TIFIA Lender), (II) is not, at the time of such replacement, suspended or debarred or subject to a proceeding to suspend or debar from bidding, proposing or contracting with any federal or state department or agency, and (III) is not, at the time of such replacement, in violation of any applicable laws referenced in Section 14(q), and is in compliance with all applicable laws referenced in Section 14(r) and Section 14(s), (y) on substantially the same terms and conditions as the Principal Project Contract being replaced (or otherwise reasonably acceptable to the TIFIA Lender) and (z) effective as of the date of termination of the Principal Project Contract being replaced; or

(2) in the case of the Project Development Agreement, the Borrower has demonstrated to the TIFIA Lender's satisfaction that (x) the Borrower has obtained all of the rights and benefits contemplated under the Project Development Agreement by means of alternate arrangements that are binding in favor of the Borrower prior to the expiration the Project Development Agreement and (y) the Borrower has sufficient funds to pay for all incremental costs that otherwise were payable by TxDOT and to maintain compliance with the Rate Coverage Test.

(vii) Judgments. One or more judgments (A) for the payment of money in an aggregate amount in excess of \$5,000,000 (inflated annually by CPI) that are payable from Revenues and are not otherwise fully covered by insurance for which the insurer has acknowledged and not disputed coverage or (B) that would reasonably be expected to result in a Material Adverse Effect shall, in either case, be rendered against the Borrower, and the same shall remain undischarged for a period of thirty (30) consecutive days during which time period 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.

(viii) Failure to Maintain Existence. The Borrower shall fail to maintain its existence as a body politic and corporate and a political subdivision of the State, unless at or prior to the time the Borrower ceases to exist in such form a successor public agency or governing body has been created by the State pursuant to a valid and unchallenged State law and has succeeded to the assets of the Borrower and has assumed all of the obligations of the Borrower under the TIFIA Loan Documents and the Indenture Documents, including the payment of all Secured Obligations.

(ix) Occurrence of a TIFIA Bankruptcy Related Event.

(A) A TIFIA Bankruptcy Related Event shall occur with respect to the Borrower, or

(B) A TIFIA Bankruptcy Related Event shall occur with respect to any Principal Project Party, any letter of credit issuer with respect to any Principal Project Party's obligations under any Principal Project Contract, or TxDOT; provided, that no Event of Default shall be deemed to have occurred or be continuing under this clause (B) if:

(1) with respect to a TIFIA Bankruptcy Related Event of any letter of credit issuer, such letter of credit issuer is replaced by a new issuer that is a Qualified Issuer within thirty (30) days after the occurrence of such TIFIA Bankruptcy Related Event;

(2) with respect to a TIFIA Bankruptcy Related Event of a Principal Project Party, such Principal Project Party is replaced within one hundred twenty (120) days after the occurrence of such TIFIA Bankruptcy Related Event by a new Principal Project Party that (I) possesses similar or greater creditworthiness (including credit support), (II) possesses similar or greater technical capability and relevant experience as the counterparty being replaced, considered as of the time the applicable Principal Project Contract was executed, as certified by the General Engineering Consultant (or otherwise reasonably acceptable to the TIFIA Lender), (III) is not, at the time of such replacement, suspended or debarred or subject to a proceeding to suspend or debar from bidding, proposing or contracting with any federal or state department or agency, and (IV) is bound under a contract containing substantially the same terms and conditions as the Principal Project Contract being replaced (or otherwise reasonably acceptable to the TIFIA Lender);

(3) with respect to TxDOT, the Borrower has demonstrated to the TIFIA Lender's satisfaction that (x) the Borrower has (i) obtained all of the rights and benefits contemplated under the Project Development Agreement by means of alternate arrangements that are binding in favor of the Borrower within thirty (30) days after the occurrence of such TIFIA Bankruptcy Related Event or (ii) provided to the TIFIA Lender evidence that is satisfactory to the TIFIA Lender in its sole discretion that TxDOT will be able to continue to perform all of its obligations (including all payment and funding obligations) at all times required under the Project Development Agreement notwithstanding the occurrence of such TIFIA Bankruptcy Related Event and (y) the Borrower has sufficient funds to pay for all incremental costs that otherwise were payable by TxDOT and to maintain compliance with the Rate Coverage Test.

(x) Project Abandonment. The Borrower shall abandon the Project.

(xi) Invalidity of TIFIA Loan Documents. (A) Any TIFIA Loan Document ceases to be in full force and effect (other than as a result of the termination thereof in accordance with its terms) or becomes void, voidable by the Borrower, illegal or unenforceable, or the Borrower contests in any manner the validity or enforceability of any TIFIA Loan Document or denies it has any further liability under any TIFIA Loan Document, or purports to revoke, terminate or rescind any TIFIA Loan Document, or (B)



any Indenture Document ceases (other than as expressly permitted thereunder) to be effective or to grant a valid and binding security interest on any material portion of the Trust Estate other than as a result of actions or a failure to act by and within the control of the Trustee or any Secured Party, and with the priority purported to be created thereby.

(xii) Cessation of Operations. Operation of the Project or of a material portion of the System shall cease for a continuous period of not less than one hundred eighty (180) days unless such cessation of operations shall occur by reason of an Uncontrollable Force that is not due to the fault of the Borrower (and which the Borrower could not reasonably have avoided or mitigated) and the Borrower shall either be self-insured in an amount sufficient to cover, or shall have in force an insurance policy or policies under which the Borrower is entitled to recover amounts sufficient to pay (and may use such amounts to pay) all Annual Debt Service in respect of all Obligations (including all TIFIA Debt Service) and all costs and expenses of the Borrower during such cessation of operations.

(b) Upon the occurrence of a Development Default that is not cured as provided in Section 20(a)(iii), all obligations of the TIFIA Lender hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan shall immediately be suspended. Upon the occurrence of an Event of Default described in Section 20(a)(iii), all obligations of the TIFIA Lender hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan shall immediately be deemed terminated.

(c) (i) Upon the occurrence of any TIFIA Bankruptcy Related Event with respect to the Borrower, all obligations of the TIFIA Lender hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan shall automatically be deemed terminated.

(ii) Upon the occurrence of any other Event of Default, the TIFIA Lender, by written notice to the Borrower, may suspend or terminate all of its obligations hereunder with respect to the disbursement of any undisbursed amounts of the TIFIA Loan.

(d) Whenever any Event of Default hereunder shall have occurred and be continuing, the TIFIA 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 TIFIA Note or the other TIFIA Loan Documents, and may prosecute any such judgment or final decree against the Borrower and collect in the manner provided by law out of the Trust Estate the moneys adjudged or decreed to be payable, and the TIFIA Lender shall have all of the rights and remedies of a creditor, including all rights and remedies of a secured creditor under the Uniform Commercial Code, and may take such other actions at law or in equity as may appear necessary or desirable to collect all amounts payable by Borrower under this Agreement, the TIFIA Note or the other TIFIA Loan Documents then due or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement or, in accordance with the Indenture, the TIFIA Note or the other TIFIA Loan Documents; provided, however, that notwithstanding the foregoing, the TIFIA Lender may not pursue any remedies in respect of an Event of Default that constitutes an event of default under the Indenture in a manner that is inconsistent with the requirements of the Indenture Documents.

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

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

**SECTION 21. Accounting and Audit Procedures; Inspections; Reports and Records.**

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

(b) So long as the TIFIA Loan or any portion thereof shall remain outstanding and until five (5) years after the TIFIA Loan shall have been paid in full, the TIFIA Lender shall have the right, upon reasonable prior notice, to visit and inspect any of the locations or properties of the Borrower, to examine its books of account and records, to make copies and extracts therefrom at the Borrower's expense, and to discuss the Borrower's affairs, finances and accounts with, and to be advised as to the same by, its officers and employees and its independent public accountants (and by this provision the Borrower irrevocably authorizes its independent public accountants to discuss with the TIFIA Lender the affairs, finances and accounts of the Borrower, whether or not any representative of the Borrower is present, it being understood that nothing contained in this Section 21(b) is intended to confer any right to exclude any such representative from such discussions), all at such reasonable times and intervals as the TIFIA Lender may desire. The Borrower agrees to pay all out-of-pocket expenses incurred by the TIFIA Lender in connection with the TIFIA Lender's exercise of its rights under this Section 21(b) at any time when an Event of Default shall have occurred and be continuing; provided, that such payments shall be made solely from the Trust Estate, including the Revenues.

(c) The Borrower shall maintain and retain all files relating to the Project, the System, the Revenues and the TIFIA Note until five (5) years after the later of the date on which (i) all rights and duties hereunder and under the TIFIA Note (including payments) have been fulfilled and any required audits have been performed, and (ii) any litigation relating to the Project, the System, the Revenues, the TIFIA Note or this Agreement is finally resolved or, if the TIFIA Lender has reasonable cause to extend such date, a date to be mutually agreed upon by the TIFIA Lender and the Borrower. The Borrower shall provide to the TIFIA Lender in a timely manner all records and documentation relating to the Project, the System or the Revenues that the TIFIA Lender may reasonably request from time to time.

(d) The Borrower shall provide to the TIFIA Lender, promptly after the sending or receipt thereof, copies of (i) final ratings presentations sent to, and any notices, reports or other written materials (other than those that are ministerial in nature) received from, any Nationally Recognized Rating Agency that has provided, or is being requested to provide, a rating with respect to the System or any indebtedness of the Borrower that is or will be secured by or paid from the Revenues, (ii) all notices and other written communications, other than those that are non-substantive or ministerial in nature, received by it from the Trustee or any Noteholder in connection with the Indenture Documents, and (iii) all reports, notices and other written materials, other than those that are non-substantive or ministerial in nature, required to be sent to the Trustee or any Noteholder under the Indenture Documents, including all such notices, other than those that are non-substantive or ministerial in nature, relating to any of the Principal Project Contracts or the Project Development Agreement; unless, in each case, the TIFIA Lender notifies the Borrower that any such reports, notices and/or other written materials no longer need to be provided.

(e) The Borrower shall have a single or program-specific audit conducted in accordance with 2 C.F.R. § 200 Subpart F and 31 U.S.C. § 7502 in [2021] and annually thereafter, except to the extent biennial audits are permitted for the Borrower pursuant to 2 C.F.R § 200.504 and 31 U.S.C. § 7502(b). Upon reasonable notice, the Borrower shall cooperate fully in the conduct of any periodic or compliance audits conducted by the TIFIA Lender, the USDOT, or designees thereof, pursuant to 49 C.F.R. § 80.19, 31 U.S.C. § 7503(b), or 31 U.S.C. § 6503(h) and shall provide full access to any books, documents, papers or other records that are pertinent to the Project or the TIFIA Loan, to the Secretary, or the designee thereof, for any such project or programmatic audit.

## SECTION 22. Financial Plan, Statements, and Reports.

(a) Financial Plan. The Borrower shall provide a Financial Plan to the TIFIA Lender and the FHWA Division Office within sixty (60) days after the Effective Date and annually thereafter until the TIFIA Loan has been repaid in full, not later than ninety (90) days after the beginning of each Borrower Fiscal Year. The Financial Plan submitted within sixty (60) days after the Effective Date should be consistent in all respects with the projections, assumptions and other information contained or reflected in the Base Case Financial Model.

(i) The Financial Plan shall be unaudited and shall be prepared in accordance with GAAP and shall meet FHWA's Major Project Financial Plan requirements, as amended from time to time.

(ii) Together with each Financial Plan, the Borrower shall deliver (A) a certificate signed by the Borrower's Authorized Representative to the effect that the Financial Plan, including the assumptions and supporting documentation, is accurate and reasonable to the best of the Borrower's knowledge and belief and (B) an electronic copy of a Revised Financial Model for the period from the Effective Date through the Final Maturity Date, based upon assumptions and projections with respect to the System Revenues, expenses and other financial aspects of the System that shall reflect the prior experience and current status of the System, and the expectations of the Borrower with respect to the System, as of the most recent practicable date prior to the delivery of such Revised Financial Model.

(iii) Each Financial Plan shall:

(A) provide an updated cash flow statement showing for the Borrower Fiscal Year most recently ended, actual annual cash inflows (Revenues and other income), actual annual outflows (including all debt service, operating expenses, Capital Expenditures, replenishment of reserves and other uses of Revenues), the Senior Debt Service Coverage Ratio and Total Debt Service Coverage Ratio (in each case measured as of the last day of the applicable Borrower Fiscal Year) and coverages of the payments and deposits required pursuant to clauses *first* through *ninth* of Section 505 of the Indenture;

(B) provide an updated cash flow statement showing projected annual amounts for each of the items described in clause (A) above, in each case through the Final Maturity Date;

(C) report on variances during the prior Borrower Fiscal Year between the actual Operating Expenses, Maintenance Expenses and Major Maintenance Costs and the budgeted Operating Expenses, Maintenance Expenses and Major Maintenance Costs for such prior Borrower Fiscal Year;

(D) provide a schedule of then current Toll rates and rates applicable to any other category of Revenues, and any planned increases to any of the foregoing;

(E) to the extent that any Hedging Transactions are then in effect, report on the notional amounts and mark to market values (provided by the Qualified Hedge Provider) under such Hedging Transactions, in each case as of the last day of the most recently ended Borrower Fiscal Year; and

(F) provide a written narrative that (1) explains any material variances (defined as greater than 10%) in comparison to the Base Case Financial Model (or, as applicable, the most recent Revised Financial Model) and the most recent Financial Plan of (i) Revenues; (ii) cost items that are senior to debt service; (2) to the extent that any Hedging Transactions are then in effect, report on changes, if any, to the creditworthiness of the counterparties to such Hedging Transactions; (3) includes a description of any material matters that may affect the future performance of the Borrower's obligations under this Agreement and the causes thereof, including a summary of reports prepared by or on behalf of the Borrower relating to the Revenues, operational contracts, and third-party transactions; and (4) discusses contingency measures that will or may be taken to address any of the matters reported pursuant to this sub-clause (F).

(iv) In addition to the above, prior to the Substantial Completion Date, the Financial Plan shall:

(A) provide the current estimate of Total Project Costs and the remaining cost to complete the Project, identify any significant cost changes since the previous Financial Plan, discuss the reasons for and implications of the cost changes, and include a summary table showing the history of Total Project Costs by major activity or category in comparison to the Base Case Financial Model and the most recent Financial Plan;

(B) provide updates to the Construction Schedule, including major milestones for each phase of the Project, and compare current milestone dates with the milestone dates in the Construction Schedule and in the most recent Financial Plan, and discuss the reasons for any changes to the expected completion of these milestones;

(C) provide current estimates of sources and uses of funds for the Project, identify any significant funding changes since the preceding Financial Plan, discuss the reasons for and implications of such funding changes, and include a summary table showing the history of Project funding in comparison to the Base Case Financial Model and the preceding Financial Plan;

(D) provide the total value of approved changes in the Project's costs, and provide a listing of each individual change valued in excess of five percent (5%) of total forecasted Project costs reflected in the Project Budget, setting forth the rationale or need for such changes and describing the impact of such changes on the Project; and

(E) contain a written narrative executive summary of the topics described in clauses (A) through (D) above since the Effective Date and since the date of the information included in the most recent Financial Plan, describing in reasonable detail all material matters that may affect the future performance of the Borrower's obligations under this Agreement.

(b) Semi-Annual Coverage Certificates. Within sixty (60) days after each Calculation Date, the Borrower shall deliver to the TIFIA Lender a certificate in the form of **Exhibit O** and signed by the Borrower's Authorized Representative that (i) certifies that annual Projected Revenues shall be sufficient to meet the Loan Amortization Schedule and to meet the Borrower's Annual Debt Service obligations with respect to any other Obligations that are currently outstanding, including all debt service obligations pursuant to the Indenture, in each case as of each applicable payment date through the fifth (5<sup>th</sup>) anniversary of the immediately preceding Semi-Annual Payment Date, (ii) sets forth the historical Senior Debt Service Coverage Ratio and Total Debt Service Coverage Ratio for each of the two (2) consecutive Calculation Periods ended as of the immediately preceding Calculation Date, and as of the immediately preceding Calculation Date, respectively, and (iii) sets forth the projected Senior Debt Service Coverage Ratio and Total Debt Service Coverage Ratio as of each Calculation Date through the fifth (5<sup>th</sup>) anniversary of the immediately preceding Calculation Date.

(c) Financial Statements. The Borrower shall furnish to the TIFIA Lender:

(i) (A) as soon as available, but no later than sixty (60) days after the end of the first (1<sup>st</sup>), second (2<sup>nd</sup>) and third (3<sup>rd</sup>) quarterly period of each Borrower Fiscal Year, an unaudited income statement and balance sheet of the Borrower as of the end of such period and the related unaudited statements of operations and of cash flow of the Borrower 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 or any Borrower's Authorized Representative as fairly stating in all material respects the financial condition of the Borrower 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); and

(B) as soon as available, but no later than one hundred eighty (180) days after the end of each Borrower Fiscal Year, a copy of the audited statement of revenues, expenses and changes in net position and statement of net position of the Borrower as of the end of such fiscal year and the related audited statements of operations and cash flow of the Borrower for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, certified without a "going concern" or like qualification or exception, or qualification as to the scope of the audit, by an independent public accounting firm selected by the Borrower and which is reasonably acceptable to the TIFIA Lender.

(ii) All such financial statements shall be complete and correct in all material respects and shall be prepared in reasonable detail and in accordance with GAAP (or in the case of non-U.S. Persons, substantially equivalent principles) applied consistently throughout the periods reflected therein (except for changes approved or required by the independent public accountants certifying such statements and disclosed therein).

(d) Officer's Certificate. The Borrower shall furnish to the TIFIA Lender, together with each delivery of annual audited or interim unaudited financial statements of the Borrower pursuant to Section 22(c), a certificate signed by the chief executive officer or chief financial officer of the Borrower or any Borrower's Authorized Representative, stating whether or not, to their knowledge, during the quarterly or annual period (as the case may be) covered by such financial statements, there occurred any Event of Default or event that, with the giving of notice or the passage of time or both, would become an Event of Default, and, if any such Event of Default or other event shall have occurred during such period, the nature of such Event of Default or other event and the actions that the Borrower has taken or intends to take in respect thereof.

#### SECTION 23. Project Oversight and Monitoring.

(a) Project Development, Design and Construction. The TIFIA Lender shall have the right in its sole discretion to monitor (or direct its agents to monitor) the development, including environmental compliance, design, right-of-way acquisition, and construction of the Project. The Borrower agrees to cooperate in good faith with the TIFIA Lender in the conduct of such monitoring by promptly providing the TIFIA Lender with such reports, documentation or

other information as shall be requested by the TIFIA Lender, or its agents, including any General Engineering Consultant reports, documentation or information.

(b) Monthly Construction Progress Report. On or before the thirtieth (30<sup>th</sup>) day following the end of each calendar month during the Construction Period, the Borrower shall deliver to the TIFIA Lender a report (which may consist in whole or in part of reports received by Borrower from one or more of its contractors) that:

(i) specifies the amount of Total Project Costs expended since the Effective Date as well as during the preceding calendar month and the amount of Total Project Costs estimated to be required to complete the Project;

(ii) provides a revised Project Budget updated through the end of the preceding calendar month;

(iii) provides a demonstration that the Borrower has sufficient funds (including funds on hand and funds obtainable without undue delay or conditions that cannot reasonably be satisfied by the Borrower as and when such funds are needed) to complete the Project, taking into account any changes to the amount of Total Project Costs that are reflected in such monthly construction progress report (or prior monthly construction progress reports);

(iv) to the extent there has been any change (increase or decrease) to the Total Project Costs needed to achieve Substantial Completion since the most recent monthly construction progress report, provides a narrative description of such changes (specifying the amounts of such changes) and, in the case of any increase to the Total Project Costs, a narrative description of (A) which line items of the Project Budget have been affected by such cost increases (and the extent of any overruns with respect to such line items), (B) any material change orders granted or pending under the Construction Contract with respect to such cost increases, and (C) how the Borrower will pay for such increased Total Project Costs;

(v) provides (A) an assessment of the overall construction progress of the Project since the date of the last report and since the Effective Date, together with an assessment of how such progress compares to the Construction Schedule; and (B) to the extent there have been any events or occurrences (e.g., delayed equipment deliveries, permit delays, material change orders, etc.), that have had, or are anticipated to have, an adverse impact on the Construction Schedule and the meeting of critical dates thereunder, a detailed narrative description of steps being taken (or proposed to be taken) to address such adverse impacts on the Construction Schedule;

(vi) specifies the most recent update to the Projected Substantial Completion Date (which updated date shall be the Projected Substantial Completion Date for purposes of this Agreement) and provides a comparison of such date to the Projected Substantial Completion Date reflected (for informational purposes) in the Financial Plan most recently submitted to the TIFIA Lender; and

(vii) provides a discussion or analysis of such other matters related to the Project as the TIFIA Lender may reasonably request.

(c) Quarterly Traffic and Operating Report. Not later than ninety (90) days after the end of each fiscal quarter, the Borrower shall deliver to the TIFIA Lender a traffic and operating report, showing (A) the operating data for the System for the previous financial quarter, including total Revenues received and total Operating Expenses, Maintenance Expenses and Capital Expenditures incurred, (B) the variances for such period between the Revenues actually received and the Revenues budgeted by the Borrower for such period as shown in the Financial Plan most recently submitted to the TIFIA Lender, together with a brief narrative explanation of the reasons for any such variance of ten percent (10%) or more, and (C) the variances for such period between the actual Operating Expenses and Maintenance Expenses actually incurred and the Operating Expenses and Maintenance Expenses budgeted by the Borrower for such period as shown in the Financial Plan, together with a brief narrative explanation of the reasons for any such variance of ten percent (10%) or more.

(d) Requested Information. The Borrower shall, at any time while the TIFIA Loan remains outstanding, promptly deliver to the TIFIA Lender such additional information regarding the business, financial, legal or organizational affairs of the Borrower or regarding the Project, the System or the Revenues as the TIFIA Lender may from time to time reasonably request, including copies of agreements, documentation and other information related thereto requested by the TIFIA Lender. The Borrower shall respond, and use commercially reasonable efforts to cause the Principal Project Parties to respond, to the TIFIA Lender's inquiries regarding the construction of the Project. The TIFIA Lender has the right, in its sole discretion, to retain a financial oversight advisor, under a contract with the TIFIA Lender, to carry out the provisions of this Section 23(d).

(e) Information Delivered to Trustee under the Indenture. The Borrower shall, simultaneously with delivery to the Trustee, deliver to the TIFIA Lender the following information and documentation provided to the Trustee pursuant to the Indenture:

(A) the results of each of the Borrower's annual review of its financial condition pursuant to Section 502(b) of the Indenture and, to the extent applicable, any recommendations obtained from the Traffic Consultant pursuant to Section 502(b) of the Indenture and the Borrower's plan and schedule to implement such recommendations;

(B) each construction progress report and notice of substantial completion of the Project delivered to Trustee pursuant to Section 519(d) of the Indenture;

(C) each Annual Operating Budget (as defined in the Indenture) pursuant to Section 705(a) of the Indenture;

(D) each Annual Maintenance Budget (as defined in the Indenture) pursuant to Section 705(b) of the Indenture;

(E) each Annual Capital Budget (as defined in the Indenture) pursuant to Section 705(c) of the Indenture;



(F) any inspection reports delivered by the General Engineering Consultant pursuant to Section 712 of the Indenture; and

(G) copies of any certificate, opinion or other report or document delivered to or by the Borrower to the Trustee pursuant to Section 715 of the Indenture.

(f) System Operations. The TIFIA Lender shall have the right, in its sole discretion, to monitor (or direct its agents to monitor) the operations of the System and, as the TIFIA Lender may request from time to time, to receive reporting on the operation and management of the Project and the System and copies of any contracts relating to the operation, maintenance, and safety services for the Project or the System. The Borrower agrees to cooperate in good faith with the TIFIA Lender in the conduct of such monitoring by promptly providing the TIFIA Lender with such reports, documentation, or other information requested by the TIFIA Lender. The TIFIA Lender has the right, in its sole discretion, to retain a financial oversight advisor, under a contract with the TIFIA Lender, to carry out the provisions of this Section 23, and the full cost of such monitoring shall be borne by the Borrower (including the reasonable fees, costs, and expenses of its legal counsel, financial advisors, auditors and other consultants and advisors, such reasonableness determined in accordance with Part 31 of the Federal Acquisition Regulation). Any costs incurred by the TIFIA Lender for such monitoring, including the costs of any financial oversight advisor, shall be promptly reimbursed by the Borrower upon demand therefor in the form of an invoice reasonably acceptable to the Borrower; provided, that the reimbursement of any such costs shall be made solely from the Trust Estate, including the Revenues.

(g) General Engineering Consultant. The Borrower shall retain a General Engineering Consultant throughout the term of this Agreement. The General Engineering Consultant shall advise the TIFIA Lender with regards to all technical matters related to the performance by the Borrower of its construction, development and maintenance obligations under this Agreement, the other Related Documents, the Project Development Agreement, the Maintenance Contract and the Toll System Contracts.

SECTION 24. No Personal Recourse. No official, employee or agent of the TIFIA Lender or the Borrower or any Person executing this Agreement or any of the other TIFIA Loan Documents shall be personally liable on this Agreement or such other TIFIA Loan Documents by reason of the issuance, delivery or execution hereof or thereof.

SECTION 25. No Third Party Rights. The parties hereby agree that this Agreement creates no third party rights against the Borrower, the Government or the TIFIA Lender, solely by virtue of the TIFIA Loan, and the Borrower agrees to indemnify and hold the TIFIA Lender, the Servicer (if any), the Executive Director, and the Government harmless, to the extent permitted by law and in accordance with Section 18, from any lawsuit or claim arising in law or equity solely by reason of the TIFIA Loan, and that no third party creditor or creditors of the Borrower shall have any right against the TIFIA Lender with respect to the TIFIA Loan made pursuant to this Agreement.

SECTION 26. 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

TIFIA Lender and the Servicer, if any, containing the specimen signature or signatures of such Person or Persons and signed by the Borrower.

**SECTION 27. TIFIA Lender's Authorized Representative.**

(a) The TIFIA Lender shall at all times have appointed the TIFIA Lender's Authorized Representative by designating such Person or Persons from time to time to act on the TIFIA 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 TIFIA Lender.

(b) Pursuant to the delegation of authority, dated July 20, 2016, from the Secretary to the Under Secretary of Transportation for Policy, the further delegation of authority, dated July 20, 2016, from the Under Secretary of Transportation for Policy to the Executive Director of the Build America Bureau, the further delegation of authority, dated August 31, 2016 (the "**Delegation**"), by the Executive Director of the Build America Bureau to the Director of the Credit Office of the Build America Bureau, the Director of the Credit Office of the Build America Bureau has been delegated the authority to enter into contracts and sign all contractual and funding documents necessary to implement the Act, 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 TIFIA Lender. Pursuant to the Delegation, the Director of the Credit Office of the Build America Bureau may act and serve as the TIFIA Lender's Authorized Representative under this Agreement, in addition to the Executive Director of the Build America Bureau for the purposes set forth herein.

**SECTION 28. Servicer.** The TIFIA Lender may from time to time designate another entity or entities to perform, or assist the TIFIA Lender in performing, the duties of the Servicer or specified duties of the TIFIA Lender under this Agreement and the TIFIA Note. The TIFIA 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 Agreement to the TIFIA Lender shall be deemed to be a reference to the Servicer with respect to any duties which the TIFIA Lender shall have delegated to such Servicer. The TIFIA Lender may at any time assume the duties of any Servicer under this Agreement and the TIFIA Note. 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.

**SECTION 29. Fees and Expenses.**

(a) Commencing in Federal Fiscal Year ("**FFY**") 2022 and continuing thereafter each year throughout the term of this Agreement, the Borrower shall pay to the TIFIA Lender a loan servicing fee on or before the fifteenth (15th) of November. The TIFIA Lender shall establish the amount of this annual fee, and the TIFIA Lender shall notify the Borrower of the amount, at least thirty (30) days before payment is due.

(b) In establishing the amount of the fee, the TIFIA Lender will adjust the previous year's base amount in proportion to the percentage change in CPI. For the FFY 2022

calculation, the TIFIA Lender will use the FFY 2021 base amount of \$13,873.84, which applies to other TIFIA borrowers, as the previous year's base amount. The TIFIA Lender will calculate the percentage change in the CPI, before seasonal adjustment, from August of the previous year to August of the current year and will then adjust the previous year's base amount in proportion to the CPI percentage change. To calculate the amount of the fee, the TIFIA Lender shall round the current year's base amount using increments of \$500. Results with the ending integers between 250-499 or between 750-999 shall be rounded upward, and results with the ending integers between 001-249 or between 501-749 shall be rounded downward. The CPI adjustments in the following years shall begin with the base amount, not the rounded fee.

(c) The Borrower agrees, whether or not the transactions hereby contemplated shall be consummated, to reimburse the TIFIA Lender on demand from time-to-time, within thirty (30) days after receipt of any invoice from the TIFIA Lender, for any and all fees, costs, charges, and expenses incurred by it (including the reasonable fees, costs, and expenses of its legal counsel, financial advisors, auditors and any technical or other consultants and advisors, such reasonableness determined in accordance with Part 31 of the Federal Acquisition Regulation) in connection with the negotiation, preparation, execution, delivery, administration, and performance of this Agreement and the other TIFIA Loan Documents and the transactions hereby and thereby contemplated, including reasonable attorneys' and engineers' fees and professional costs, including all such fees, costs, and expenses incurred as a result of or in connection with:

(i) the enforcement of or attempt to enforce any provision of this Agreement or any of the other TIFIA Loan Documents;

(ii) any amendment, modification, or requested amendment or modification of, waiver, consent, or requested waiver or consent under or with respect to, or the protection or preservation of any right or claim under or with respect to, this Agreement, any other Related Document, or the Trust Estate, or advice in connection with the administration, preservation in full force and effect, and enforcement of this Agreement or any other Related Document or the rights of the TIFIA Lender thereunder;

(iii) any ongoing oversight and monitoring of the TIFIA Loan, the Borrower or the Project by the TIFIA Lender as provided for herein; and

(iv) any work-out, restructuring, or similar arrangement of the obligations of the Borrower under this Agreement or the other TIFIA Loan Documents, including during the pendency of one or more Events of Default.

The obligations of the Borrower under this Section 29 (i) shall survive the payment or prepayment in full or transfer of the TIFIA Note, the enforcement of any provision of this Agreement or the other TIFIA Loan Documents, any such amendments, waivers or consents, any Event of Default, and any such workout, restructuring, or similar arrangement and (ii) are payable solely from the Trust Estate, including the Revenues.

**SECTION 30. Amendments and Waivers.** No amendment, modification, termination or waiver of any provision of this Agreement shall in any event be effective without the written consent of each of the parties hereto.

SECTION 31. Governing Law. This Agreement shall be governed by the federal laws of the United States of America 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.

SECTION 32. Severability. In case any provision in or obligation under this 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 33. Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted successors and assigns. Neither the Borrower's rights or obligations hereunder nor any interest therein may be assigned, delegated, or transferred by the Borrower without the prior written consent of the TIFIA Lender.

SECTION 34. Remedies Not Exclusive. No remedy conferred herein or reserved to the TIFIA 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. Subject to Section 20(a)(v), acceleration of any amounts due under the TIFIA Note or this Agreement is not a remedy available to the TIFIA Lender.

SECTION 35. Delay or Omission Not Waiver. No delay or omission of the TIFIA 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 Agreement or by law to the TIFIA Lender may be exercised from time to time, and as often as may be deemed expedient by the TIFIA Lender.

SECTION 36. Counterparts. This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by the 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 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. Electronic delivery of an executed counterpart of a signature page of this Agreement or of any document or instrument delivered in connection herewith in accordance with Section 37 shall be effective as delivery of an original executed counterpart of this Agreement or such other document or instrument, as applicable. Each party acknowledges and agrees that they may execute this Agreement, and any variation or amendment hereto, using Electronic Signatures. Such Electronic Signatures are intended to authenticate this writing and to have the same force and effect as handwritten signatures.

SECTION 37. Notices; Payment Instructions. Notices hereunder shall be (a) in writing, (b) effective as provided below and (c) given by (i) nationally recognized courier service, (ii) hand delivery, or (iii) email, in each case to:

If to TIFIA Lender: Build America Bureau  
United States Department of Transportation  
Room W12-464  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590  
Attention: Director, Office of Credit Programs  
Email: BureauOversight@dot.gov

with copies to: Federal Highway Administration  
Texas Division Office  
300 East 8th Street  
Room 826  
Austin, TX 78701  
Attention: Division Administrator  
Email: Texas.FHWA@dot.gov

If to Borrower: Central Texas Regional Mobility Authority  
3300 North IH-35, Suite 300  
Austin, Texas 78705  
Attention: Chief Financial Officer  
\*\*Email: wchapman@ctrma.org

\*\* All invoices and other requests for payment (including notifications regarding TIFIA Debt Service) should be sent to [invoices@ctrma.org](mailto:invoices@ctrma.org) and should be addressed to the Chief Financial Officer and the Controller

Unless otherwise instructed by the TIFIA Lender's Authorized Representative, all notices to the TIFIA Lender should be made by email to the email address noted above for the TIFIA Lender. 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 by the TIFIA Lender's Authorized Representative, with respect to notices to the TIFIA Lender or the Servicer. The Borrower shall make any payments hereunder or under the TIFIA Note in accordance with Section 9(f) and the payment instructions hereafter provided by the TIFIA Lender's Authorized Representative, as modified from time-to-time by the TIFIA Lender. Each such notice, request or communication shall be effective (x) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 37 (or in accordance with the latest unrevoked written direction from the receiving party) and (y) if given by email, when such email is delivered to the address specified in this Section 37 (or in accordance with the latest unrevoked written direction from the receiving party); provided that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day.

SECTION 38. Effectiveness. This Agreement shall be effective on the Effective Date.

SECTION 39. Termination. This Agreement shall terminate upon the irrevocable payment in full in immediately available funds by the Borrower of the Outstanding TIFIA Loan Balance, together with all accrued interest and fees with respect thereto; provided, however, that the indemnification requirements of Section 18, the reporting and record keeping requirements of Section 21(b) and (c) and the payment requirements of Section 29 shall survive the termination of this Agreement as provided in such sections.

SECTION 40. Integration. This Agreement constitutes the entire contract between the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

*[Signature Page Follows]*

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

**CENTRAL TEXAS REGIONAL MOBILITY  
AUTHORITY**

By: \_\_\_\_\_

Name:

Title:

**UNITED STATES DEPARTMENT OF  
TRANSPORTATION**, acting by and through  
the Executive Director of the Build America Bureau

By: \_\_\_\_\_

Name:

Title:

[Signature Page to the TIFIA Loan Agreement – 183N Project]



**SCHEDULE I**  
**PROJECT BUDGET**

**SCHEDULE II**  
**CONSTRUCTION SCHEDULE**

[See attached]

**SCHEDULE III**  
**EXISTING INDEBTEDNESS**

**SCHEDULE IV**

**TIFIA DEBT SERVICE RESERVE ACCOUNT FUNDING SCHEDULE**

**EXHIBIT A**  
**FORM OF TIFIA NOTE**  
**CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**  
**183 NORTH MOBILITY PROJECT**  
**(TIFIA Project Number-2021-[\_\_\_\_])**  
**SUBORDINATE LIEN REVENUE PROMISSORY NOTE**

**Maximum Principal Amount: \$[250,289,625]**  
**(excluding capitalized interest)**

**Effective Date: [\_\_\_\_], 2021**

**Final Maturity Date: [\_\_\_\_]**

**CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**, a body politic and corporate and political subdivision of the State of Texas (the “**State**”), created under the laws of the State, with an address of 3300 North IH-35, Suite 300, Austin, Texas 78705 (the “**Borrower**”), for value received, hereby promises to pay to the order of the **UNITED STATES DEPARTMENT OF TRANSPORTATION**, acting by and through the Executive Director of the Build America Bureau, or its assigns (the “**TIFIA Lender**”), but solely from the sources hereafter 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 (such lesser amount, together with any interest that is capitalized and added to principal in accordance with the provisions of the TIFIA Loan Agreement (as defined below), being hereinafter referred to as the “**Outstanding Principal Sum**”), together with accrued and unpaid interest at the TIFIA Interest Rate (including, if applicable, interest at the Default Rate, as defined in the TIFIA Loan Agreement) on the Outstanding Principal Sum and all fees, costs and other amounts payable in connection therewith, all as more fully described in the TIFIA Loan Agreement. The principal of this TIFIA Note (as defined below) shall be payable in the manner and at the place provided in the TIFIA Loan Agreement in accordance with **Exhibit G** to the TIFIA Loan Agreement, as revised from time to time in accordance with the TIFIA Loan Agreement, until irrevocably paid in full in immediately available funds. The TIFIA Lender is hereby authorized to modify the Loan Amortization Schedule included in **Exhibit G** to the TIFIA Loan Agreement from time to time in accordance with the terms of the TIFIA Loan Agreement to reflect the amount of each Disbursement made thereunder and the date and amount of principal or interest paid by the Borrower thereunder. Absent manifest error, the TIFIA Lender’s determination of such matters as set forth on **Exhibit G** to the TIFIA Loan Agreement shall be conclusive evidence thereof; provided, however, that neither the failure to make any such recordation nor any error in such recordation shall affect in any manner the Borrower’s obligations hereunder or under any other TIFIA Loan Document.

Payments on this TIFIA Note are to be made in accordance with Section 9(f) (*Manner of Payment*) and Section 37 (*Notices; Payment Instructions*) of the TIFIA Loan Agreement as the same become due. Principal of and interest on this TIFIA 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 that at the date of payment is legal tender for the payment of public and private debts.

This TIFIA Note, designated as “Central Texas Regional Mobility Authority Subordinate Lien Revenue Promissory Note 183 North Mobility Project (TIFIA-2021-\_\_\_\_\_)” (the “**TIFIA Note**”), has been executed under and pursuant to that certain TIFIA Loan Agreement, dated as of the date hereof, between the TIFIA Lender and the Authority (the “TIFIA Loan Agreement”), a Master Trust Indenture, dated February 1, 2005 (the “Master Indenture”), between the Authority and Regions Bank (as successor to JP Morgan Chase Bank, National Association) (the “**Trustee**”), and a Twenty-Ninth Supplemental Trust Indenture, dated [\_\_\_\_\_] 1, 2021 (the “**Twenty-Ninth Supplemental Indenture**” and, together with the Master Indenture, the “**Indenture**”), between the Authority and the Trustee, and is executed and delivered as a Subordinate Lien Obligation under the Indenture to evidence the obligation of the Authority under the TIFIA Loan Agreement to repay 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 or the other TIFIA Loan Documents referred to therein. Reference is made to the TIFIA Loan Agreement for all details relating to the Authority’s obligations hereunder. All capitalized terms used in this TIFIA Note and not defined herein shall have the meanings set forth in the TIFIA Loan Agreement.

This TIFIA 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 Indenture Documents, on a basis subordinate to that securing all Senior Lien Obligations and Junior Lien Obligations issued under the Indenture Documents, and on an equal and ratable basis with any Outstanding Subordinate Lien Obligations and any Additional Subordinate Lien Obligations issued in accordance with the provisions of the Indenture Documents; provided, that upon the occurrence of an event of default under Section 801(d) of the Master Indenture and to the extent that either the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau, or any other federal government agency or instrumentality is a Holder (as defined in the Indenture) of all or a portion of this TIFIA Note (in each case a “**Qualified Holder**”), the TIFIA Note held by a Qualified Holder will be deemed to be and will automatically become a Senior Lien Obligation, as provided in the Indenture Documents and the TIFIA Loan Agreement.

NONE OF THE STATE OF TEXAS NOR ANY OTHER AGENCY OR POLITICAL SUBDIVISION OF THE STATE OF TEXAS OTHER THAN THE AUTHORITY IS OBLIGATED TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THIS TIFIA NOTE. THIS TIFIA NOTE IS PAYABLE SOLELY FROM THE TRUST ESTATE AND CERTAIN FUNDS CREATED UNDER THE INDENTURE DOCUMENTS. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF TEXAS OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THIS TIFIA NOTE. THE AUTHORITY HAS NO TAXING POWER.

NO RECOURSE UNDER THIS BOND SHALL BE HAD AGAINST ANY PAST, PRESENT OR FUTURE OFFICER OF THE AUTHORITY. THIS BOND SHALL NEVER BE PAID IN

WHOLE OR IN PART OUT OF ANY FUNDS RAISED OR TO BE RAISED BY TAXATION OR OUT OF ANY OTHER REVENUES OF THE AUTHORITY EXCEPT THOSE REVENUES PLEDGED BY THE INDENTURE DOCUMENTS.

This TIFIA Note shall be subject to optional and mandatory prepayment in accordance with the TIFIA Loan Agreement.

This TIFIA Note may be prepaid at the option of the Borrower in whole or in part (and, if in part, the principal installments and amounts thereof to be prepaid are to be determined in accordance with the TIFIA Loan Agreement; provided, however, such prepayments shall be in principal amounts of at least \$1,000,000), at any time or from time to time, without penalty or premium, by paying to the TIFIA Lender all or part of the principal amount of the TIFIA Note in accordance with the TIFIA Loan Agreement.

Payment of the obligations of the Borrower under this TIFIA Note is secured pursuant to Indenture Documents referred to in the TIFIA Loan Agreement.

The obligations of the Borrower under this TIFIA Note, the TIFIA Loan Agreement and the other TIFIA Loan Documents referred to therein are Subordinate Lien Obligations secured by a security interest in the Trust Estate on a parity with all other Subordinate Lien Obligations issued in accordance with this Agreement and the Indenture and is subordinate only to the lien on the Trust Estate in favor of the Senior Lien Obligations and Junior Lien Obligations issued pursuant to the Indenture.

On each payment due date, payments on this TIFIA Note are to be made in the manner and at the place specified by the TIFIA Lender.

Any delay on the part of the TIFIA Lender in exercising any right hereunder 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.

All acts, conditions and things required by the Constitution and laws of the State to happen, exist, and be performed precedent to and in the execution and delivery of this Note have happened, exist and have been performed as so required. This TIFIA Note is executed and delivered 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 shall govern its construction to the extent such federal laws are not applicable.

**IN WITNESS WHEREOF**, CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY has caused this TIFIA Note to be executed in its name and its seal to be affixed hereto and attested by its duly authorized officer, all as of the Effective Date set forth above.

**CENTRAL TEXAS REGIONAL MOBILITY  
AUTHORITY**

(SEAL)

By \_\_\_\_\_  
Name:  
Title:

ATTEST:

---

Name:  
Title:



*[FORM OF ASSIGNMENT TO APPEAR ON THE TIFIA NOTE]*

ASSIGNMENT

For value received, the undersigned sells, assigns, and transfers unto \_\_\_\_\_ the within TIFIA Note and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the said TIFIA Note on the books kept for registration of the within TIFIA Note, with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_

NOTICE:

The signature(s) on this assignment must correspond in every particular with the name(s) of the payee appearing on the face of the within TIFIA Note.

Signature guaranteed by:

\_\_\_\_\_  
NOTICE: Signature must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Trustee, which requirements will include membership or participation in STAMP or such other signature guaranty program as may be determined by the Trustee in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

**EXHIBIT B**  
**ANTICIPATED TIFIA LOAN DISBURSEMENT SCHEDULE**

**EXHIBIT C**

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

The undersigned, on behalf of the CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY (the “**Borrower**”), hereby certifies that CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY has fully complied with its verification obligations under 2 C.F.R. § 180.320 and hereby further confirms, in accordance with 2 C.F.R. § 180.335, that, to its knowledge, the Borrower and its principals (as defined in 2 C.F.R. § 180.995):

(a) Are not presently excluded (as defined in 2 C.F.R. § 180.940) or disqualified (as defined in 2 C.F.R. § 180.935);

(b) Have not within a three (3) year period preceding the Effective Date been convicted of any of the offenses listed in 2 C.F.R. §180.800(a) or had a civil judgment rendered against them for one of those offenses within that time period;

(c) 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 listed in 2 C.F.R. §180.800(a); and

(d) Have not within a three (3) year period preceding the Effective Date had one or more public transactions (federal, state or local) terminated for cause or default.

(e) Capitalized terms used in the certificate and not defined shall have the respective meanings ascribed to such terms in that certain TIFIA Loan Agreement, dated as of [\_\_\_\_\_], 2021, between the TIFIA Lender and the Borrower, as the same may be amended from time to time.

Dated: \_\_\_\_\_

**CENTRAL TEXAS REGIONAL MOBILITY  
AUTHORITY<sup>1</sup>**

By: \_\_\_\_\_

Name:

Title:

---

<sup>1</sup> To be executed by Borrower’s Authorized Representative.

## EXHIBIT D

### REQUISITION PROCEDURES

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

Section 1. General Requirements. All requests by the Borrower for the disbursement of TIFIA Loan proceeds shall be made by delivering to the TIFIA Lender by electronic mail or overnight delivery service (in accordance with Section 37 of the TIFIA Loan Agreement) a Requisition, in form and substance satisfactory to the TIFIA Lender and completed and executed by the Borrower's Authorized Representative. The form of Requisition is attached as **Appendix One** to this **Exhibit D**. All Eligible Project Costs Documentation should be submitted with a Requisition.

All disbursement requests must be received by the TIFIA Lender at or before 5:00 P.M. (EST) on the first (1st) Business Day of a calendar month in order to obtain disbursement by the fifteenth (15th) day of such calendar month or, if such day is not a Business Day, the next succeeding Business Day.

Section 2. Rejection. A Requisition may be rejected in whole or in part by the TIFIA 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 TIFIA Loan; or
- (d) submitted without adequate Eligible Project Costs Documentation. Such documentation shall include invoices for costs incurred or paid and the most recent monthly construction progress report of the General Engineering Consultant.

The TIFIA Lender will notify the Borrower if a Requisition is rejected in whole or in part, and the reasons therefor. If a Requisition is rejected for the reasons specified in (a), (b) or (d) above, the Borrower must resubmit such Requisition in proper form in order to be considered for

approval. If a Requisition exceeds the maximum amount of the TIFIA Loan (disregarding capitalization of interest), the request will be treated as if submitted in the amount of such maximum principal amount of the TIFIA Loan, and the TIFIA Lender will so notify the Borrower.

Section 3. Correction. If a Requisition contains an apparent mathematical error, the TIFIA Lender will correct it, after telephonic or email notification to the Borrower, and such Requisition will thereafter be treated as if submitted in the corrected amount.

Section 4. Withholding. The TIFIA Lender shall be entitled to withhold approval (in whole or in part) of any request for the disbursement of TIFIA Loan proceeds if:

(a) an Event of Default or event that, with the giving of notice or the passage of time or both, would constitute an Event of Default under the TIFIA Loan Agreement shall have occurred and be continuing; or

(b) the Borrower:

(i) 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; or

(ii) fails to construct the Project in a manner consistent with the Governmental Approvals with respect to the Project, 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 TIFIA 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 TIFIA Loan Agreement; or

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

(iv) fails to satisfy the conditions set forth in Sections 4 (Disbursement Conditions) or 13(b) (Conditions Precedent to Disbursement) of the TIFIA Loan Agreement; or

(v) fails to deliver satisfactory Eligible Project Costs Documentation to the TIFIA Lender evidencing the Eligible Project Costs claimed for disbursement at the times and in the manner specified by the TIFIA Loan Agreement; provided, that in such case the TIFIA Lender may, in its sole discretion, partially approve the disbursement request in respect of any amounts for which adequate documentation evidencing Eligible Project Costs has been provided and may, in its sole discretion, disburse in respect of such properly documented amounts.

Section 5. Government Shutdown. Notwithstanding anything to the contrary set forth in this **Exhibit D**, the TIFIA Lender (a) shall be entitled to withhold approval of any pending or subsequent requests for the disbursement of TIFIA Loan proceeds and (b) shall have no obligation to make any disbursement of proceeds of the TIFIA Loan to the Borrower (even if such disbursement has been approved by the TIFIA Lender), in each case if the TIFIA Lender's ability to make the relevant disbursement is impaired as a result of a partial or total shutdown of the

operations of any federal department or agency (including USDOT or any of its agencies), or any contractor of any such department or agency, due to a lapse in appropriations by Congress.

**APPENDIX ONE TO EXHIBIT D**

**FORM OF REQUISITION**

Build America Bureau  
United States Department of Transportation  
Room W12-464  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590  
Attention: Director, Office of Credit Programs

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

[Loan Servicer]  
[Address]  
[Attention]

Re: 183 NORTH MOBILITY PROJECT (TIFIA # 2021-[\_\_\_\_])

Ladies and Gentlemen:

Pursuant to Section 4 of the TIFIA Loan Agreement, dated as of [\_\_\_\_], 2021 (the “**TIFIA Loan Agreement**”), by and between CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY (the “**Borrower**”) and the UNITED STATES DEPARTMENT OF TRANSPORTATION, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Lender**”), we hereby request disbursement in the amount of \$[\_\_\_\_\_] in respect of Eligible Project Costs paid or incurred by or on behalf of the Borrower. Capitalized terms used but not defined herein have the meaning set forth in the TIFIA 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 [\_\_\_\_\_] [15], 20[\_\_\_] (the “**Disbursement Date**”) [, which is the first Business Day following [\_\_\_\_\_] 15, 20[\_\_\_]].
3. The amounts previously disbursed under the TIFIA Loan Agreement equal, in the aggregate, \$[\_\_\_\_\_]. The amount of any Senior Obligations issued in respect of the Project, previously disbursed and to be disbursed under the Indenture as of the date of the requested disbursement equals, in the aggregate, \$[\_\_\_\_\_]. The amount of any Subordinate Lien Obligations (other than the TIFIA Loan) issued in respect of the Project, previously disbursed and to be disbursed under the Indenture as of the date of the requested disbursement equals, in the aggregate, \$[\_\_\_\_\_].

4. The amounts hereby requisitioned have been paid or incurred by or on behalf of the Borrower for Eligible Project Costs and have not been paid for or reimbursed by any previous disbursement of TIFIA Loan proceeds.
5. The amount of this Requisition, together with all prior Requisitions, does not exceed the amount of the TIFIA Loan.
6. All Eligible Project Costs Documentation evidencing the Eligible Project Costs with respect to the Project to be reimbursed by the above-requested disbursement has been delivered by the Borrower at the times and in the manner specified by the TIFIA Loan Agreement.
7. The Borrower has all Governmental Approvals necessary as of the date hereof and as of the Disbursement Date (immediately after giving effect to the above-requested disbursement of TIFIA Loan proceeds), for the development, construction, operation and maintenance of the Project and each such Governmental Approval is in full force and effect (and is not subject to any notice of violation, breach or revocation).
8. Each of the insurance policies obtained by the Borrower in satisfaction of the condition in Section 13(a)(xx) of the TIFIA Loan Agreement is in full force and effect, and no notice of termination thereof has been issued by the applicable insurance provider.
9. The Project has been, and is being, constructed in a manner consistent with all plans, specifications, engineering reports and facilities plans previously submitted to and approved by the TIFIA Lender and the FHWA Division Office and with good engineering practices.
10. The representations and warranties of the Borrower set forth in the TIFIA Loan Agreement, in each other Related Document, and in the Project Development Agreement are true and correct as of the date hereof and as of the Disbursement Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, such representations and warranties shall be true and correct as of such earlier date).
11. As of the date hereof and on the Disbursement Date (immediately after giving effect to the above-requested disbursement of TIFIA Loan proceeds), (i) no Event of Default or event of default under any other Related Document or the Project Development Agreement and (ii) no event that, with the giving of notice or the passage of time or both, would constitute an Event of Default or event of default under any Related Document or the Project Development Agreement, in each case, has occurred and is continuing.
12. No Material Adverse Effect, or any event or condition that could reasonably be expected to have a Material Adverse Effect, has occurred or arisen since [\_\_\_\_\_], 2021.
13. A copy of the most recent quarterly report of the General Engineering Consultant delivered pursuant to Section 519(d) of the Indenture has been delivered to each of the above named addressees.



14. A copy of the monthly construction progress report pursuant to Section 23(b)(i) of the TIFIA Loan Agreement for the quarter that ended most recently prior to the date of the applicable Requisition has been delivered to each of the above named addresses.
15. The undersigned hereby certifies that amortization of the principal amount of the Initial Senior Obligations shall not commence before the Debt Service Payment Commencement Date.
16. 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. § 5323(1)(1), to the extent the Government deems appropriate.
17. A copy of this requisition has been delivered to each of the above named addressees.
18. The undersigned is duly authorized to execute and deliver this requisition on behalf of the Borrower.

[Add wire instructions for Trustee]

Date:

**CENTRAL TEXAS REGIONAL MOBILITY  
AUTHORITY**

By: \_\_\_\_\_  
Borrower's Authorized Representative  
Name:  
Title:

## EXHIBIT E

### COMPLIANCE WITH LAWS

The Borrower shall, and shall require its contractors and subcontractors at all tiers for the Project to, comply in all material respects with 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.

- (i) The Americans With Disabilities Act of 1990 and implementing regulations (42 U.S.C. § 12101 *et seq.*; 28 C.F.R. Part 35; 29 C.F.R. Part 1630);
- (ii) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d *et seq.*) and USDOT implementing regulations (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. Part 35; 41 C.F.R. Part 60; and 49 C.F.R. Part 27);
- (v) Restrictions governing the use of federal appropriated funds for lobbying (31 U.S.C. § 1352; 49 C.F.R. Part 20);
- (vi) The Clean Air Act, as amended (42 U.S.C. § 7401 *et seq.*);
- (vii) The National Environmental Policy Act of 1969 (42 U.S.C. § 4321 *et seq.*), including the environmental mitigation requirements and commitments made by the Borrower that result in TxDOT'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 Project;
- (viii) The Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 *et seq.*);
- (ix) The Endangered Species Act, 16 U.S.C. § 1531, *et seq.*
- (x) 23 U.S.C. §138 and 49 U.S.C. § 303, as applicable;
- (xi) The health and safety requirements set forth in 40 U.S.C. §§ 3701-3702 and implementing regulations (29 C.F.R. Part 1926 and 23 C.F.R. § 635.108, as applicable);

- (xii) The prevailing wage requirements set forth in 40 U.S.C. § 3141 *et seq.* and implementing regulations (29 C.F.R. Part 5), and 23 U.S.C. § 113 and implementing regulations (23 C.F.R. §§ 635.117(f) and 635.118), and FHWA Form 1273 §§ IV and V for those contracts that involve construction of highway improvements;
- (xiii) The Buy America requirements set forth in 23 U.S.C. § 313 and implementing regulations (23 C.F.R. § 635.410);
- (xiv) The requirements of 23 U.S.C. § 101 *et seq.* and 23 C.F.R.;
- (xv) The Cargo Preference Act of 1954, as amended (46 U.S.C. §55305), and implementing regulations (46 C.F.R. Part 381);
- (xvi) The applicable requirements of 49 C.F.R. Part 26 relating to the Disadvantaged Business Enterprise program; and
- (xvii) The requirements of Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232, August 13, 2018).

**EXHIBIT F**  
**[RESERVED]**

**EXHIBIT G**  
**TIFIA DEBT SERVICE**

## **EXHIBIT H-1**

### **OPINIONS REQUIRED FROM COUNSEL TO BORROWER**

An opinion of the counsel of the Borrower, dated the Effective Date, to the effect that: (a) the Borrower is duly formed, validly existing, and in good standing under the laws of the jurisdiction of its organization; (b) the Borrower is a body corporate and politic and a political subdivision of the State of Texas and has all requisite power and authority to conduct its business and to execute and deliver, and to perform its obligations under the Related Documents to which it is a party and the Project Development Agreement; (c) the execution and delivery by the Borrower of, and the performance of its obligations under, the Related Documents to which it is a party and the Project Development Agreement have been duly authorized by all necessary organizational action of the Borrower; (d) the Borrower has duly executed and delivered each Related Document to which it is a party and the Project Development Agreement and each such agreement constitutes the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with their respective terms and to the extent permitted by law; (e) no authorization, consent, or other approval of, or registration, declaration or other filing with any governmental authority of the United States or of the State is required on the part of the Borrower for the execution and delivery by the Borrower of, and the performance of the Borrower under, any Related Document to which it is a party and the Project Development Agreement other than authorizations, consents, approvals, registrations, declarations and filings that have already been timely obtained or made by the Borrower; (f) the execution and delivery by the Borrower of, and compliance with the provisions of, the Related Documents to which it is a party and the Project Development Agreement do not (i) violate the Organizational Documents of the Borrower, (ii) violate the law of the United States of America or of the State or (iii) conflict with or constitute a breach of or default under any material agreement or other instrument known to such counsel to which the Borrower is a party, or to the best of such counsel's knowledge, after reasonable review, any court order, consent decree, statute, rule, regulation or any other law to which the Borrower is subject; and (g) to our knowledge after due inquiry, there are no actions, suits, proceedings or investigations against the Borrower by or before any court, arbitrator or any other Governmental Authority in connection with the Related Documents, the Project Development Agreement, or the Project that are pending.

## EXHIBIT H-2

### OPINIONS REQUIRED FROM BOND COUNSEL

An opinion of bond counsel, dated as of the effective date of the TIFIA Loan Agreement, to the effect that:

1. The Borrower is a duly created and validly existing body politic and corporate and a political subdivision of the State of Texas with full legal right, power and authority (a) to execute and deliver the Agreement and the TIFIA Note, (b) to enter into the transactions contemplated by and to perform all of its obligations under the Agreement, the Indenture and the TIFIA Supplemental Indenture, and (c) to secure the obligations of the Borrower under the Agreement and the TIFIA Note as provided in the Agreement, the Indenture and the TIFIA Supplemental Indenture.
2. The Agreement, the Indenture and the TIFIA Supplemental Indenture have each been duly authorized, executed and delivered by the Borrower and assuming due authorization, execution and delivery by the other parties thereto, constitute valid and binding agreements of the Borrower enforceable according to their terms, subject to any applicable bankruptcy, reorganization, insolvency, moratorium principles of sovereign immunity or other law affecting the enforcement of creditors' rights generally and subject to the application of general principles of equity. The Agreement, the Indenture and the TIFIA Supplemental Indenture remain in full force and effect and have not been amended modified or repealed.
3. The TIFIA Note has been duly authorized, executed and delivered by the Borrower pursuant to the Agreement, the Indenture and the TIFIA Supplemental Indenture and is a valid and binding special obligation of the Borrower payable solely from the Trust Estate and from the funds and accounts pledged therefore under the Agreement, the Indenture and the TIFIA Supplemental Indenture.
4. The Agreement, the Indenture and the TIFIA Supplemental Indenture create a valid lien on the Trust Estate, including specifically, without limitation, amounts on deposit in the TIFIA Debt Service Account and the TIFIA Debt Service Reserve Account, for the security of the TIFIA Note, in each case without the need for physical delivery, recordation, filing or further act. Such lien is on a parity with other Subordinate Lien Obligations issued in accordance with the provisions of the Agreement and the Indenture and is subordinate only to the lien on the Trust Estate in favor of the Senior Lien Obligations and Junior Lien Obligations issued pursuant to the Indenture. To the extent provided in Section 6.1 of the TIFIA Supplemental Indenture and the Agreement, the TIFIA Note will be deemed to be a Senior Lien Obligation and the lien on the Trust Estate securing the TIFIA Note will automatically become on a parity with the lien securing the Senior Lien Obligations upon the occurrence of an event of default under Section 801(d) of the Indenture.

**EXHIBIT I**  
**[RESERVED]**



## EXHIBIT J

### FORM OF CERTIFICATE OF TRUSTEE

#### CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY

**TIFIA Note  
183N Project  
(TIFIA – 2021-[\_\_\_\_])**

The undersigned, REGIONS BANK (the “*Trustee*”), by its duly appointed, qualified and acting assistant vice president, certifies with respect to the Central Texas Regional Mobility Authority (the “*Borrower*”) Subordinate Lien Revenue Promissory Note (the “*TIFIA Note*”) dated as of [\_\_\_\_], 2021, as follows (capitalized terms used in this Certificate which are not otherwise defined shall have the meanings given to such terms in the Indenture (as defined below)):

1. That the Trustee is a banking corporation duly organized and validly existing under the laws of the state of Alabama and is duly licensed and in good standing under the laws of Texas.
2. All approvals, consents and orders of any governmental authority or agency having jurisdiction in the matter which would constitute a condition precedent to the performance by the Trustee of its duties and obligations under the documents pertaining to the execution and delivery of the TIFIA Note have been obtained and are in full force and effect.
3. That the documents pertaining to the execution and delivery of the TIFIA Note to which the Trustee is a party were executed on behalf of the Trustee by one or more of the persons whose names and offices appear on Annex One attached hereto and made part hereof, that each person was at the time of the execution of such documents and now is duly appointed, qualified and acting incumbent of his or her respective office, that each such person was authorized to execute such documents, and that the signature appearing after the name of each such person is a true and correct specimen of that person’s genuine signature.
4. That the undersigned is authorized to act as Trustee and accept the trusts conveyed to it under the Indenture (“*Trusts*”), has accepted the Trusts so conveyed and in so accepting the Trusts and so acting is in violation of no provision of its articles of association or bylaws, any law, regulation or court or administrative order or any agreement or other instrument to which it is a party or by which it may be bound.
5. That attached to this Certificate as Annex Two is a full, true and correct copy of excerpts from resolutions of the board of directors of the Trustee and other applicable documents that evidence the Trustee’s trust powers and the authority of the officers referred to above to act on behalf of the Trustee; and that these excerpts and other applicable documents were in effect on the date or dates such officers acted and remain in full force and effect today, and such excerpts and documents have not been amended since the date of the last amendment thereto shown on any such copy, as applicable.

6. That receipt is acknowledged of all instruments, certifications and other documents or confirmations required to be received by the Trustee pursuant to that certain Indenture (the “*Indenture*”), dated as of February 1, 2005, between the Borrower and the Trustee with respect to the execution and delivery of the TIFIA Loan Agreement (as hereinafter defined) and the TIFIA Note.
7. That receipt is also acknowledged of that certain TIFIA Loan Agreement, dated as of [\_\_\_\_\_], 2021 (the “*TIFIA Loan Agreement*”), between the Borrower and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “*TIFIA Noteholder*”).
8. That the Trustee also accepts its appointment and agrees to perform the duties and responsibilities of Trustee and of paying agent for and in respect of the TIFIA Note as set forth in the Indenture and the TIFIA Loan Agreement. In accepting such duties and responsibilities, the Trustee shall be entitled to all of the privileges, immunities, rights and protections set forth in Article IX of the Indenture.
9. That all Funds and accounts for the payment of the TIFIA Note pursuant to the Indenture (including, but not limited to, the TIFIA Debt Service Account, the TIFIA Debt Service Reserve Account and the Springing Lien Account) have been established as provided in the Indenture.

Dated: [\_\_\_\_\_], 2021

REGIONS BANK

By: \_\_\_\_\_  
Its: Assistant Vice President

**ANNEX ONE TO EXHIBIT J**  
**OFFICERS OF TRUSTEE**

**ANNEX TWO TO EXHIBIT J**  
**RESOLUTIONS OF BOARD OF DIRECTORS OF TRUSTEE**

## EXHIBIT K

### FORM OF BORROWER'S OFFICER'S CERTIFICATE

Reference is made to that certain TIFIA Loan Agreement, dated as of [\_\_\_\_], 2021 (the "TIFIA Loan Agreement"), by and between the Central Texas Regional Mobility Authority (the "Borrower") and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the "TIFIA Lender"). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the TIFIA Loan Agreement.

1. The undersigned, [\_\_\_], as Borrower's Authorized Representative, does hereby certify on behalf of the Borrower and not in his/her personal capacity, as of the date hereof:

- (a) in accordance with Section 13(a)(viii) of the TIFIA Loan Agreement, attached hereto as Exhibit A is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by the Borrower to execute the Related Documents to which the Borrower is or will be a party and the Project Development Agreement, in each case related to the Project, to execute the certificates required to be delivered by the Borrower pursuant to the TIFIA Loan Agreement, and who have been appointed a Borrower's Authorized Representative in accordance with Section 26 of the TIFIA Loan Agreement;
- (b) attached hereto as Exhibit B are complete and fully executed copies of each Indenture Document, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date, and each such agreement is in full force and effect and has not been amended, modified or waived and all conditions contained in such documents to the closing of the transactions contemplated thereby shall have been fulfilled or effectively waived by the TIFIA Lender in its sole discretion;
- (c) in accordance with Section 13(a)(xi) of the TIFIA Loan Agreement, attached hereto as Exhibit C is a true, correct and complete copy of the Borrower's Traffic and Revenue Study, accompanied by a letter from the preparer of such study, certifying that the assumptions and projections contained in the Traffic and Revenue Study are reasonable and may be relied upon by the TIFIA Lender;
- (d) in accordance with Section 13(a)(xii) of the TIFIA Loan Agreement, attached hereto as Exhibit D are true, correct and complete copies of each Principal Project Contract that has been executed on or prior to the Effective Date (as listed below), the Project Development Agreement, the Maintenance Contract and the Toll System Contracts, and each such contract and agreement is in full force and effect and has not been amended, amended and restated, modified or supplemented except as listed below and attached hereto as part of Exhibit C:
  1. Construction Contract;
  2. Maintenance Services Contract;

3. Toll System Implementation Agreement;
  4. Toll Services Agreement;
  5. Toll Software License;
  6. Maintenance Contract; and
  7. the Project Development Agreement.
- (e) (1) the Borrower has obtained all Governmental Approvals necessary to commence construction of the Project, including the TTC Minute Order, (2) the Borrower has obtained all Governmental Approvals necessary to enter into and borrow amounts under this Agreement and to issue the Initial Senior Obligations and Project BANs, including any Governmental Approvals required from TxDOT or the State Attorney General, and (3) all such Governmental Approvals described in clauses (1) and (2) above are final, non-appealable, and in full force and effect (and are not subject to any notice of violation, breach, or revocation as of the Effective Date);
- (f) in accordance with Section 13(a)(xiv) of the TIFIA Loan Agreement, attached hereto as Exhibit E is the Base Case Financial Model, which Base Case Financial Model (i) demonstrates that projected Net Cash Flows are sufficient to meet the Loan Amortization Schedule, and (ii) demonstrates a Subordinate Lien Debt Service Coverage Ratio for each Calculation Period through the Final Maturity Date that is not less than 1.20, and (iii) does not reflect (1) the commencement of amortization of the principal amount of any Initial Senior Obligations prior to the Debt Service Payment Commencement Date, (2) the payment of any interest on any Subordinate Lien Obligations (other than the TIFIA Note) or Other Obligations issued with respect to the Project prior to the Debt Service Payment Commencement Date), or (3) the commencement of amortization of the principal amount of any Subordinate Lien Obligations (other than the TIFIA Note) or Other Obligations prior to the earliest commencement of amortization of the principal amount of the TIFIA Note);
- (g) in accordance with Section 13(a)(xvi) of the TIFIA Loan Agreement, attached hereto as Exhibit F is a true, correct and complete copy of the NEPA Determination, which document has not been revoked or amended on or prior to the date hereof;
- (h) pursuant to Section 13(a)(xix) of the TIFIA Loan Agreement, (i) the Borrower's Federal Employer Identification Number is 35-2198574 and attached hereto as Exhibit G-1 is evidence thereof, (ii) the Borrower's Data Universal Numbering System number is 148394476, and (iii) the Borrower has registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov), and attached hereto as Exhibit G-2 is evidence of each of (ii) and (iii);

- (i) attached hereto as Exhibit H are true, correct and complete copies of certificates of insurance that demonstrate satisfaction of the insurance requirements of Section 13(a)(xx) of the TIFIA Loan Agreement;
- (j) pursuant to Section 13(a)(xxi) of the TIFIA Loan Agreement, attached hereto as (i) Exhibit I-1 is a copy of the Borrower's Organizational Documents, as in effect on the Effective Date (and certified by the Secretary of State of the State, to the extent applicable), which Organizational Documents are in full force and effect and have not been amended since the date of the last amendment thereto shown on the certificate, (ii) Exhibit I-2 is a copy of all resolutions authorizing the Borrower to execute and deliver, and to perform its obligations under, the TIFIA Loan Documents, and such resolutions have not been subsequently modified, rescinded or amended, are in full force and effect in the form adopted, and are the only resolutions adopted by the Borrower relating to the matters described therein, and (iii) as Exhibit I-3 is a copy of such further instruments and documents as are necessary, appropriate or advisable to effectuate the foregoing resolutions and to consummate and implement the transactions contemplated by such resolutions and the TIFIA Loan Documents;
- (k) pursuant to Section 13(a)(xxiii) of the TIFIA Loan Agreement, attached hereto as Exhibit J are complete and fully executed copies of each performance security instrument delivered to or by the Borrower pursuant to any Principal Project Contract, the Project Development Agreement, the Maintenance Contract or any Toll System Contract, in each case as of the Effective Date, each of which performance security instruments is in compliance with the requirements for such performance security instrument pursuant to the applicable contract or agreement, as applicable, and is in full force and effect;
- (l) pursuant to Section 13(a)(xxiv) of the TIFIA Loan Agreement, attached hereto as Exhibit K is a complete copy of that certain 183 North Mobility Project Engineer's Report, dated as of [\_\_\_\_], prepared by the General Engineering Consultant in connection with the Project, including, among other things, a conclusion that the total estimated cost for the Project described therein and the time frame to achieve Substantial Completion are reasonable, subject to such conditions that are customary for such reports;
- (m) the representations and warranties of the Borrower set forth in the TIFIA Loan Agreement, in each other Related Document to which the Borrower is a party, and in the Project Development Agreement are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date; and
- (n) (i) the maximum principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof), together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed thirty-three percent (33%) of reasonably anticipated Eligible Project Costs and (iii)

as required pursuant to Section 603(b)(9) of the Act, the total federal assistance provided to the Project, including the maximum principal amount of the TIFIA Loan (excluding any interest that is capitalized in accordance with the terms hereof) related to the Project, does not exceed eighty percent (80%) of Eligible Project Costs.



**IN WITNESS WHEREOF**, the undersigned has executed this certificate as of the date first mentioned above.

CENTRAL TEXAS REGIONAL MOBILITY  
AUTHORITY

By: \_\_\_\_\_

Name:

Title:

**EXHIBIT A**

**INCUMBENCY CERTIFICATE**

The undersigned certifies that he/she is the [Secretary] of the Central Texas Regional Mobility Authority, a body politic and corporate and a political subdivision of the State of Texas, (the “**Borrower**”), and as such he/she is authorized to execute this certificate and further certifies that the following persons have been elected or appointed, are qualified, and are now acting as officers or authorized persons of the Borrower in the capacity or capacities indicated below, and that the signatures set forth opposite their respective names are their true and genuine signatures. He/She further certifies that any of the officers listed below is authorized to sign agreements and give written instructions with regard to any matters pertaining to the TIFIA Loan Documents and/or the Indenture Documents as the Borrower’s Authorized Representative (each as defined in that certain TIFIA Loan Agreement, dated as of the date hereof, between the Borrower and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau):

Name	Title	Signature
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____
[_____]	[_____]	_____

**IN WITNESS WHEREOF**, the undersigned has executed this certificate as of this [ ] day of [\_\_\_\_\_], 2021.

CENTRAL TEXAS REGIONAL MOBILITY  
AUTHORITY

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT L**

**FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION**

*[Letterhead of Borrower]*

*[Date]*

Build America Bureau  
United States Department of Transportation  
Room W12-464  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590  
Attention: Director, Office of Credit Programs

**Project: 183 NORTH MOBILITY PROJECT (TIFIA – 2021-[\_\_\_\_])**

Dear Director:

This Notice is provided pursuant to Section 16(g)(i) of that certain TIFIA Loan Agreement (the “**TIFIA Loan Agreement**”), dated as of [\_\_\_\_], 2021 by and between the Central Texas Regional Mobility Authority (the “**Borrower**”) and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “**TIFIA Lender**”).

Unless otherwise defined herein, all capitalized terms in this Notice have the meanings assigned to those terms in the TIFIA Loan Agreement.

I, the undersigned, in my capacity as the Borrower’s Authorized Representative and not in my individual capacity, do hereby certify to the TIFIA Lender that:

- (a) on [insert date Substantial Completion requirements were satisfied], the Project satisfied each of the requirements for Substantial Completion set forth in the [Insert reference to the Construction Contract, Project Development Agreement or relevant agreement for the Project];
- (b) Substantial Completion has been declared under each of the above-referenced agreements and copies of the notices of Substantial Completion under such agreements are attached to this certification; and
- (c) Substantial Completion, as defined in the TIFIA Loan Agreement, has been achieved.

[Borrower’s Authorized Representative]

\_\_\_\_\_  
Name:  
Title:

## EXHIBIT M

### FLOW OF FUNDS PURSUANT TO SECTION 505 OF THE INDENTURE

*The following language is excerpted from Section 505 (Flow of Funds) of the Indenture. All terms used in this Exhibit M have the meanings provided in the Indenture.*

Section 505. Flow of Funds. All Revenues shall be deposited as received by the Authority into the Revenue Fund. Amounts on deposit in the Revenue Fund shall be deposited in, or credited to, as appropriate, the following Funds and Accounts, on the fifteenth (15th) day of each month (each, a “**Transfer Date**”) beginning on the fifteenth (15th) day of the first full calendar month following the first date on which any Obligations are issued and Outstanding hereunder (or on such other date as may be provided in a Supplemental Indenture) in the following amounts in the following order of priority:

First, to the Rebate Fund such amounts as may be authorized or required by this Indenture or any Supplemental Indenture.

Second, to the Operating Fund, an amount sufficient to make the balance in the Operating Fund equal to one-sixth (1/6) of the Operating Expenses and Maintenance Expenses for such Fiscal Year, as set forth in the Annual Operating Budget and Annual Maintenance Budget of the Authority; provided, the monthly payment shall be increased or decreased, as necessary, to reflect amendments to the Annual Operating Budget and Annual Maintenance Budget or to take into consideration amounts then on deposit in the Operating Fund.

Third, to the Senior Lien Debt Service Fund (or to a fund or account created to pay or repay amounts under a Credit Facility entered into in connection with Senior Lien Obligations), an amount equal to the sum of the following:

- (i) one-sixth (1/6) of the interest becoming due on the next semiannual Interest Payment Date with respect to Senior Lien Obligations that bear interest semiannually; and
- (ii) the amount of interest next becoming due on Senior Lien Obligations that bear interest payable monthly; and
- (iii) the amount of interest accruing in such month on Senior Lien Obligations that bear interest payable on other than a monthly basis (other than Capital Appreciation Bonds), together with the amount of interest that will accrue on such Senior Lien Obligations through any Interest Payment Dates that will occur prior to the next Transfer Date; and
- (iv) one-twelfth (1/12) of the principal amount or Maturity Amount, as applicable, of Senior Lien Obligations that will mature and become due and payable on the next annual maturity date; and

- (v) one-twelfth (1/12) of the principal amount or Maturity Amount, as applicable, of Senior Lien Obligations subject to mandatory sinking fund redemption on the next annual maturity date; and
- (vi) the amount, if any, payable by the Authority under a Senior Lien Swap Agreement or Credit Facility secured on a parity with the Senior Lien Obligations (other than payments for fees and expenses) accruing in such month or that will accrue through a payment date that will occur prior to the next Transfer Date; provided, that such amounts shall be included in the calculation of the monthly deposit only to the extent such amounts are required to be paid in addition to the amounts described in clauses (i) through (v) above.

In calculating such monthly deposit to the Senior Lien Debt Service Fund, the Trustee shall take into account (a) any accrued interest deposited into the Senior Lien Debt Service Fund from the proceeds of a Series of Senior Lien Obligations, (b) any amounts delivered to the Trustee prior to such Transfer Date for credit to the Senior Lien Debt Service Fund (or, to the extent applicable, the Construction Fund) and dedicated to pay capitalized interest on Senior Lien Obligations and anticipated to be available to pay interest on Senior Lien Obligations on the next Interest Payment Date, (c) any amounts deposited to the Senior Lien Debt Service Fund prior to the Transfer Date, (d) any investment income realized by the Authority from the investment of amounts on deposit in the Senior Lien Debt Service Fund, and (e) any payments received by the Authority from a Counterparty under a Senior Lien Swap Agreement.

Further, such monthly deposits shall be adjusted, as appropriate, to reflect the frequency of Interest Payment Dates applicable to each Series of Senior Lien Obligations and the frequency of payments under any Senior Lien Swap Agreements. On or before each Transfer Date, the Authority shall make up any deficiencies in deposits on prior Transfer Dates from and to the extent monies remain on deposit in the Revenue Fund.

Fourth, to the Senior Lien Debt Service Reserve Fund, all amounts, if any, which, together with amounts on deposit therein and amounts available under a Senior Lien DSRF Security, will be sufficient to make the amount on deposit therein equal to the Senior Lien Debt Service Reserve Fund Requirement in accordance with the provisions of Section 509 hereof and any applicable Supplemental Indenture.

Fifth, to the Junior Lien Debt Service Fund (or to a fund or account created to pay or repay amounts under a Credit Facility entered into in connection with Senior Lien Obligations), an amount equal to the sum of the following:

- (i) one-sixth (1/6) of the interest becoming due on the next semiannual Interest Payment Date with respect to Junior Lien Obligations that bear interest semiannually; and
- (ii) the amount of interest next becoming due on Junior Lien Obligations that bear interest payable monthly; and

- (iii) the amount of interest accruing in such month on Junior Lien Obligations that bear interest payable on other than a monthly basis (other than Capital Appreciation Bonds), together with the amount of interest that will accrue on such Junior Lien Obligations through any Interest Payment Dates that will occur prior to the next Transfer Date; and
- (iv) one-twelfth (1/12) of the principal amount or Maturity Amount, as applicable, of Junior Lien Obligations that will mature and become due and payable on the next annual maturity date; and
- (v) one-twelfth (1/12) of the principal amount or Maturity Amount, as applicable, of Junior Lien Obligations subject to mandatory sinking fund redemption on the next annual maturity date; and
- (vi) the amount, if any, payable by the Authority under a Junior Lien Swap Agreement **or** Credit Facility secured on a parity with the Junior Lien Obligations (other than payments for fees and expenses) accruing in such month or that will accrue through a payment date that will occur prior to the next Transfer Date; provided, that such amounts shall be included in the calculation of the monthly deposit only to the extent such amounts are required to be paid in addition to the amounts described in clauses (i) through (v) above.

In calculating such monthly deposit to the Junior Lien Debt Service Fund, the Trustee shall take into account (a) any accrued interest deposited into the Junior Lien Debt Service Fund from the proceeds of a Series of Junior Lien Obligations, (b) any amounts delivered to the Trustee prior to such Transfer Date for credit to the Junior Lien Debt Service Fund (or, to the extent applicable, the Construction Fund) and dedicated to pay capitalized interest on Junior Lien Obligations and anticipated to be available to pay interest on Junior Lien Obligations on the next Interest Payment Date, (c) any amounts deposited to the Junior Lien Debt Service Fund prior to the Transfer Date, (d) any investment income realized by the Authority from the investment of amounts on deposit in the Junior Lien Debt Service Fund, and (e) any payments received by the Authority from a Counterparty under a Junior Lien Swap Agreement.

Further, such monthly deposits shall be adjusted, as appropriate, to reflect the frequency of Interest Payment Dates applicable to each Series of Junior Lien Obligations and the frequency of payments under any Junior Lien Swap Agreements. On or before each Transfer Date, the Authority shall make up any deficiencies in deposits on prior Transfer Dates from and to the extent monies remain on deposit in the Revenue Fund.

Sixth, to the Junior Lien Debt Service Reserve Fund, all amounts, if any, which, together with amounts on deposit therein and amounts available under a Junior Lien DSRF Security, will be sufficient to make the amount on deposit therein equal to the Junior Lien Debt Service Reserve Fund Requirement, if any, in accordance with the provisions of Section 511 hereof and any applicable Supplemental Indenture.

Seventh, to the Subordinate Lien Debt Service Fund (or to a fund or account created to pay or repay amounts under a Credit Facility entered into in connection with Subordinate Lien Obligations), an amount equal to the sum of the following:

- (i) one-sixth (1/6) of the interest becoming due on the next semiannual Interest Payment Date with respect to Subordinate Lien Obligations that bear interest semiannually; and
- (ii) the amount of interest next becoming due on Subordinate Lien Obligations that bear interest payable monthly; and
- (iii) the amount of interest accruing in such month on Subordinate Lien Obligations that bear interest payable on other than a monthly basis (other than Capital Appreciation Bonds), together with the amount of interest that will accrue on such Subordinate Lien Obligations through any Interest Payment Dates that will occur prior to the next Transfer Date; and
- (iv) one-twelfth (1/12) of the principal amount or Maturity Amount, as applicable, of Subordinate Lien Obligations that will mature and become due and payable on the next annual maturity date; and
- (v) one-twelfth (1/12) of the principal amount or Maturity Amount, as applicable, of Subordinate Lien Obligations subject to mandatory sinking fund redemption on the next annual maturity date; and
- (vi) the amount, if any, payable by the Authority under a Subordinate Lien Swap Agreement or Credit Facility secured on a parity with the Subordinate Lien Obligations (other than payments for fees and expenses) accruing in such month or that will accrue through a payment date that will occur prior to the next Transfer Date; provided, that such amounts shall be included in the calculation of the monthly deposit only to the extent such amounts are required to be paid in addition to the amounts described in clauses (i) through (v) above.

In calculating such monthly deposit to the Subordinate Lien Debt Service Fund, the Trustee shall take into account (a) any accrued interest deposited into the Subordinate Lien Debt Service Fund from the proceeds of a Series of Subordinate Lien Obligations, (b) any amounts delivered to the Trustee prior to such Transfer Date for credit to the Subordinate Lien Debt Service Fund (or, to the extent applicable, the Construction Fund) and dedicated to pay capitalized interest on Subordinate Lien Obligations and anticipated to be available to pay interest on Subordinate Lien Obligations on the next Interest Payment Date, (c) any amounts deposited to the Subordinate Lien Fund prior to the Transfer Date, (d) any investment income realized by the Authority from the investment of amounts on deposit in the Subordinate Lien Debt Service Fund, and (e) any payments received by the Authority from a Counterparty under a Subordinate Lien Swap Agreement.

Further, such monthly deposits shall be adjusted, as appropriate, to reflect the frequency of Interest Payment Dates applicable to each Series of Subordinate Lien Obligations and the frequency of payments under any Subordinate Lien Swap Agreements. On or before each

Transfer Date, the Authority shall make up any deficiencies in deposits on prior Transfer Dates from and to the extent monies remain on deposit in the Revenue Fund.

Eighth, to the Subordinate Lien Debt Service Reserve Fund, if any, which, together with amounts on deposit therein and amounts available under a Subordinate Lien DSRF Security, will be sufficient to make the amount on deposit therein equal to the Subordinate Lien Debt Service Reserve Requirement, if any, in accordance with Section 513 hereof and any applicable Supplemental Indenture.

Ninth, to the Renewal and Replacement Fund, one-twelfth (1/12) of the amount identified in the Annual Capital Budget for deposit into the Renewal and Replacement Fund from the Revenue Fund.

Tenth, to the Other Obligation Fund (or to a fund or account created to pay or repay amounts under a Credit Facility entered into in connection with Other Obligations), an amount equal to the sum of the following:

- (i) one-sixth (1/6) of the interest becoming due on the next semiannual Interest Payment Date with respect to Other Obligations that bear interest semiannually; and
- (ii) the amount of interest next becoming due on Other Obligations that bear interest payable monthly; and
- (iii) the amount of interest accruing in such month on Other Obligations that bear interest payable on other than a monthly basis (other than Capital Appreciation Bonds), together with the amount of interest that will accrue on such Other Obligations through any Interest Payment Dates that will occur prior to the next Transfer Date; and
- (iv) one-twelfth (1/12) of the principal amount or Maturity Amount, as applicable, of Other Obligations that will mature and become due and payable on the next annual maturity date; and
- (v) one-twelfth (1/12) of the principal amount or Maturity Amount, as applicable, of Other Obligations subject to mandatory sinking fund redemption on the next annual maturity date; and
- (vi) the amount, if any, payable by the Authority under a Credit Facility secured on a parity with the Other Obligations (other than payments for fees and expenses) accruing in such month or that will accrue through a payment date that will occur prior to the next Transfer Date; provided, that such amounts shall be included in the calculation of the monthly deposit only to the extent such amounts are required to be paid in addition to the amounts described in clauses (i) through (v) above.

In calculating such monthly deposit to the Other Obligations, the Trustee shall take into account (a) any accrued interest deposited into the Other Obligations Fund from the proceeds of Other Obligations, (b) any amounts delivered to the Trustee prior to such



Transfer Date for credit to the Other Obligations Fund (or, to the extent applicable, the Construction Fund) and dedicated to pay capitalized interest on Other Obligations and anticipated to be available to pay interest on Other Obligations on the next Interest Payment Date, (c) any amounts deposited to the Other Obligations Fund prior to the Transfer Date, and (d) any investment income realized by the Authority from the investment of amounts on deposit in the Other Obligations Fund.

Further, such monthly deposits shall be adjusted, as appropriate, to reflect the frequency of Interest Payment Dates applicable to each Series of Other Obligations. On or before each Transfer Date, the Authority shall make up any deficiencies in deposits on prior Transfer Dates from and to the extent monies remain on deposit in the Revenue Fund.

Eleventh, except as otherwise provided in a Supplemental Indenture, to the General Fund all amounts remaining on deposit in the Revenue Fund.

**EXHIBIT N**

**CERTIFICATION REGARDING THE PROHIBITION ON THE USE OF  
APPROPRIATED FUNDS FOR LOBBYING**

Reference is made to that certain TIFIA Loan Agreement, dated as of [\_\_\_\_\_], 2021 (the “TIFIA Loan Agreement”), by and between the Central Texas Regional Mobility Authority (the “Borrower”) and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “TIFIA Lender”). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the TIFIA Loan Agreement.

The undersigned, on behalf of CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY, hereby certifies, to the best of his or her knowledge and belief, that:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Borrower, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of the TIFIA Loan.
- (b) If any funds other than proceeds of the TIFIA Loan have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the TIFIA Loan, the Borrower shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
- (c) The Borrower shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when the TIFIA Lender entered into this Agreement. Submission of this certification is a prerequisite to the effectiveness of this Agreement imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Dated: \_\_\_\_\_

**CENTRAL TEXAS REGIONAL MOBILITY  
AUTHORITY**

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT O**

**FORM OF SEMI-ANNUAL COVERAGE CERTIFICATE**

Reference is made to that certain TIFIA Loan Agreement, dated as of [\_\_\_\_], 2021 (the “TIFIA Loan Agreement”), by and between the CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY, a body politic and corporate and political subdivision of the State of Texas (the “Borrower”) and the United States Department of Transportation, acting by and through the Executive Director of the Build America Bureau (the “TIFIA Lender”). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the TIFIA Loan Agreement.

The undersigned, [\_\_\_\_], as Borrower’s Authorized Representative, does hereby certify on behalf of the Borrower and not in his/her personal capacity, as of the date hereof:

1. The undersigned has reviewed the terms of the TIFIA Loan Agreement, including Section 21(b) (*Semi-Annual Coverage Certificates*) thereof and the related defined terms.

2. The undersigned hereby certifies that annual projected Revenues shall be sufficient to meet the Loan Amortization Schedule and to meet the Borrower’s debt service obligations with respect to any other Obligations that are currently outstanding, including all debt service obligations pursuant to the Indenture, in each case as of each applicable payment date through the fifth (5<sup>th</sup>) anniversary of the most recent Semi-Annual Payment Date.

3. The undersigned hereby certifies that Annex One hereto sets forth:

(a) the historical Senior Debt Service Coverage Ratio and Total Debt Service Coverage Ratio for the two (2) consecutive Calculation Periods ended as of the most recent Calculation Date and as of the immediately preceding Calculation Date, and

(b) the projected Senior Debt Service Coverage Ratio and Total Debt Service Coverage Ratio as of each Calculation Date through the fifth (5<sup>th</sup>) anniversary of the most recent Calculation Date.

The foregoing certifications, together with the computations set forth in the Annex A hereto, are made and delivered [mm/dd/yy]<sup>2</sup> pursuant to Section 21(b) (*Semi-Annual Coverage Certificates*) of the TIFIA Loan Agreement.

**CENTRAL TEXAS REGIONAL  
MOBILITY AUTHORITY**

By: \_\_\_\_\_  
Name:

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<sup>2</sup> Each Semi-Annual Coverage Certificate must be delivered within fifteen (15) days after the most recent Calculation Date.

Title:

ANNEX ONE  
TO SEMI-ANNUAL COVERAGE CERTIFICATE

## Exhibit P

### 2 CFR Part 170

#### I. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION

##### a. *Reporting of first-tier subawards.*

1. *Applicability.* Unless you are exempt as provided in paragraph (d) below, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph (e) below).

##### 2. *Where and when to report.*

i. The non-Federal entity or Federal agency must report each obligating action described in paragraph (a)(1) above to <http://www.fsrs.gov>.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

##### b. *Reporting total compensation of recipient executives for non-Federal entities.*

1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

i. The total Federal funding authorized to date under this TIFIA Loan equals or exceeds \$30,000 as defined in 2 CFR § 170.320;

ii. In the preceding fiscal year, you received—

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards), and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards); and,

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

2. *Where and when to report.* You must report executive total compensation described in paragraph (b)(1) above:

i. As part of your registration profile at <https://www.sam.gov>.

ii. By the end of the month following the month of the Effective Date, and annually thereafter.

*c. Reporting of Total Compensation of Subrecipient Executives.*

1. *Applicability and what to report.* Unless you are exempt as provided in paragraph (d) below, for each first-tier non-Federal entity subrecipient under this TIFIA Loan, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

i. In the subrecipient's preceding fiscal year, the subrecipient received—

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards) and,

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph (c)(1) above:

i. To the recipient.

ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. *Exemptions.* If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

1. Subawards, and

2. The total compensation of the five most highly compensated executives of any subrecipient.

e. *Definitions.* For purposes of this **Exhibit P**:

1. *Federal Agency* means a Federal agency as defined at 5 U.S.C. § 551(1) and further clarified by 5 U.S.C. § 552(f).

2. *Non-Federal entity* means all of the following, as defined in 2 CFR Part 25:

i. A Governmental organization, which is a State, local government, or Indian tribe;

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization; and,

iv. A domestic or foreign for-profit organization



3. *Executive* means officers, managing partners, or any other employees in management positions.

4. *Subaward*:

i. This term means a legal instrument to provide support for the performance of any portion of the Project and that you as the Borrower award to an eligible subrecipient.

ii. The term does not include your procurement of property and services needed to carry out the Project (for further explanation, see 2 CFR 200.331).

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

5. *Subrecipient* means a non-Federal entity or Federal agency that:

i. Receives a subaward from you (the recipient) under this TIFIA Loan; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward.

6. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR § 229.402).