

AMENDMENT NO. 21 TO
FACILITY CONCESSION AGREEMENT
SH 130, SEGMENTS 5 & 6 FACILITY

THIS AMENDMENT NO. 21 TO FACILITY CONCESSION AGREEMENT (this “Amendment”) is entered into and effective as of June 28, 2017 between the Texas Department of Transportation, a public agency of the State of Texas (“TxDOT”), and SH 130 Concession Company, LLC, a Delaware limited liability company (“Developer”), with reference to the following facts:

A. TxDOT and Developer entered into that certain Facility Concession Agreement dated as of March 22, 2007 (as amended, the “Agreement”), together with related agreements collectively referred to in the Agreement as the “FCA Documents.” All capitalized terms used but not defined herein shall have the meanings set forth in the Agreement.

B. TxDOT and Developer have entered into that certain Joint Stipulation dated May 16, 2017 (“Joint Stipulation”) in connection with the Chapter 11 proceedings jointly administered as Case No. 16-10262 in the U.S. Bankruptcy Court for the Western District of Texas, Austin Division (the “Chapter 11 Cases”).

C. As reflected in the Joint Stipulation, TxDOT and the Developer have agreed to make certain revisions and clarifications to the FCA Documents as provided herein, in order to resolve certain of the disputes raised in the Cure Notice, Cure Objection and Cure Reply, each as defined in the Joint Stipulation, and thereby facilitate the reorganization contemplated in the Modified Second Amended Joint Plan of Reorganization filed in the Chapter 11 Cases on April 21, 2017 [Docket No. 696] (the “Chapter 11 Plan”), and the reorganized Developer’s continued operation and administration of the Facility.

NOW, THEREFORE, for good and valuable consideration and the mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the Developer and TxDOT hereby agree to the following amendments to the FCA Documents:

1. 2017 Remedial Plan. The following provisions are added to the Agreement concerning the remedial plan submitted to TxDOT by the Developer on October 14, 2016, as revised and resubmitted on December 20, 2016, and approved by TxDOT on January 25, 2017 (the “2017 Remedial Plan”):

(a) The 2017 Remedial Plan is hereby incorporated into and made a part of the Agreement.

(b) The 2017 Remedial Plan requires the Developer to satisfy the criteria for Substantial Completion (as defined and set forth in the 2017 Remedial Plan) within 720 days after the occurrence of the Effective Date, as defined in the Joint Stipulation (the “Substantial Completion Milestone Date”).

(c) Developer shall be liable for and pay to TxDOT liquidated damages as set forth below (the “Liquidated Damages”) as a result of Developer’s failure to satisfy all of the criteria for Substantial Completion in accordance with the 2017 Remedial Plan by the

Substantial Completion Milestone Date. The amounts of such Liquidated Damages shall accrue as follows:

- Days 1 – 30: \$20,000 / day
- Days 31- 60: \$30,000 / day
- Days 61 – 90: \$40,000 / day
- Each day thereafter, starting with day 91: \$50,000 / day

Liquidated Damages shall commence to accrue on the first day after the Substantial Completion Milestone Date, and shall continue to accrue on a daily basis until, and such accrual will cease when, all of the criteria for Substantial Completion have been satisfied in accordance with the 2017 Remedial Plan.

Subject to the exceptions listed below in this Section 1(c), notwithstanding any other provision of the FCA Documents to the contrary, Liquidated Damages shall constitute TxDOT's sole and exclusive remedy for Developer's failure to timely comply with any of the elements of the 2017 Remedial Plan and for the events and circumstances intended to be remediated by the 2017 Remedial Plan; provided, however, that this limitation shall not apply to (i) TxDOT's remedies for Developer's failure to pay the Liquidated Damages when due in accordance with Section 1(f) of this Amendment; (ii) TxDOT's right to issue Safety Compliance Orders in accordance with Section 12.4 of the Agreement; (iii) TxDOT's remedies for Developer's failure to meet Safety Standards or perform Safety Compliance pursuant to Section 17.3.3 of the Agreement; (iv) TxDOT's step-in rights pursuant to Section 17.3.4 of the Agreement; (v) TxDOT's right to suspend the Work pursuant to Section 17.3.7 of the Agreement; (vi) TxDOT's right of immediate entry and cure of wrongful closure pursuant to Section 17.3.2 of the Agreement; and (vii) TxDOT's remedies for Developer's failure to satisfy all of the criteria for Substantial Completion in accordance with the 2017 Remedial Plan by 365 days after the Substantial Completion Milestone Date (which would constitute at such time a Developer Default under Section 17.1.1.12(b) of the Agreement).

(d) Developer acknowledges that such Liquidated Damages are reasonable in order to compensate TxDOT for damages it will incur as a result of late completion of the elements of the 2017 Remedial Plan.

(e) By no later than ninety (90) calendar days after the Effective Date, Developer shall provide to TxDOT a standby letter of credit in substantially the form of Exhibit 1 hereto (or otherwise in acceptable form to TxDOT in its reasonable discretion) (the "Remedial Plan LoC"), in the amount of \$1,000,000 for the purpose of securing Developer's obligation to pay any outstanding Liquidated Damages arising hereunder; provided, however, that if Developer fails to provide the Remedial Plan LoC to TxDOT within such ninety (90) day period, Developer shall be obligated to provide to TxDOT the Remedial Plan LoC in the amount of \$2,000,000. Upon Developer's satisfaction of the criteria for Substantial Completion set forth in the 2017 Remedial Plan, TxDOT will promptly (i) return the original Remedial Plan LoC to Developer, and (ii) provide reasonable cooperation for the cancellation of the Remedial Plan LoC.

(f) Developer shall pay any Liquidated Damages owing under this Amendment within ten (10) Business Days after TxDOT delivers to Developer TxDOT's invoice or demand therefor, such invoice or demand to be issued in arrears not more often than monthly. TxDOT shall have the right to draw on the Remedial Plan LoC if Developer fails to pay any Liquidated Damages accrued hereunder within the time frame specified in the preceding sentence, following TxDOT's delivery of an invoice or demand for such Liquidated Damages, such draw not to exceed the amount of such accrued and outstanding Liquidated Damages.

In the event that Liquidated Damages accrued hereunder are not paid as provided in this subsection 1(g), after drawing by TxDOT on the Remedial Plan LoC (if applicable) in accordance with the terms thereof and the application of the proceeds to payment of any Liquidated Damages then due, then such failure to pay shall be a material failure to pay and a Developer Default under Section 17.1.1.5 of the Agreement shall apply.

2. Amendment of Exhibit 20, Attachment 1 (Noncompliance Points Table).

Reference 7.5 of Attachment 1 is hereby amended to clarify that the quarterly audit Asset Condition Score requirement applies to each Element Category, consistent with the provisions in Table 19.7.2-1 of the FCA Technical Requirements.

3. Sales Tax Letter of Credit and Additional Concession Payment. Notwithstanding anything to the contrary in the FCA Documents or the October 31, 2012 Letter Agreement Concerning Sales Tax Exemption Certification, Sales Tax Refund and Letter of Credit between TxDOT and Developer, the following provisions are hereby added to the Agreement concerning the State sales tax letter of credit dated March 22, 2007 issued by JPMorgan Chase Bank, N.A. for the benefit of TxDOT ("Original Sales Tax LoC"):

(a) As set forth in the Joint Stipulation, on the Effective Date: (i) Developer shall make an Additional Concession Payment to TxDOT in the amount of \$392,110.69 and (ii) TxDOT shall submit a reduction notice in accordance with the provisions of the Sales Tax LoC so that the face value is reduced to \$510,000.00.

(b) TxDOT acknowledges and agrees to accept a standby letter of credit in substantially the form of Exhibit 2 hereto (or otherwise in acceptable form to TxDOT in its reasonable discretion), in an amount equal to the then outstanding and undrawn amount of the Original Sales Tax LoC, in complete replacement and substitution of the Original Sales Tax LoC (the "Replacement Sales Tax LoC"). Upon TxDOT's receipt of the original Replacement Sales Tax LoC, TxDOT will promptly (i) return the original Original Sales Tax LoC to Developer, and (ii) provide reasonable cooperation for the cancellation of the Original Sales Tax LoC.

(c) The Original Sales Tax LoC or, to the extent applicable, the Replacement Sales Tax LoC (as applicable, the "Sales Tax LoC") shall remain available to secure payment, in accordance with the terms of the Agreement, of any remaining State sales tax liability incurred by Developer for the acquisition of tolling and communications equipment installed as part of the original Construction Work (the "Tolling Equipment"), and

payment of any amount due to TxDOT under Section 3(e), below, until the release of the Sales Tax LoC in accordance with Section 3(f), below.

(d) Within thirty (30) calendar days after the Effective Date, Developer shall submit a request to the Texas Comptroller of Public Accounts for a ruling as to the amount of State sales tax (if any) that Developer is required to pay for the Tolling Equipment (the “Comptroller Supplemental Ruling”).

(e) Developer shall provide TxDOT with a certified copy of the Comptroller Supplemental Ruling promptly upon receipt, and, within ten (10) Business Days thereafter, Developer shall make an Additional Concession Payment to TxDOT in an amount equal to the difference between (i) \$510,000.00, *minus* (ii) the amount of State sales tax (if any) that Developer is required to pay based on the Comptroller Supplemental Ruling.

(f) TxDOT shall release and return the Sales Tax LoC to Developer upon either (i) Developer’s payment of the Additional Concession Payment described in Section 3(e), above, or (ii) Developer’s delivery of a certified copy of the Comptroller Supplemental Ruling establishing that the amount of State sales tax on the Tolling Equipment equals or exceeds the remaining face value of the Sales Tax LoC specified in Section 3(a), above.

(g) Except for the obligations described herein concerning the Sales Tax LoC, TxDOT shall have no liability or obligation for payment of any State sales taxes (or any other taxes) imposed in connection with the matters in respect of which the Sales Tax LoC was maintained. Notwithstanding anything to the contrary in the FCA Documents or herein, Developer’s maximum aggregate liability with respect to its obligations under Section 3(d) shall be limited to \$510,000.00.

4. Amendment of Technical Requirements Section 19 (Maintenance)

The following sentence is hereby added at the end of Section 19.1 (General Requirements):

“As used throughout this Section 19, the term ‘undertake’ or ‘undertaken’ means ‘to complete’ a given activity or task.”

5. Effectiveness of FCA Documents. Except as specifically amended hereby, the provisions of the FCA Documents, as previously amended by Amendments Nos. 1 – 19 to the Agreement, are hereby confirmed without change.


6. Binding Effect of Amendment. This Amendment is entered into pursuant to Section 24.3 of the Agreement, and shall be valid, effective and enforceable upon full execution by the Parties.

7. Counterparts. This Amendment may be executed in multiple counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed as of the day and year first above written.

DEVELOPER:

SH 130 CONCESSION COMPANY, LLC

By: 
Name: Andrew V. Bailey II
Title: Chief Executive Officer

TxDOT:

**TEXAS DEPARTMENT OF
TRANSPORTATION**

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed as of the day and year first above written.

DEVELOPER:

SH 130 CONCESSION COMPANY, LLC

By: _____

Name:

Title:

TxDOT:

**TEXAS DEPARTMENT OF
TRANSPORTATION**

By:  _____

Name: Marc D. Williams, P.E.

Title: Deputy Executive Director

[Form of Remedial Plan LoC]

(Begins on next page)

BOKF, NA
1(918) 588-6601 / 1(800)285-6829
INTERNATIONAL BANKING CENTER
ONE WILLIAMS CENTER, PLAZA EAST
TULSA, OK 74172, USA

STANDBY LETTER OF CREDIT - DRAFT

DATE: 06/22/17

WE HAVE PREPARED THIS DRAFT UPON REQUEST AND BASED ON INFORMATION SUPPLIED TO US. NO REPRESENTATION OR COMMITMENT IS MADE BY US REGARDING THE ACCURACY OR SUITABILITY OF THIS DRAFT FOR ITS INTENDED PURPOSE OR THE WILLINGNESS OF OUR BANK TO ISSUE A LETTER OF CREDIT IN THIS OR ANY OTHER FORM.

DRAFT APPROVED BY:

APPLICANT'S SIGNATURE

(Pls initial rest of pages & send all pages back)

L/C NO: <TO BE ASSIGNED WHEN ISSUED>

TYPE: IRREVOCABLE
AMOUNT: 1,000,000.00 USD

DATE OF EXPIRY: <ONE YEAR FROM ISSUANCE>

PLACE OF EXPIRY: TULSA, OKLAHOMA

APPLICANT:
SH 130 CONCESSION COMPANY, LLC
10800 N US 183 HWY NB
BUDA, TX 78610

BENEFICIARY:
TEXAS DEPARTMENT OF TRANSPORTATION
125 E. 11TH STREET
AUSTIN, TEXAS 78701-2483
ATTN: _____

WE HEREBY ISSUE OUR IRREVOCABLE STAND-BY LETTER OF CREDIT NO. BOK17SDP0---- IN FAVOR OF THE TEXAS DEPARTMENT OF TRANSPORTATION ('TXDOT') AND FOR THE ACCOUNT OF SH 130 CONCESSION COMPANY, LLC (THE 'DEVELOPER') UP TO AN AGGREGATE AMOUNT OF U.S. \$1,000,000.00 (AS REDUCED FROM TIME TO TIME IN ACCORDANCE WITH THE PROVISIONS HEREOF, THE 'STATED AMOUNT').

EACH DRAWING PAID HEREUNDER SHALL PERMANENTLY REDUCE THE STATED AMOUNT BY THE AMOUNT OF SUCH DRAWING. IN ADDITION, AS OF THE DATE WE RECEIVE YOUR REDUCTION NOTICE IN THE FORM OF ANNEX A HERETO, THE STATED AMOUNT SHALL

REDUCE BY THE AMOUNT SPECIFIED AS THE ``REDUCTION AMOUNT`` THEREIN. EXCEPT AS HEREIN PROVIDED, THIS LETTER OF CREDIT IS UNCONDITIONAL.

A REQUEST TO DRAW UNDER THIS LETTER OF CREDIT (``DEMAND FOR PAYMENT``) MAY BE MADE BY YOU BY PRESENTATION TO US ON ANY BUSINESS DAY (AS HEREINAFTER DEFINED) AT BOKF, NA, INTERNATIONAL DEPARTMENT, LOCATED AT ONE WILLIAMS CENTER, PLAZA EAST, TULSA, OKLAHOMA, 74172 OF YOUR SIGHT DRAFT DRAWN ON US MENTIONING OUR LETTER OF CREDIT NO. BOK17SDP0---- IN THE FORM OF ANNEX B ATTACHED HERETO, ACCOMPANIED BY A DRAWING CERTIFICATE IN THE FORM OF ANNEX C ATTACHED HERETO, EACH DULY COMPLETED AND SIGNED BY A PERSON IDENTIFYING HIMSELF OR HERSELF AS THE [EXECUTIVE DIRECTOR] OF TXDOT (WHETHER ACTING OR ACTUAL). MULTIPLE DRAWINGS ARE AVAILABLE TO YOU HEREUNDER PROVIDED THAT THE AGGREGATE AMOUNT OF ALL SUCH DRAWINGS SHALL NOT EXCEED THE STATED AMOUNT.

DRAWINGS BY FACSIMILE TO FACSIMILE NUMBER 918-588-6026 ARE ACCEPTABLE (EACH SUCH DRAWING, A ``FAX DRAWING``) PROVIDED HOWEVER THAT A FAX DRAWING WILL NOT BE EFFECTIVELY PRESENTED UNTIL YOU CONFIRM BY TELEPHONE OUR RECEIPT OF SUCH FAX DRAWING BY CALLING US AT TELEPHONE NUMBER 918-588-6649. FOR PURPOSES OF THIS LETTER OF CREDIT, A ``BUSINESS DAY`` MEANS A DAY OTHER THAN A SATURDAY, SUNDAY OR OTHER DAY ON WHICH BANKING INSTITUTIONS IN THE STATE OF TEXAS ARE AUTHORIZED OR REQUIRED BY LAW TO CLOSE FOR BUSINESS.

IF A DEMAND FOR PAYMENT IS MADE BY YOU HEREUNDER AT OR PRIOR TO 10:00 A.M., CENTRAL TIME, ON A BUSINESS DAY, AND PROVIDED THAT SUCH DEMAND FOR PAYMENT CONFORMS TO THE TERMS AND CONDITIONS HEREOF, PAYMENT SHALL BE MADE BY US TO YOU IN IMMEDIATELY AVAILABLE FUNDS FREE AND CLEAR OF AND WITHOUT DEDUCTION FOR ANY TAXES, DUTIES, FEES, LIENS, SET-OFFS OR OTHER DEDUCTIONS OF ANY KIND AND REGARDLESS OF ANY OBJECTION BY ANY THIRD PARTY (SUBJECT TO ANY COURT ORDER OR JUDGMENT), TO THE ACCOUNT DESIGNATED BELOW OR SUCH OTHER ACCOUNT AT A NATIONAL BANK IN THE UNITED STATES OF AMERICA THAT YOU MAY DESIGNATE IN THE DEMAND FOR PAYMENT ON THE NEXT BUSINESS DAY AFTER DEMAND IS MADE.

IF A DEMAND FOR PAYMENT IS MADE BY YOU HEREUNDER AFTER 10:00 A.M., CENTRAL TIME, ON A BUSINESS DAY, AND PROVIDED THAT SUCH DEMAND FOR PAYMENT CONFORMS TO THE TERMS AND CONDITIONS HEREOF, SUCH PAYMENT SHALL BE MADE TO THE ACCOUNT YOU SPECIFY IN YOUR DRAWING CERTIFICATE NO LATER THAN THE CLOSE OF BUSINESS, LOCAL TIME OF THE LOCATION OF SUCH ACCOUNT, ON THE SECOND BUSINESS DAY AFTER DEMAND IS MADE. PAYMENT UNDER THIS LETTER OF CREDIT SHALL BE MADE IN SAME DAY FUNDS, BY WIRE TRANSFER TO SUCH ACCOUNT YOU SPECIFY IN YOUR DRAWING CERTIFICATE.

OUR OBLIGATIONS HEREUNDER ARE PRIMARY OBLIGATIONS TO TXDOT AND SHALL NOT BE AFFECTED BY THE OBLIGATIONS OF THE DEVELOPER UNDER THE FACILITY CONCESSION AGREEMENT DATED AS OF MARCH 22, 2007 BETWEEN TXDOT AND THE DEVELOPER (AS AMENDED FROM TIME TO TIME IN ACCORDANCE WITH ITS TERMS, THE ``FACILITY CONCESSION AGREEMENT``) OR UNDER ANY OTHER AGREEMENT WITH TXDOT OR BY ANY BANKRUPTCY OR OTHER INSOLVENCY PROCEEDING INITIATED BY OR AGAINST THE DEVELOPER. THE DEVELOPER IS NOT THE OWNER OF OR BENEFICIARY UNDER THIS LETTER OF CREDIT AND POSSESSES NO INTEREST WHATSOEVER IN THIS LETTER OF CREDIT OR PROCEEDS OF SAME. WE ENGAGE WITH YOU THAT ANY DRAWS MADE UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT SHALL BE DULY HONORED ON SIGHT IF PRESENTED TO US ON OR BEFORE THE EXPIRATION DATE (AS HEREINAFTER DEFINED).

IF ANY DEMAND FOR PAYMENT DELIVERED BY YOU HEREUNDER DOES NOT, IN ANY INSTANCE, CONFORM TO THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT, WE SHALL GIVE YOU NOTICE THEREOF, STATING THE REASONS THEREFOR AND THAT WE WILL UPON YOUR INSTRUCTIONS HOLD ANY DOCUMENT AT YOUR DISPOSAL OR RETURN THE SAME TO YOU. UPON RECEIPT OF ANY SUCH NOTICE, YOU MAY ATTEMPT TO CORRECT ANY SUCH NON-CONFORMANCE; PROVIDED, HOWEVER, THAT ANY DEMAND FOR PAYMENT PRESENTED TO CORRECT SUCH NON-CONFORMING DEMAND MUST BE PRESENTED ON OR PRIOR TO THE EXPIRATION OF THIS LETTER OF CREDIT.

THE "EXPIRATION DATE" OF THIS LETTER OF CREDIT SHALL MEAN THE DATE WHICH IS THE LATER OF (MONTH)--, 2018 (THE "STATED EXPIRY DATE") OR SUCH DATE AS TO WHICH EXPIRATION OF THIS LETTER OF CREDIT MAY BE EXTENDED IN ACCORDANCE WITH THE TERMS HEREOF. THE EXPIRATION DATE SHALL BE EXTENDED WITHOUT AMENDMENT FOR SUCCESSIVE ONE YEAR PERIODS FROM THE STATED EXPIRY DATE, UNLESS AT LEAST 45 DAYS PRIOR TO THE THEN EFFECTIVE EXPIRATION DATE WE SHALL NOTIFY TXDOT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED OR COURIER MAIL THAT WE ARE NOT TENDING THIS LETTER OF CREDIT FOR AN ADDITIONAL ONE YEAR PERIOD. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THIS LETTER OF CREDIT WILL NOT BE EXTENDED BEYOND THE FINAL EXPIRATION DATE OF (MONTH) --, 2022. ANY REFERENCE TO A FINAL EXPIRATION DATE DOES NOT IMPLY THAT WE ARE OBLIGATED TO EXTEND THE EXPIRATION DATE BEYOND THE INITIAL OR ANY EXTENDED DATE THEREOF.

THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS, 2007 REVISION, INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 600 (THE "UCP"). AS TO MATTERS NOT GOVERNED BY THE UCP, THIS LETTER OF CREDIT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.

BOKF, NA

.....
ANDY KRIDER
VP, INTL OPERATIONS

ANNEX A
REDUCTION NOTICE

[DATE]

BOKF, NA
ONE WILLIAMS CENTER - PLAZA EAST
TULSA, OK 74172

ATTENTION: INTERNATIONAL DEPT.

RE: REDUCTION NOTICE: IRREVOCABLE STANDBY LETTER OF CREDIT NO.
BOK17SDP0----

LADIES AND GENTLEMEN:

REFERENCE IS MADE TO YOUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. [____] DATED [____], 2017, (THE "LETTER OF CREDIT") ISSUED BY YOU TO THE UNDERSIGNED FOR THE ACCOUNT OF SH 130 CONCESSION COMPANY, LLC (THE "DEVELOPER"). ANY CAPITALIZED TERM USED BUT NOT DEFINED IN THIS CERTIFICATE OR ATTACHED STATEMENT SHALL, UNLESS OTHERWISE STATED, HAVE THE MEANING ASSIGNED TO IT IN THE LETTER OF CREDIT.

THE UNDERSIGNED HEREBY CERTIFIES THAT THE STATED AMOUNT OF THE LETTER OF CREDIT SHOULD BE REDUCED ON THE DATE OF YOUR RECEIPT OF THIS NOTICE BY AN AMOUNT EQUAL TO \$_____ (THE "REDUCTION AMOUNT"). THE REDUCTION AMOUNT REPRESENTS THE AMOUNT OF REDUCTION OF THE LETTER OF CREDIT SUPPORT OBLIGATIONS THAT DEVELOPER IS ENTITLED TO RECEIVE UNDER THE TERMS AND CONDITIONS DESCRIBED IN AMENDMENT NO.21 TO THE FACILITY CONCESSION AGREEMENT, DATED AS OF JUNE 28, 2017, PRIOR TO THE DATE OF THIS NOTICE AND NOT SUBJECT TO ANY PRIOR REDUCTION NOTICE DELIVERED TO YOU IN CONNECTION WITH THE LETTER OF CREDIT.

IN WITNESS WHEREOF THE UNDERSIGNED HAS EXECUTED THIS CERTIFICATE ON THIS [] DAY OF [], 20__,

TEXAS DEPARTMENT OF TRANSPORTATION

BY: _____
NAME: _____
TITLE: [EXECUTIVE DIRECTOR]

ANNEX B

SIGHT DRAFT

[DATE]

FOR VALUE RECEIVED

PAY ON DEMAND TO TEXAS DEPARTMENT OF TRANSPORTATION IN THE AMOUNT OF
\$_____.

CHARGE TO ACCOUNT OF [*INSERT LC ISSUING BANK NAME*], IRREVOCABLE STANDBY
LETTER OF CREDIT NO. [_____]

TO: BOKF, NA
ONE WILLIAMS CENTER - PLAZA EAST
TULSA, OK 74172

ATTENTION: INTERNATIONAL DEPT.

TEXAS DEPARTMENT OF TRANSPORTATION

BY: _____
NAME: _____
TITLE: [EXECUTIVE DIRECTOR]

ANNEX C

DRAW CERTIFICATE

BOKF, NA
ONE WILLIAMS CENTER - PLAZA EAST
TULSA, OK 74172

ATTENTION: INTERNATIONAL DEPT.

RE: YOUR IRREVOCABLE LETTER OF CREDIT NO. BOK17SDP0---- (THE "LETTER OF CREDIT")

LADIES AND GENTLEMEN:

THE TEXAS DEPARTMENT OF TRANSPORTATION ("TXDOT") HEREBY CERTIFIES TO BOKF, NA (THE "BANK") WITH REFERENCE TO THE BANK'S LETTER OF CREDIT DESCRIBED ABOVE ISSUED IN FAVOR OF TXDOT (CAPITALIZED TERMS USED HEREIN AND NOT OTHERWISE DEFINED HEREIN SHALL HAVE THE RESPECTIVE MEANINGS GIVEN SUCH TERMS IN THE LETTER OF CREDIT) THAT:

1. TXDOT IS MAKING A DRAWING UNDER THE LETTER OF CREDIT FOR AN AMOUNT EQUAL TO \$_____ (THE "DRAWING AMOUNT"), WHICH AMOUNT, TOGETHER WITH ALL PRIOR AMOUNTS DRAWN UNDER THE LETTER OF CREDIT, DOES NOT EXCEED THE STATED AMOUNT.

2. *CHOOSE ONE OF THE FOLLOWING ALTERNATIVE PARAGRAPHS:*

[THE SUBSTANTIAL COMPLETION MILESTONE DATE (AS DEFINED IN THE FACILITY CONCESSION AGREEMENT) HAS OCCURRED AND DEVELOPER HAS FAILED TO SATISFY ALL OF THE CRITERIA FOR SUBSTANTIAL COMPLETION IN ACCORDANCE WITH, AND AS DEFINED UNDER, THE 2017 REMEDIAL PLAN (AS DEFINED IN THE FACILITY CONCESSION AGREEMENT). TXDOT HAS DELIVERED AN INVOICE OR DEMAND FOR LIQUIDATED DAMAGES (AS DEFINED IN THE FACILITY CONCESSION AGREEMENT) IN AN AMOUNT AT LEAST EQUAL TO THE DRAWING AMOUNT, AND DEVELOPER HAS FAILED TO PAY SUCH LIQUIDATED DAMAGES WITHIN TEN (10) BUSINESS DAYS (AS DEFINED IN THE FACILITY CONCESSION AGREEMENT) OF TXDOT'S INVOICE OR DEMAND THEREFOR.]

[BY ITS TERMS, THE LETTER OF CREDIT WILL EXPIRE IN 45 DAYS OR LESS FROM THE DATE HEREOF, AND TXDOT HAS RECEIVED NOTICE FROM THE BANK UNDER THE PENULTIMATE PARAGRAPH OF THE LETTER OF CREDIT THAT THE LETTER OF CREDIT WILL NOT BE EXTENDED FOR AN ADDITIONAL PERIOD OF ONE YEAR.]

3. UPON RECEIPT BY TXDOT OF THE AMOUNT DEMANDED HEREBY, (A) TXDOT WILL HOLD AND APPLY THE PROCEEDS THEREOF FOR THE PAYMENT OF LIQUIDATED DAMAGES (AS DEFINED IN THE FACILITY CONCESSION AGREEMENT) AND (B) NO PORTION OF SUCH AMOUNT SHALL BE APPLIED BY TXDOT FOR ANY OTHER PURPOSE.

4. THE DRAWING AMOUNT SHOULD BE PAID TO:

FINANCIAL INSTITUTION: _____
ROUTING NUMBER: _____
ACCOUNT NAME: _____
ACCOUNT NUMBER TO CREDIT: _____

REFERENCE:

ATTENTION:

IN WITNESS WHEREOF, TXDOT HAS EXECUTED AND DELIVERED THIS DRAW
CERTIFICATE AS OF THE _____ DAY OF [MONTH], [YEAR].

TEXAS DEPARTMENT OF TRANSPORTATION

BY: _____

NAME: _____

TITLE: [EXECUTIVE DIRECTOR]

[Form of Replacement Sales Tax LoC]

(Begins on next page)

BOKF, NA
1(918) 588-6601 / 1(800)285-6829
INTERNATIONAL BANKING CENTER
ONE WILLIAMS CENTER, PLAZA EAST
TULSA, OK 74172, USA

STANDBY LETTER OF CREDIT - DRAFT

DATE: 06/22/17

WE HAVE PREPARED THIS DRAFT UPON REQUEST AND BASED ON INFORMATION SUPPLIED TO US. NO REPRESENTATION OR COMMITMENT IS MADE BY US REGARDING THE ACCURACY OR SUITABILITY OF THIS DRAFT FOR ITS INTENDED PURPOSE OR THE WILLINGNESS OF OUR BANK TO ISSUE A LETTER OF CREDIT IN THIS OR ANY OTHER FORM.

DRAFT APPROVED BY:

APPLICANT'S SIGNATURE

(Pls initial rest of pages & send all pages back)

L/C NO: <TO BE ASSIGNED WHEN ISSUED>

TYPE: IRREVOCABLE

AMOUNT: 510,000.00 USD

DATE OF EXPIRY: <ONE YEAR FROM ISSUANCE>

PLACE OF EXPIRY: TULSA, OKLAHOMA

APPLICANT:

SH 130 CONCESSION COMPANY, LLC
10800 N US 183 HWY NB
BUDA, TX 78610

BENEFICIARY:

TEXAS DEPARTMENT OF TRANSPORTATION
125 E. 11TH STREET
AUSTIN, TEXAS 78701-2483

ATTN: _____

WE HEREBY ISSUE OUR IRREVOCABLE STAND-BY LETTER OF CREDIT NO. BOK17SDP0---- IN FAVOR OF THE TEXAS DEPARTMENT OF TRANSPORTATION (``TXDOT``) AND FOR THE ACCOUNT OF SH 130 CONCESSION COMPANY, LLC (THE ``DEVELOPER``) UP TO AN AGGREGATE AMOUNT OF U.S. \$510,000.00 (AS REDUCED FROM TIME TO TIME IN ACCORDANCE WITH THE PROVISIONS HEREOF, THE ``STATED AMOUNT``).

EACH DRAWING PAID HEREUNDER SHALL PERMANENTLY REDUCE THE STATED AMOUNT BY THE AMOUNT OF SUCH DRAWING. IN ADDITION, AS OF THE DATE WE RECEIVE YOUR REDUCTION NOTICE IN THE FORM OF ANNEX A HERETO, THE STATED AMOUNT SHALL

REDUCE BY THE AMOUNT SPECIFIED AS THE ``REDUCTION AMOUNT`` THEREIN. EXCEPT AS HEREIN PROVIDED, THIS LETTER OF CREDIT IS UNCONDITIONAL.

A REQUEST TO DRAW UNDER THIS LETTER OF CREDIT (``DEMAND FOR PAYMENT``) MAY BE MADE BY YOU BY PRESENTATION TO US ON ANY BUSINESS DAY (AS HEREINAFTER DEFINED) AT BOKF, NA, INTERNATIONAL DEPARTMENT, LOCATED AT ONE WILLIAMS CENTER, PLAZA EAST, TULSA, OKLAHOMA, 74172 OF YOUR SIGHT DRAFT DRAWN ON US MENTIONING OUR LETTER OF CREDIT NO. BOK17SDP0---- IN THE FORM OF ANNEX B ATTACHED HERETO, ACCOMPANIED BY A DRAWING CERTIFICATE IN THE FORM OF ANNEX C ATTACHED HERETO, EACH DULY COMPLETED AND SIGNED BY A PERSON IDENTIFYING HIMSELF OR HERSELF AS THE [EXECUTIVE DIRECTOR] OF TXDOT (WHETHER ACTING OR ACTUAL). MULTIPLE DRAWINGS ARE AVAILABLE TO YOU HEREUNDER PROVIDED THAT THE AGGREGATE AMOUNT OF ALL SUCH DRAWINGS SHALL NOT EXCEED THE STATED AMOUNT.

DRAWINGS BY FACSIMILE TO FACSIMILE NUMBER 918-588-6026 ARE ACCEPTABLE (EACH SUCH DRAWING, A ``FAX DRAWING``) PROVIDED HOWEVER THAT A FAX DRAWING WILL NOT BE EFFECTIVELY PRESENTED UNTIL YOU CONFIRM BY TELEPHONE OUR RECEIPT OF SUCH FAX DRAWING BY CALLING US AT TELEPHONE NUMBER 918-588-6649. FOR PURPOSES OF THIS LETTER OF CREDIT, A ``BUSINESS DAY`` MEANS A DAY OTHER THAN A SATURDAY, SUNDAY OR OTHER DAY ON WHICH BANKING INSTITUTIONS IN THE STATE OF TEXAS ARE AUTHORIZED OR REQUIRED BY LAW TO CLOSE FOR BUSINESS.

IF A DEMAND FOR PAYMENT IS MADE BY YOU HEREUNDER AT OR PRIOR TO 10:00 A.M., CENTRAL TIME, ON A BUSINESS DAY, AND PROVIDED THAT SUCH DEMAND FOR PAYMENT CONFORMS TO THE TERMS AND CONDITIONS HEREOF, PAYMENT SHALL BE MADE BY US TO YOU IN IMMEDIATELY AVAILABLE FUNDS FREE AND CLEAR OF AND WITHOUT DEDUCTION FOR ANY TAXES, DUTIES, FEES, LIENS, SET-OFFS OR OTHER DEDUCTIONS OF ANY KIND AND REGARDLESS OF ANY OBJECTION BY ANY THIRD PARTY (SUBJECT TO ANY COURT ORDER OR JUDGMENT), TO THE ACCOUNT DESIGNATED BELOW OR SUCH OTHER ACCOUNT AT A NATIONAL BANK IN THE UNITED STATES OF AMERICA THAT YOU MAY DESIGNATE IN THE DEMAND FOR PAYMENT ON THE NEXT BUSINESS DAY AFTER DEMAND IS MADE.

IF A DEMAND FOR PAYMENT IS MADE BY YOU HEREUNDER AFTER 10:00 A.M., CENTRAL TIME, ON A BUSINESS DAY, AND PROVIDED THAT SUCH DEMAND FOR PAYMENT CONFORMS TO THE TERMS AND CONDITIONS HEREOF, SUCH PAYMENT SHALL BE MADE TO THE ACCOUNT YOU SPECIFY IN YOUR DRAWING CERTIFICATE NO LATER THAN THE CLOSE OF BUSINESS, LOCAL TIME OF THE LOCATION OF SUCH ACCOUNT, ON THE SECOND BUSINESS DAY AFTER DEMAND IS MADE. PAYMENT UNDER THIS LETTER OF CREDIT SHALL BE MADE IN SAME DAY FUNDS, BY WIRE TRANSFER TO SUCH ACCOUNT YOU SPECIFY IN YOUR DRAWING CERTIFICATE.

OUR OBLIGATIONS HEREUNDER ARE PRIMARY OBLIGATIONS TO TXDOT AND SHALL NOT BE AFFECTED BY THE OBLIGATIONS OF THE DEVELOPER UNDER THE FACILITY CONCESSION AGREEMENT DATED AS OF MARCH 22, 2007 BETWEEN TXDOT AND THE DEVELOPER (AS AMENDED FROM TIME TO TIME IN ACCORDANCE WITH ITS TERMS, THE ``FACILITY CONCESSION AGREEMENT``) OR UNDER ANY OTHER AGREEMENT WITH TXDOT OR BY ANY BANKRUPTCY OR OTHER INSOLVENCY PROCEEDING INITIATED BY OR AGAINST THE DEVELOPER. THE DEVELOPER IS NOT THE OWNER OF OR BENEFICIARY UNDER THIS LETTER OF CREDIT AND POSSESSES NO INTEREST WHATSOEVER IN THIS LETTER OF CREDIT OR PROCEEDS OF SAME. WE ENGAGE WITH YOU THAT ANY DRAWS MADE UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT SHALL BE DULY HONORED ON SIGHT IF PRESENTED TO US ON OR BEFORE THE EXPIRATION DATE (AS HEREINAFTER DEFINED).

IF ANY DEMAND FOR PAYMENT DELIVERED BY YOU HEREUNDER DOES NOT, IN ANY INSTANCE, CONFORM TO THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT, WE SHALL GIVE YOU NOTICE THEREOF, STATING THE REASONS THEREFOR AND THAT WE WILL UPON YOUR INSTRUCTIONS HOLD ANY DOCUMENT AT YOUR DISPOSAL OR RETURN THE SAME TO YOU. UPON RECEIPT OF ANY SUCH NOTICE, YOU MAY ATTEMPT TO CORRECT ANY SUCH NON-CONFORMANCE; PROVIDED, HOWEVER, THAT ANY DEMAND FOR PAYMENT PRESENTED TO CORRECT SUCH NON-CONFORMING DEMAND MUST BE PRESENTED ON OR PRIOR TO THE EXPIRATION OF THIS LETTER OF CREDIT.

THE ``EXPIRATION DATE`` OF THIS LETTER OF CREDIT IS (MONTH)--, 2018.

THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS, 2007 REVISION, INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 600 (THE ``UCP``). AS TO MATTERS NOT GOVERNED BY THE UCP, THIS LETTER OF CREDIT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.

BOKF, NA

.....
ANDY KRIDER
VP, INTL OPERATIONS

ANNEX A
REDUCTION NOTICE

[DATE]

BOKF, NA
ONE WILLIAMS CENTER - PLAZA EAST
TULSA, OK 74172
ATTENTION: INTERNATIONAL DEPT.

RE: REDUCTION NOTICE: IRREVOCABLE STANDBY LETTER OF CREDIT NO.
BOK17SDP0----

LADIES AND GENTLEMEN:

REFERENCE IS MADE TO YOUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. [____] DATED [____], 2017, (THE "LETTER OF CREDIT") ISSUED BY YOU TO THE UNDERSIGNED FOR THE ACCOUNT OF SH 130 CONCESSION COMPANY, LLC (THE "DEVELOPER"). ANY CAPITALIZED TERM USED BUT NOT DEFINED IN THIS CERTIFICATE OR ATTACHED STATEMENT SHALL, UNLESS OTHERWISE STATED, HAVE THE MEANING ASSIGNED TO IT IN THE LETTER OF CREDIT.

THE UNDERSIGNED HEREBY CERTIFIES THAT THE STATED AMOUNT OF THE LETTER OF CREDIT SHOULD BE REDUCED ON THE DATE OF YOUR RECEIPT OF THIS NOTICE BY AN AMOUNT EQUAL TO \$_____ (THE "REDUCTION AMOUNT"). THE REDUCTION AMOUNT REPRESENTS THE AMOUNT OF REDUCTION OF THE LETTER OF CREDIT SUPPORT OBLIGATIONS THAT DEVELOPER IS ENTITLED TO RECEIVE UNDER THE TERMS AND CONDITIONS DESCRIBED IN AMENDMENT NO.21 TO THE FACILITY CONCESSION AGREEMENT, DATED AS OF JUNE 28, 2017, PRIOR TO THE DATE OF THIS NOTICE AND NOT SUBJECT TO ANY PRIOR REDUCTION NOTICE DELIVERED TO YOU IN CONNECTION WITH THE LETTER OF CREDIT.

IN WITNESS WHEREOF THE UNDERSIGNED HAS EXECUTED THIS CERTIFICATE ON THIS [] DAY OF [], 20__,

TEXAS DEPARTMENT OF TRANSPORTATION

BY: _____
NAME: _____
TITLE: [EXECUTIVE DIRECTOR]

ANNEX B

SIGHT DRAFT

[DATE]

FOR VALUE RECEIVED

PAY ON DEMAND TO TEXAS DEPARTMENT OF TRANSPORTATION IN THE AMOUNT OF
\$ _____.

CHARGE TO ACCOUNT OF [*INSERT LC ISSUING BANK NAME*], IRREVOCABLE STANDBY
LETTER OF CREDIT NO. [____]

TO: BOKF, NA
ONE WILLIAMS CENTER - PLAZA EAST
TULSA, OK 74172
ATTENTION: INTERNATIONAL DEPT.

TEXAS DEPARTMENT OF TRANSPORTATION

BY: _____
NAME: _____
TITLE: [EXECUTIVE DIRECTOR]

ANNEX C

DRAW CERTIFICATE

[DATE]

BOKF, NA
ONE WILLIAMS CENTER - PLAZA EAST
TULSA, OK 74172
ATTENTION: INTERNATIONAL DEPT.

RE: YOUR IRREVOCABLE LETTER OF CREDIT NO. [____] (THE "LETTER OF CREDIT")

LADIES AND GENTLEMEN:

THE TEXAS DEPARTMENT OF TRANSPORTATION ("TXDOT") HEREBY CERTIFIES TO BOKF, NA THE "BANK") WITH REFERENCE TO THE BANK'S LETTER OF CREDIT DESCRIBED ABOVE ISSUED IN FAVOR OF TXDOT (CAPITALIZED TERMS USED HEREIN AND NOT OTHERWISE DEFINED HEREIN SHALL HAVE THE RESPECTIVE MEANINGS GIVEN SUCH TERMS IN THE LETTER OF CREDIT) THAT:

1. TXDOT IS MAKING A DRAWING UNDER THE LETTER OF CREDIT FOR AN AMOUNT EQUAL TO \$_____ (THE "DRAWING AMOUNT"), WHICH AMOUNT, TOGETHER WITH ALL PRIOR AMOUNTS DRAWN UNDER THE LETTER OF CREDIT, DOES NOT EXCEED THE STATED AMOUNT.

2. *CHOOSE ONE OF THE FOLLOWING ALTERNATIVE PARAGRAPHS:*

[DEVELOPER IS REQUIRED TO PAY AN AMOUNT AT LEAST EQUAL TO THE DRAWING AMOUNT TO TXDOT UNDER THE TERMS OF SECTION 3(E) OF AMENDMENT NO.21 TO THE FACILITY CONCESSION AGREEMENT, DATED AS OF JUNE 28, 2017 (AS AMENDED FROM TIME TO TIME IN ACCORDANCE WITH ITS TERMS, "AMENDMENT NO.21"). TXDOT HAS PROVIDED DEVELOPER WITH THE PRIOR WRITTEN NOTICE, IF REQUIRED, OF TXDOT'S INTENTION TO DRAW UNDER THE LETTER OF CREDIT ON THE DATE HEREOF.]

[BY ITS TERMS, THE LETTER OF CREDIT WILL EXPIRE IN 45 DAYS OR LESS FROM THE DATE HEREOF, AND TXDOT HAS RECEIVED NOTICE FROM THE BANK UNDER THE PENULTIMATE PARAGRAPH OF THE LETTER OF CREDIT THAT THE LETTER OF CREDIT WILL NOT BE EXTENDED FOR AN ADDITIONAL PERIOD OF ONE YEAR.]

3. UPON RECEIPT BY TXDOT OF THE AMOUNT DEMANDED HEREBY, (A) TXDOT WILL HOLD AND APPLY THE PROCEEDS THEREOF FOR THE PAYMENT OF DEVELOPER'S OBLIGATIONS TO TXDOT PURSUANT TO SECTION 3 OF AMENDMENT NO.21 AND (B) NO PORTION OF SUCH AMOUNT SHALL BE APPLIED BY TXDOT FOR ANY OTHER PURPOSE.

4. THE DRAWING AMOUNT SHOULD BE PAID TO:

FINANCIAL INSTITUTION: _____
ROUTING NUMBER: _____
ACCOUNT NAME: _____
ACCOUNT NUMBER TO CREDIT: _____

REFERENCE: _____
ATTENTION: _____

IN WITNESS WHEREOF, TXDOT HAS EXECUTED AND DELIVERED THIS DRAW
CERTIFICATE AS OF THE _____ DAY OF [MONTH], [YEAR].

TEXAS DEPARTMENT OF TRANSPORTATION

BY: _____
NAME: _____
TITLE: [EXECUTIVE DIRECTOR]

2017 REMEDIAL PLAN

[2017 Remedial Plan]

(Begins on next page)



SH 130 Concession Company, LLC
10800 N US 183 Hwy NB
Buda, TX 78610
Main: (512) 371-4800
Fax: (512) 371-4899

COMMUNICATION SUBJECT TO FED. R. EVID. 408 AND SIMILAR APPLICABLE LOCAL RULES

Via Electronic Transmission

December 20, 2016

Beau Buchanan, P.E.
Texas Department of Transportation
814 Arion Parkway
Suite 401
San Antonio, TX 78216

Project: SH 130 Segment 5 & 6 Facility

Subject: Revised Remedial Plan

Dear Mr. Buchanan:

This letter makes reference to: i) that certain Facility Concession Agreement, State Highway 130 – Segments 5 & 6 dated March 22, 2007 (the “FCA”) by and between the Texas Department of Transportation, a public agency of the state of Texas (“TxDOT”), and SH 130 Concession Company, LLC, a Delaware limited liability company (“Developer”); ii) that certain TxDOT letter dated August 31, 2016 re SH 130 Segment 5 & 6, CSJ: 3583-02-003, Notification of Persistent Developer Default (the “Notice of Persistent Developer Default”); iii) that certain TxDOT letter dated September 8, 2016 re SH 130 Segment 5 & 6, CSJ: 3583-02-003; iv) that certain Developer letter dated September 9, 2016 re Notice of Persistent Developer Default; and v) that certain remedial plan dated October 14, 2016. Initially capitalized terms used herein and not otherwise defined shall have the meaning set forth in the FCA.

On August 31, 2016, TxDOT delivered to Developer the Notice of Persistent Developer Default. The asserted basis for TxDOT’s Notice of Persistent Developer Default was one hundred twenty-two (122) alleged breaches or failures under the FCA Documents, the substantial majority of which were due to heaving, cracking and vertical displacement of the pavement. On September 8, 2016, TxDOT delivered to Developer a letter notifying that Developer’s remedial plan must be submitted no later than October 15, 2016.

On September 9, 2016, Developer delivered to TxDOT a response to TxDOT’s Notice of Persistent Developer Default in which Developer expressed its intent to voluntarily submit (in the spirit of cooperation and notwithstanding (and without prejudice to) its objections as to the alleged existence of a Persistent Developer Default as stated in such letter) a remedial plan on or before October 15, 2016 that complies with the requirements of Section 17.3.6.1 of the FCA. In accordance with Section 17.3.6.1 “the remedial plan shall set forth a schedule

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Texas Department of Transportation – B. Buchanan

and specific actions to be taken by Developer to improve its performance and reduce Developer's...cumulative number of breaches and failures to perform to the point that such Persistent Developer Default will not continue."

Developer Submitted its voluntary remedial plan on October 14, 2016 and on October 24, 2016 met with representatives from TxDOT and the IE to discuss the Submitted remedial plan. TxDOT and the IE provided Developer with comments to the remedial plan and Developer is Submitting this revised remedial plan to address those comments.

Specific Actions:

As TxDOT is aware from prior correspondence and its participation in meetings related thereto, Developer voluntarily engaged an engineering firm (the "Investigating Engineer") to determine what steps Developer could take to reduce the pavement Defects throughout the Facility. Developer intends to implement the changes recommended by the Investigating Engineer (the "Changes"), which are to be further detailed in plans, specifications and construction cost estimates ("PS&E"), to mitigate and reduce the future occurrence of such pavement defects.

As part of implementing the Changes Developer will issue a request for proposals ("RFP") and select a contractor or contractors to construct and implement the Changes recommended by the Investigating Engineer and described in the PS&E. Based on the complexity, scope and expense of the Changes and the extenuating circumstances surrounding such a large procurement (in particular, the current chapter 11 proceedings) Developer has determined that an expedited period for selecting a general contractor and/or contractors following TxDOT's concurrence on the actions described in the PS&E, approval of this remedial plan, or the effective date of the restructuring plan will be 90 days. Following selection of the contractor(s), Developer will enter into contract negotiations, expedite execution of the relevant agreement(s), and work with the selected contractor(s) to mobilize and commence construction activities quickly to ensure prompt completion of the work necessary to implement the Changes.

The results of the 2016 Annual Pavement Survey will be released before the end of 2016. Developer anticipates that there will be Category 2 Defects in the pavement identified by the 2016 Annual Pavement Survey that will overlap with locations where Changes will be implemented. Developer wants to avoid performing repairs to Category 2 Defects that will be subsequently demolished as part of a more extensive implementation of Changes. Developer will request deviations for locations where repairs to Defects identified by the 2016 Annual Pavement Survey will overlap with locations scheduled for reconstruction pursuant to the PS&E. Developer will seek deviations from the repair period allotted in the Performance Measurement Table for repairing such Defects. Otherwise, Developer will implement a repair program to address all of the pavement Defects identified by the 2016 Annual Pavement Survey within the allotted time period, which will still need to be coordinated with the Changes construction activity.

Further, based on the projected schedule to implement the Changes, Developer anticipates a scenario where work will be ongoing at the time the 2017 Annual Pavement Survey is undertaken. Because of this, Developer anticipates that there will be gaps in the 2017 Annual Pavement Survey correlating to active work areas. To account for those gaps, Developer will supplement the 2017 Annual Pavement Survey with the post-job test results.

Schedule (Subject to Delays Beyond Developer’s Reasonable Control):

Date/Duration	Milestone
October 15, 2016	Submitted PS&E to TxDOT.
<p>Within 60 days after the occurrence of the following:</p> <ul style="list-style-type: none"> i) Developer’s receipt of TxDOT concurrence on the actions described in the PS&E; and, ii) TxDOT approval of this remedial plan; and, iii) The effective date of the chapter 11 restructuring plan. 	Complete advertising of project and solicitation of contractors to bid on the request for proposals.
<p>Within 150 days after the occurrence of the following:</p> <ul style="list-style-type: none"> i) Developer’s receipt of TxDOT concurrence on the actions described in the PS&E; and, ii) TxDOT approval of this remedial plan; and, iii) The effective date of the chapter 11 restructuring plan. 	Select contractor(s) to construct and implement the Changes.
<p>Within 720 days after the occurrence of the following:</p> <ul style="list-style-type: none"> i) Developer’s receipt of TxDOT concurrence on the actions described in the PS&E; and, ii) TxDOT approval of this remedial plan; and, iii) The effective date of the chapter 11 restructuring plan. <p>All parties recognize the necessity of completing this work as quickly as possible and Developer will work toward completion of the Changes with that intent.</p>	<p>Substantial Completion, being the satisfaction of the following criteria:</p> <ol style="list-style-type: none"> 1. Whether the need for temporary traffic control or for lane closures at any time has ceased with respect to the prosecution of the Changes; 2. Whether the lanes of traffic are available for public use at locations where Changes were/. constructed; 3. Whether all major safety features are installed and functional (e.g., shoulders, guard rail, striping, delineators, and similar Elements); 4. Whether required signs and signals are reinstalled and functional; 5. Whether illumination is reinstalled and functional; and, 6. Whether tolling systems are reinstalled and functional.

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Within 60 days following Substantial Completion.	Submit the Record Drawings to TxDOT and the Independent Engineer.
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Additional Action:

Developer’s remedial plan is intended to mitigate and reduce the pavement Defects that led to the TxDOT Notice of Persistent Developer Default and minimize the recurrence of such problems in the future. Once the Changes described in the preceding section are completed, Developer expects the number of recurrent pavement issues to decrease dramatically, thereby reducing the number of alleged breaches and failures that led to TxDOT’s Notice of Persistent Developer Default.

In addition to the actions described above which constitute part of this revised remedial plan, Developer has already taken additional steps to address related issues which can be grouped by the precipitating event, those being the 2014 Annual Pavement Survey and the 2015 Annual Pavement Survey. As noted above, the substantial majority of alleged breaches or failures (117 out of 122) which serve as the basis for the Persistent Developer Default are Category 2 Defects in the pavement that TxDOT determined were not completely remedied within the allotted period specified in the Performance Measurement Table following the 2014 and 2015 Annual Pavement Surveys, respectively. Developer has already analyzed the events which led TxDOT to determine that alleged breaches or failures existed and has implemented changes to prevent similar causes in the future, some of which TxDOT has already seen successfully implemented.

2014 ANNUAL PAVEMENT SURVEY:

The 2014 Annual Pavement Survey identified one hundred ten (110) Category 2 Defects in the pavement which required repair. Developer undertook the necessary repairs and upon belief and to the best of its knowledge, all one hundred ten (110) Defects were properly repaired. The issue ultimately resulting in the fifty (50) alleged breaches or failures was inadequate documentation of the repairs that were made to address International Roughness Index (“IRI”) deficiencies. TxDOT determined that Developer failed to, or was unable to, provide adequate O&M Records demonstrating that the repairs were completed and that the pavement satisfied the ride quality standard of remedy or repair.

Action:

To ensure that proper IRI O&M Records were generated and maintained upon conclusion of repair activities, Developer has implemented changes in the scope of work in its contracts to ensure that the contractor performing services provides post-job IRI reports to demonstrate satisfaction of the repair standards. Developer has demonstrated the success of this action by providing TxDOT copies of all the IRI O&M Records documenting the completion of the repairs required to address each of the pavement Defects identified in the 2015 annual pavement condition survey. This action has already been taken and Developer believes no further action is necessary to address this issue.

2015 ANNUAL PAVEMENT SURVEY:

The 2015 Annual Pavement Survey identified five hundred ninety-six (596) Category 2 Defects which required repair. The group of sixty-five (65) alleged breaches or failures related to the 2015 Annual Pavement Survey included twenty-three (23) Defects that were never

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actually Defects on the Facility and were the direct result of reporting errors, which were subsequently addressed in supplemental reports from the specialist inspectors and forty-two (42) Defects TxDOT determined were not completely remedied within the allotted period. The twenty-three (23) alleged breaches or failures derived from reporting errors fall into two categories: locational errors and validation errors. The forty-two (42) Defects TxDOT determined were not completely remedied within the allotted period resulted from the volume of Defects and resource constraints.

Locational Errors:

Locational errors included: i) roadway sections evaluated in the report were manually segmented in an attempt to correspond to the Auditable Sections, which resulted in inaccuracies requiring extensive time and effort identifying the location and verifying the existence of the Defects prior to the commencing repair work; ii) Defects reported in the 2015 Annual Pavement Survey that existed but were not located on the Facility, which were actually located on Related Transportation Facilities and inadvertently included in the 2015 Annual Pavement Survey report and iii) Defects that existed on the Facility which were repaired within the allotted period but for which the O&M Records documenting the completed repair included incorrect location data. Developer requested and received corrected information from the specialist performing the inspections, which Developer subsequently Submitted to TxDOT to address each of the location error items.

Action:

Developer has taken steps to address this locational issue by implementing a geographic information system ("GIS") shape file to eliminate the manual segmentation of the roadway to correspond to the Auditable Sections. This digital implementation will prevent future issues with respect to locational errors and will provide all service providers and subcontractors with consistent, correct and complete Auditable Section data.

Validation Errors:

Validation errors were based on false reports of rutting. The 2014 and 2015 Annual Pavement Survey reports both included numerous false reports of rutting. Each of the specialists retained to perform these Specialist Inspections indicated that the false ruts are reported because of the high standards articulated in the Performance Measurement Table in conjunction with short-comings in the automated rut measurement system and equipment. Developer requested validation of the existence of reported ruts and the specialist inspectors subsequently provided corrected information to eliminate the false rutting locations from their report. Developer has repaired all ruts at locations where the presence of ruts were verified by the specialist.

Action:

To address this issue, Developer is requiring the specialist conducting future Annual Pavement Surveys to perform validation of the ruts identified by automated testing equipment. The validation test will be conducted by using a straightedge to evaluate the validity of the detected rut found as a result of the automated testing. This validation process shall be completed prior to submission of any report of the results of their inspection.

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Volume and Resource Constraints:

With respect to the forty-two (42) locations where TxDOT determined that Defects were present and the repairs were not completed in time, the primary factor resulting in this failure was the volume of Defects needing repair and the limited availability of resources needed to complete and verify the repairs.

Action:

In addition to the actions described in this remedial plan to mitigate the occurrence of pavement Defects, Developer will schedule diamond grinding and post-job ride quality testing at regular intervals during the repair of Category 2 Defects in the pavement following receipt of the future Annual Pavement Survey results (intervals are yet to be determined and will be based on availability of equipment and repair work scheduling). This will mitigate against delays caused by widespread demand for these limited resources. For certain scopes of work, the post-job ride quality testing may be made the responsibility of the contractor engaged to perform the repairs. Whether engaged by the contractor or directly by Developer, all ride quality testing will be conducted by licensed and certified testers.

Summary:

In addition to the changes Developer implemented with respect to procedures related to administration of the Annual Pavement Surveys, Developer reviewed and evaluated its quality management practices, plans and procedures, its organizational and management structure, its monitoring and inspections processes, and its Key and Specified Personnel. This review was conducted to determine whether there were additional changes Developer could implement to address the alleged breaches or failures to timely repair pavement Defects, as well as the unsatisfactory Asset Condition Score and channel repair alleged breaches or failures which also contributed to the total of one hundred twenty-two (122) breaches or failures cited in TxDOT's Notice of Persistent Developer Default.

Developer is always striving to improve its quality management system and, as demonstrated by the additional actions already taken and described above, is making adjustments to practices, policies and procedures as issues are realized. Developer evaluated its quality management system and could not identify any additional areas, not already addressed, where changes would have prevented the alleged breaches or failures. Developer evaluated its organizational and management structure and did not identify any changes to the structure that would have prevented the alleged breaches or failures from occurring. Identification of the Defects that led to the alleged breaches or failures was not the cause for the alleged breaches or failures occurring and no changes to the monitoring and inspection processes were identified that could have prevented the alleged breaches or failures. Developer's Key and Specified Personnel performed their duties competently and in a timely manner, based on Developer's evaluation no personnel change would have prevented the alleged breaches or failures and no changes thereto are warranted.

Based on the results of this review, Developer determined that no additional changes are necessary to improve its performance to the point that the Persistent Developer Default will not continue.

Chapter 11:

Pursuant to the plan of reorganization filed by Developer in the current chapter 11 proceedings involving the Developer, equity control of Developer is expected to be transferred to the

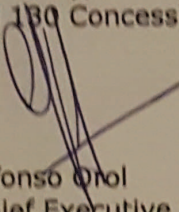
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Lenders upon Developer's emergence from the relevant bankruptcy cases. The remedial plan has been shared with the Lenders and their Technical Advisers, Louis Berger, Inc. ("Louis Berger"). Developer will continue to coordinate with the Lenders and their representatives throughout the remainder of this process.

Please contact the undersigned with any questions.

Sincerely,
SH 130 Concession Company, LLC



Alfonso Ortol
Chief Executive Officer

Cc: Guy Russell, SH 130 Concession Company, LLC
Jason Kerby, SH 130 Concession Company, LLC
Steve Thoreson, SH 130 Concession Company, LLC
Paul Alsina, Independent Engineer, HDR, Inc.
Jeff Curren, P.E., HDR, Inc.
Barbara Eppolito, BNP Paribas, as Instructing Agent
Document Control