

**AMENDMENT NO. 23 TO**  
**FACILITY CONCESSION AGREEMENT**  
**SH 130, SEGMENTS 5 & 6 FACILITY**

THIS AMENDMENT NO. 23 TO FACILITY CONCESSION AGREEMENT (this “Amendment”) is entered into and effective as of 10/29/2018 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 desire to amend the FCA Documents as provided herein.

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. Changes to Technical Requirements (Book 2).

a. Section 2.4.3 of the Technical Requirements is hereby amended to read as follows:

“The minimum required contents of the Monthly Report, Quarterly Report and Annual Report are set forth in Attachment 3 – Reporting Requirements Summary. These reports shall be Submitted for TxDOT review and comment no later than the deadlines set forth below:

<b>Report</b>	<b>Deadline</b>
Monthly Report	10 working days after the end of each calendar month
Quarterly Report	10 working days after the end of each quarter
Annual Report	28 days following the end of each calendar year.”

b. Article 17 of the Technical Requirements is hereby amended to read as follows:

**“17 INTELLIGENT TRAFFIC SUB-SYSTEM**

**17.1 General Requirements**

The Intelligent Traffic Sub-system (ITS) includes the following distinct elements:

1. The infrastructure required for the ITS.
2. The intelligent sub-systems and components of the ITS.
3. The communications network for the ITS.
4. A management facility for operating the segment ITS.

In the FMP, Developer shall set forth an approach, procedures and methods for any ITS elements proposed. As a minimum, all elements of the Facility ITS shall be technically compatible and interoperable with planned or operating ITS system components on Related Transportation Facilities.

**17.2 Trigger for Integration of ITS**

Developer shall design and submit a proposal to TxDOT to install and integrate an ITS no later than 12 months after the first occasion on which more than four Hourly Flows in a calendar month exceed 3,000 passenger car units per hour.”

- c. Within Section 19.7.3 of the Technical Requirements, the second instance of subsection 19.7.3.1, captioned Independent Engineer Assessment of Developer’s O&M Records, shall be renumbered and hereby amended to read 19.7.3.2.
- d. Table 19.8.5-1 of the Technical Requirements, Residual Life Table, Element Category Road Pavement, Residual Life Methodology (RLM) Requirement is hereby amended to read:

“RLM shall be capable of calculation of residual life for each one-half (0.5) mile PMIS data collection section, which shall consist of five (5) contiguous one-tenth (0.1) mile Auditable Sections.

For a nominal 10-year Residual Life at Handback, 85% of Auditable Sections shall have a Residual Life exceeding 10 years, and no Auditable Section shall have a calculated Residual Life of less than 5 years.”

2. Changes to Technical Requirements (Book 2), Attachment 3 – Monthly, Quarterly and Annual Reporting Requirements.

- a. Attachment 3, Table 1: Monthly Report, Item 18 is hereby amended to read as follows:

18	<p><u>Asset Condition Score</u></p> <p>Summary of current asset condition and details of physical defects identified within the Facility (details obtained from the Condition Reports).</p>	<p><u>Section 19.7.2</u> of the Technical Requirements</p>	O
----	---	--	---

- b. Attachment 3, Table 1: Monthly Report, Item 21 is hereby amended to read as follows:

21	<p><u>Training Record</u></p> <p>A summary of all training activities performed including attendance at Environmental Protection Training Plan (EPTP) training sessions.</p>	<p><u>Section 4.6.3</u> of the Technical Requirements</p>	T
----	--	---	---

- c. Attachment 3, Table 3: Annual Report, Ref 3 is hereby amended to read as follows:

3	<p><u>Monthly Report Corrections</u></p> <p>A statement showing any changes to any Monthly Reports when such changes are made after the conclusion of TxDOT’s review and comment period.</p>	<p><u>Section 2.4.3</u> of the Technical Requirements</p>	T
---	--	---	---

- d. Attachment 3, Table 3: Annual Report, Ref 6 is hereby amended to read as follows:

6	<p><u>Toll Report</u></p> <p>Suite of automatic audit reports covering all Toll Revenue collection activities.</p>	<p><u>Section 21</u> of the Technical Requirements</p>	O
---	--	--	---

3. Change to Facility Concession Agreement, Article 10. Contracting and Labor Practices. Section 10.1.1 is hereby amended to read as follows:

“Developer shall provide TxDOT and the Independent Engineer with a list of all Contracts with Contractors performing Work on the Facility during the monthly reporting period, the Contractors thereunder, guarantees of such Key Contracts and the guarantors thereunder, with each monthly report required under this Agreement or the Technical Requirements. Developer shall allow TxDOT and the Independent Engineer ready access to all Contracts and records regarding Contracts, including amendments and supplements to Key Contracts and guarantees thereof; provided, however, that Developer may provide access thereto by depositing unredacted copies in the Intellectual Property Escrow as provided in Section 22.5.”

4. Effectiveness of FCA Documents. Except as specifically amended hereby, the provisions of the FCA Documents, as previously amended by Amendments Nos. 1 – 22 are hereby confirmed without change.

5. 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.

6. 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.

[Remainder of page intentionally left blank]

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: Andrew V. Bailey II  
Andrew V. Bailey II  
Chief Executive Officer

**TxDOT:**

**TEXAS DEPARTMENT OF  
TRANSPORTATION**

By: James M. Bass  
DocuSigned by:  
James M. Bass  
A36629BA547D4BD...  
Executive Director