

TEXAS TRANSPORTATION COMMISSION

JOHNSON AND TARRANT Counties

MINUTE ORDER

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FORT WORTH District

The Texas Department of Transportation (department) and the North Texas Tollway Authority (NTTA) have been proceeding with the development of the SH 121 toll project, a continuous express-lane facility extending from the Fort Worth Central Business District at I-30 to US 67 in Johnson County, a total length of approximately 27.6 miles (Chisholm Trail Parkway). The NTTA has exercised its option to develop, construct, and operate the project.

The department, the NTTA and the Regional Transportation Council (RTC) of the NCTCOG have cooperatively engaged in efforts to determine capital cost savings needed to make the Chisholm Trail Parkway project financially feasible. This includes the deferral of some of the direct connect bridges in Section 3B of the project and a reduction in the number of lanes to be constructed in Sections 5 and 6 of the project. This corridor configuration, which balances needed cost reductions with corridor functionality and mobility, has been titled Scenario 1C. The remaining direct connect bridges and additional lanes would be constructed when travel demand warrants.

In Minute Order 112142, dated February 24, 2010, the Texas Transportation Commission (commission) authorized the executive director of the department to enter into an Agreement to Enter into Supplement to Toll Equity Loan Agreement (Agreement) that provides for the department and the NTTA to enter into a supplement to the Toll Equity Loan Agreement for the SH 161 Project (Supplement) upon the fulfillment of the conditions precedent set forth in the Agreement. The Supplement would amend the Toll Equity Loan Agreement to increase the amount of the toll equity loan commitment for the SH 161 (PGBT Western Extension) project to provide financial assistance for the Chisholm Trail Parkway project. The effect of the Supplement is to provide a toll equity loan commitment for a single project comprised of the PGBT Western Extension and the Scenario 1C configuration of the Chisholm Trail Parkway project. The Agreement was entered into effective April 15, 2011.

Transportation Code, §366.301 authorizes the department to provide for or contribute to the payment of costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, construction, operation, or maintenance of a turnpike project or system by the NTTA on terms agreed to by the department and the NTTA. Transportation Code, §222.103 authorizes the department to participate, by spending money from any available source, in the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the commission.

Pursuant to Transportation Code, §222.103, the commission adopted Title 43, Texas Administrative Code, §§27.50-27.58 (toll equity rules) to prescribe conditions for the commission's financing of a toll facility of a public or private entity.

In accordance with Sections 27.53 and 27.54(a) of the toll equity rules, the commission, in Minute Order 112142, granted preliminary approval of financial assistance comprised of (a) \$91 million in Proposition 14 bond proceeds that have been identified for the Chisholm Trail Parkway project and (b) an aggregate amount in nominal dollars no greater than the facility costs associated with Scenario 1C of the Chisholm Trail Parkway project, under mutually approved projections and including a commercially reasonable contingency for design and construction cost overruns, eligible to be paid from the state highway fund under applicable law, and which may only include costs for (1) design and construction, (2) operations and maintenance, and (3) major maintenance.

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In Minute Order 112560, dated January 27, 2011, the commission granted final approval of financial assistance comprised of the \$91 million in Proposition 14 bond proceeds that have been identified for the Chisholm Trail Parkway project, to be used on segments of the Chisholm Trail Parkway project that have been environmentally cleared.

The NTTA has entered into a Trust Agreement and certain supplemental agreements to the Trust Agreement, pursuant to which the NTTA has issued debt obligations in order to finance a portion of the development and construction of the PGBT Western Extension project. The NTTA intends to enter into additional supplemental agreements under which the NTTA will issue additional debt obligations secured by all or a portion of the Trust Estate to finance the development and construction of the Chisholm Trail Parkway project.

The U.S. Department of Transportation (U.S. DOT) previously made a loan to the NTTA pursuant to the Transportation Infrastructure Finance and Innovation Act (TIFIA) for the purpose of financing certain costs in connection with the construction and development of the PGBT Western Extension project. Under the TIFIA Loan Agreement, the NTTA has covenanted that it will not issue any additional indebtedness that is payable from or secured by a lien on all or any portion of the Trust Estate without the U.S. DOT's prior written approval. Such approval is also a condition precedent to the department's obligation to enter into the Supplement.

As additional security for the payment of the toll equity loan, the department may enter into an agreement with the NTTA and its construction contractors for the assignment to the department of all of NTTA's right, title and interest, in, to and under the construction contracts for the Chisholm Trail Parkway project, including any and all rights that NTTA has to enforce the obligations of the contractors under the construction contracts and to receive payments, disbursements, distributions or proceeds owing, payable or required to be delivered to the NTTA (Assignment Agreements).

The department may also be required to enter into other necessary agreements in connection with the NTTA's financing of the Chisholm Trail Parkway project, including a continuing disclosure agreement under which the department would be obligated to provide certain updated financial information and operating data annually (Continuing Disclosure Agreement), and to execute other necessary documents in connection with the financing.

In accordance with Section 27.54, negotiations have been conducted with the NTTA and the form of agreed Supplement is attached as Exhibit A to this order. The Supplement provides for an increase in the toll equity loan commitment in an amount not to exceed \$1,926,655,828, an aggregate amount in nominal dollars no greater than the facility costs associated with Scenario 1C of the Chisholm Trail Parkway project eligible to be paid from the state highway fund under applicable law. With this increase, the toll equity loan commitment provided under the Supplement for the combined project comprised of the PGBT Western Extension and the Scenario 1C configuration of the Chisholm Trail Parkway is an amount not to exceed \$6,020,333,650.

Section 27.54(b) of the toll equity rules provides that prior to receiving final approval of the grant or loan of funds for the construction of a project, (1) a study of the social, economic, and environmental impacts of the project be completed, and public involvement be provided for in the manner required in the department's rules relating to environmental review and public involvement for transportation projects, and (2) an investment grade traffic and revenue report for the project be obtained from a nationally recognized traffic engineer. The executive director may waive those

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requirements if the director determines that the study or report is inapplicable or unnecessary due to the nature of the requested assistance.

The department previously conducted environmental studies and analyses of the Chisholm Trail Parkway project, and has secured environmental clearance in the form of a Re-evaluation of the Final Environmental Impact Statement for the section of the project from I-30 to FM 1187 in Fort Worth, which was approved by the Federal Highway Administration on June 3, 2009, and a Reevaluation of the Environmental Assessment for the section of the project from FM 1187 to US 67, which was approved by the Federal Highway Administration on May 10, 2011.

The Agreement provides that, as conditions precedent to the department's obligation to enter into the Supplement, the NTTA provide the department with a copy of the final report of the Traffic Engineer relating to the Chisholm Trail Parkway project and the Project as defined in the Supplement (both the PGBT Western Extension project and the Chisholm Trail Parkway project), and that the date on which a record of decision, finding of no significant impact, or other action, as applicable has been obtained for the entire Chisholm Trail Parkway project, and any applicable period to challenge such action shall have lapsed with no challenge being brought (NEPA Finality Date).

The department has received a copy of the investment grade traffic and revenue report for the Chisholm Trail Parkway project and a letter update of the traffic and toll revenue estimates for the PGBT Western Extension project. Provided there is no challenge, the NEPA Finality Date will occur on January 23, 2012.

As required by Section 27.53, the NTTA has an internal ethics and compliance program that satisfies the requirements set forth in 43 TAC §1.8. The NTTA has committed that during construction of the portions of the Chisholm Trail Parkway project for which the NTTA is responsible, the NTTA will assume all liability and responsibility for existing and future environmental permits, issues, and commitments, including obtaining all environmental permits and approvals necessary for the development of that portion of the project, and for compliance with all applicable federal and state laws, regulations, and policies.

The Chisholm Trail Parkway project is consistent with the Statewide Transportation Plan, the Statewide Transportation Improvement Program, and the approved plan of the North Central Texas Council of Governments (NCTCOG), the metropolitan planning organization of the Dallas-Fort Worth region, and is consistent with the transportation improvement program of the NCTCOG and with the State Implementation Plan.

The timely extension of SH 121 south and west from I-30 in Fort Worth to US 67 in Cleburne is a crucial element in the development of the cities of Fort Worth and Cleburne, Johnson and Tarrant counties, and the surrounding region. Development of the Chisholm Trail Parkway project will benefit the region by reducing congestion and improving air quality in those areas.

The financial assistance for the Chisholm Trail Parkway project is critical to the NTTA's overall plan of finance. The successful funding of the Chisholm Trail Parkway project will benefit the state and the traveling public and improve the efficiency of the state's transportation system by providing for the timely completion of the Chisholm Trail Parkway project, which will enhance mobility and operational efficiency, decrease congestion, increase safety, increase economic development opportunities, decrease travel time, decrease air pollution, and enhance quality of life in

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the SH 121 corridor. Without the department's assistance, the timeline to complete the Chisholm Trail Parkway project and realize those benefits could be delayed.

The financial assistance for the Chisholm Trail Parkway project should lower the NTTA's capital costs, which will reduce the amount of equity from the NTTA System that will be necessary to complete the Chisholm Trail Parkway project. This will allow the NTTA to use that equity to finance both the Chisholm Trail Parkway project and the PGBT Western Extension project. The Chisholm Trail Parkway project will expand the availability of funding for transportation projects or reduce direct state costs through the NTTA's issuance of bonds to finance project costs, and the potential payment of certain project expenses by the NTTA System's Capital Improvement Fund. The NTTA and the combined project comprised of the PGBT Western Extension and the Chisholm Trail Parkway are likely to have sufficient revenues to assure repayment of any loan from the department.

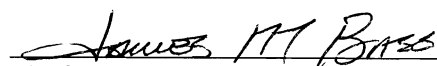
NOW, THEREFORE, IT IS DETERMINED that the request for financial assistance submitted by the North Texas Tollway Authority meets the requirements of 43 TAC §27.53 and §27.54 and, in accordance with those provisions, the commission grants final approval of financial assistance for the Chisholm Trail Parkway project in an aggregate amount in nominal dollars not to exceed \$1,926,655,828, and authorizes the executive director of the department to execute and deliver the Supplement, the form of which is attached as Exhibit A to this order, with such changes as the executive director may approve.

IT IS FURTHER ORDERED that the executive director of the department is authorized to enter into any other necessary agreements or to execute any other necessary documents in connection with the NTTA's financing of the Chisholm Trail Parkway project, including the Assignment Agreements and the Continuing Disclosure Agreement.

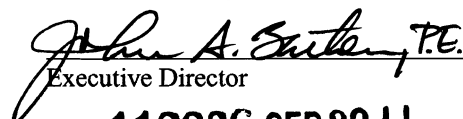
IT IS FURTHER ORDERED that, subject to the satisfaction of all other conditions precedent to the department's obligation to enter into the Supplement, the executive director is authorized to waive the NEPA Finality Date condition precedent and to waive the submission of an investment grade traffic and revenue report for the combined PBGT Western Extension and Chisholm Trail Parkway project.

IT IS FURTHER ORDERED that the actions authorized in this order are subject to the U.S. DOT's written approval of the NTTA's issuance of additional indebtedness to finance the Chisholm Trail Parkway project, as required under the TIFIA Loan Agreement.

Submitted and reviewed by:


Chief Financial Officer

Recommended by:


Executive Director

112836 SEP 29 11

Minute Number Date Passed

SUPPLEMENT TO TOLL EQUITY LOAN AGREEMENT

dated as of _____, 2011

between

North Texas Tollway Authority,
as Borrower,

and

Texas Department of Transportation,
as TxDOT,

relating to

SOUTHWEST PARKWAY/CHISHOLM TRAIL PROJECT

and

**COMBINED SH 161/SOUTHWEST PARKWAY/
CHISHOLM TRAIL PROJECT**

This SUPPLEMENT TO TOLL EQUITY LOAN AGREEMENT (this "Supplement"), dated as of _____, 2011 (the "Effective Date of this Supplement") is made by and between the North Texas Tollway Authority (the "Borrower") and the Texas Transportation Commission, acting by and through the Texas Department of Transportation ("TxDOT"), and constitutes a credit agreement under Chapter 1371, Texas Government Code.

PRELIMINARY STATEMENTS:

(1) On April 15, 2011, the Borrower and TxDOT entered into that certain Toll Equity Loan Agreement for the SH 161 Project (the "Original Agreement") pursuant to which TxDOT established the Toll Equity Loan Commitment (as defined in the Original Agreement) to provide support for the Borrower's efforts to develop, construct, operate, maintain and provide financing for the SH 161 corridor extending from SH 183 South to IH 20 along the western boundary of Dallas County, a total length of approximately eleven and one-half (11.5) miles as a "turnpike project" under Chapter 366, Texas Transportation Code, off of the state highway system (the "SH 161 Project").

(2) On October 27, 2010, the Borrower and TxDOT entered into that certain Project Agreement for the Southwest Parkway/Chisholm Trail Project (the "SWP/CT Project Agreement") assigning certain rights and responsibilities with respect to the development, construction, operation, maintenance and financing of the SWP/CT Project (as defined in the Original Agreement).

(3) On April 15, 2011, the Borrower and TxDOT entered into that certain Agreement to Enter into Supplement to Toll Equity Loan Agreement dated as of April 15, 2011 (the "Agreement to Enter into Supplement to Toll Equity Loan Agreement"), pursuant to which TxDOT agreed, subject to satisfaction of certain conditions precedent, to enter into a supplement to the Original Agreement or amend and restate the Original Agreement to, among other things, increase the Toll Equity Loan Commitment to include the SWP/CT Project.

(4) The Texas Transportation Commission has given preliminary and final approval for an increase in the Toll Equity Loan Commitment to provide support for the Borrower's efforts to develop, construct, operate, maintain and provide financing for the SWP/CT Project.

(5) In order to provide financing for a portion of the development and construction of the SWP/CT Project under and pursuant to the SWP/CT Project Agreement, the Borrower intends to issue, pursuant to the Trust Agreement and supplement thereto, up to \$[_____] aggregate principal amount of the Borrower's Special Projects System First Tier Revenue Bonds (the "SWP/CT First Tier Bonds").

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, including the covenants, terms and conditions hereinafter appearing, and in order to induce TxDOT to increase the Toll Equity Loan Commitment

to include the SWP/CT Project, the parties hereby amend and supplement the Original Agreement as follows:

ARTICLE I **DEFINITIONS**

Section 1.01 Certain Defined Terms. Section 1.01 of the Original Agreement is hereby supplemented to add or amend the following capitalized terms as they relate to the Toll Equity Loan Commitment including the SWP/CT Project. Capitalized terms used herein and not defined have the meaning given in the Original Agreement. TERMS DEFINED IN THE ORIGINAL AGREEMENT AND ALSO DEFINED IN THIS SUPPLEMENT HAVE THE RESPECTIVE MEANINGS GIVEN IN THIS SUPPLEMENT, AND THE CORRESPONDING DEFINITIONS IN THE ORIGINAL AGREEMENT ARE SUPERSEDED.

“Agreement” means the Original Agreement as amended and supplemented by this Supplement, except where the context in the Original Agreement clearly indicates otherwise (such as in the definitions of “Effective Date” and “Material Adverse Effect” in the Original Agreement and in the first sentence of Section 8.04 of the Original Agreement).

“Agreement to Enter into Supplement to Toll Equity Loan Agreement” has the meaning set forth in paragraph (3) of the Preliminary Statements to this Supplement.

“Contract” means each or all, as the context indicates, of (a) the Design/Build Agreement (SH 161 Project) bearing contract No. 02622-SH161—00-DB-PM between the Borrower and the Design-Build Contractor and (b) each construction contract between the Borrower and a construction contractor for construction of any portion of the SWP/CT Project.

“Contractor” means each or all, as the context indicates, of (a) Prairie Link Constructors Joint Venture, or its successor or assign, in its capacity as the company with primary responsibility to provide design and construction services under the Contract for the SH 161 Project and (b) each contractor that is a party to a Contract for construction of any portion of the SWP/CT Project.

“Design-Build Contract” means “Contract”.

“Design-Build Contractor” means “Contractor”.

“Direct Agreement” means each direct agreement entered into between TxDOT, the Borrower and each Contractor or the contingent assignment of the Borrower’s rights to TxDOT as consented to by each Contractor, all in relation to each Contract.

“Finance Documents” means each of the Trust Agreement, the Series 2011 First Tier Bonds, the Original Agreement, the TIFIA Loan Agreement, the Series 2011 TIFIA Note, the Master Custodial Account Agreement, the supplement to the Trust Agreement entered into in connection with the Supplement, the SWP/CT First Tier Bonds, the

Supplement, the Master Custodial Account Agreement document delivered in connection with the Supplement, and the Toll Equity Loan Note in the form of Appendix A to the Supplement.

“Financial Model” means the financial model prepared by the Borrower and delivered to TxDOT as of the dates specified in Section 3.01 – 2 of the Agreement to Enter into Supplement to Toll Equity Loan Agreement for the purposes of consummating the Supplement, which contains the details of the Series 2011 Project Debt, the proposed SWP/CT Project Debt, the Project Budget, the Maximum Available Annual Amount and the Maximum Available Aggregate Amount, all as defined in this Supplement, as updated from time to time in accordance with Section 5.02(b)(ii) and (iii) hereof.

“Maximum Available Aggregate Amount” has the meaning set forth in Section 2.01 of this Supplement.

“Maximum Permitted Amount” means the lesser of (i) debt service payments associated with the Senior Project Debt for the applicable period for which an advance is requested, plus Operating Expenses, Major Maintenance Expenses and Capital Expenditures up to the amounts for the applicable period as set forth in the Project Budget, but minus balances available in the First Tier Capitalized Interest Account of the First Tier Debt Service Fund for the payment of interest on the Series 2011 First Tier Bonds and the SWP/CT First Tier Bonds for the applicable period to the extent that a portion of a requested advance is to be used to pay interest on the Series 2011 First Tier Bonds and the SWP/CT First Tier Bonds, minus any Revenues deposited into the Revenue Fund during the applicable period, minus any available amounts in the Annual Operating Budget Account of the Operating Fund, Annual Operating Budget Account of the Major Maintenance Fund, Annual Operating Budget Account of the Capital Expenditures Fund, Major Maintenance Reserve Fund, Rate Stabilization Fund, Capital Expenditures Reserve Fund, the General Account of the General Fund and the Current Year Revenue Account of the General Fund; and (ii) the Maximum Available Annual Amount for the applicable period for which an advance is requested, minus balances in the First Tier Capitalized Interest Account of the First Tier Debt Service Fund for the payment of interest on the Series 2011 First Tier Bonds and the SWP/CT First Tier Bonds for the applicable period to the extent that a portion of a requested advance is to be used to pay interest on the Series 2011 First Tier Bonds and the SWP/CT First Tier Bonds, minus any Revenues deposited into the Revenue Fund during the applicable period, minus any available amounts in the Annual Operating Budget Account of the Operating Fund, Annual Operating Budget Account of the Major Maintenance Fund, Annual Operating Budget Account of the Capital Expenditures Fund, Major Maintenance Reserve Fund, Rate Stabilization Fund, Capital Expenditures Reserve Fund, the General Account of the General Fund and the Current Year Revenue Account of the General Fund.

“Original Agreement” has the meaning set forth in paragraph (1) of the Preliminary Statements to this Supplement.

“Project” means both the SH 161 Project and the SWP/CT Project.

“Project Agreement” means both the SH 161 Project Agreement and the SWP/CT Project Agreement.

“Project Agreement Standards” means the minimum standards for operation and maintenance of the Project set forth in the Project Agreement; provided that the Borrower’s “System-wide Design Guidelines” for landscaping and aesthetics that the Borrower is permitted to implement under Section 9(b) of the SH 161 Project Agreement shall not be considered to be minimum standards and the Borrower’s “Roadside Customer Service” shall be considered to be minimum standards.

“Project Documents” means, collectively, the Project Agreement and the Contracts.

“Senior Project Debt” means, as at any date, the Series 2011 Project Debt, the SWP/CT Project Debt, and any Additional Senior Project Debt and Refunding Bonds incurred as of such date and as permitted in this Agreement.

“Service Commencement Date” means, respectively, (a) for the SH 161 Project, the date when all Phases of the SH 161 Project are open for normal and continuous operations and use by the traveling public and (b) for the SWP/CT Project, the date when all sections of the SWP/CT Project are open for normal and continuous operations and use by the traveling public.

“SH 161 Project” means the “Project” described in paragraph (2) of the Preliminary Statements to the Original Agreement.

“SH 161 Project Agreement” means the “Project Agreement” described in paragraph (3) of the Preliminary Statements to the Original Agreement.”

“Substantial Completion” means, respectively, (a) for the SH 161 Project, the date when the Borrower has completed or caused the completion of all acquisition, equipping and construction of the Authority Structures, other than the low volume direct connectors in Phase 4, in accordance with the requirements of the SH 161 Project Agreement, such that the Authority Structures, other than the low volume direct connectors in Phase 4, are in a condition that the SH 161 Project can be used for normal and safe vehicular travel in all lanes and at all points of entry and exit, with a fully operable electronic toll collection system meeting the technical standards of the SH 161 Project Agreement, and (b) for the SWP/CT Project, the date when the Borrower has completed or caused the completion of all acquisition, equipping and construction of the SWP/CT Project (other than those portions to be constructed by TxDOT) in accordance with the requirements of the SWP/CT Project Agreement, such that the SWP/CT Project (other than those portions to be constructed by TxDOT) is in a condition that the SWP/CT Project can be used for normal and safe vehicular travel in all lanes and at all points of entry and exit, with a fully operable electronic toll collection system meeting the technical standards of the SWP/CT Project Agreement.

"Supplement" means this Supplement to Toll Equity Loan Agreement dated as of October 1, 2011.

"SWP/CT First Tier Bonds" has the meaning set forth in paragraph (5) of the Preliminary Statements to this Supplement.

"SWP/CT Guaranteed Substantial Completion Date" for the SWP/CT Project means April 30, 2014.

"SWP/CT Project Agreement" has the meaning set forth in paragraph (2) of the Preliminary Statements to this Supplement.

"SWP/CT Project Debt" means the SWP/CT First Tier Bonds and the SWP/CT Project TIFIA Notes.

ARTICLE II **AMOUNT AND TERMS OF THE TOLL EQUITY LOAN COMMITMENT**

Section 2.01 Establishing the Toll Equity Loan Commitment. The second sentence of Section 2.01 of the Original Agreement is hereby amended in its entirety to read as follows:

"The Toll Equity Loan Commitment shall not exceed in total principal amount [\$_____] (the "Maximum Available Aggregate Amount") and no advance thereunder shall cause the aggregate principal amount of all advances (i) in any of the Draw Periods as set forth in Appendix B to exceed the Maximum Available Annual Amount set forth in Appendix B for any of such Draw Periods and (ii) taking into account such advance and all prior advances, to exceed the aggregate amount of Eligible Costs."

Section 2.03 Toll Equity Loan. The third and fourth paragraphs in Section 2.03 of the Original Agreement are amended to read as follows:

"Any advances under the Toll Equity Loan Commitment relating to amounts anticipated to be expended or incurred by the Borrower must be accompanied by documentation or other evidence demonstrating to the reasonable satisfaction of TxDOT that such amounts are reasonably likely to be expended or incurred, provided that, after Substantial Completion of each of the SH 161 Project and the SWP/CT Project and subject to the following paragraph, amounts in the Project Budget for that portion of the Project for subsequent years shall be considered to be amounts reasonably anticipated to be expended or incurred.

Five years after Substantial Completion of both the SH 161 Project and the SWP/CT Project, and at the end of each Fiscal Year thereafter, (i) the amount of Operating Expenses for the immediately preceding five year period as a percentage of the Project Budget amounts for that period shall be calculated and, if such percentage (the "calculated percentage") is less than 100%, the amount considered to be reasonably anticipated to be expended or incurred for each

year thereafter will be the Project Budget amount for each year thereafter multiplied by the calculated percentage, (ii) the amount of Major Maintenance Expenses reasonably anticipated to be expended or incurred for each year thereafter will be the amount of Major Maintenance in the Project Budget, after taking into account any advancement or deferment of Major Maintenance in the Project Budget, and (iii) the amount of Capital Expenditures reasonably anticipated to be expended or incurred for each year thereafter will be the amount of Capital Expenditures in the Project Budget taking into account any advancement or deferment of Capital Expenditures in the Project Budget.”

Section 2.06 Release of Toll Equity Loan Commitment. The “Service Commencement Date” referred to in the second paragraph of Section 2.06 of the Original Agreement shall be the last Service Commencement Date to occur. The “Effective Date” referred to in the third paragraph of Section 2.06 of the Original Agreement shall be the later of the Effective Date or the Effective Date of this Supplement.

ARTICLE III
CONDITIONS OF ESTABLISHING TOLL EQUITY LOAN COMMITMENT

Article III of the Original Agreement is not applicable to the SWP/CT Project.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES

Section 4.01 Representations and Warranties of the Borrower. The Borrower hereby reaffirms all of the representations and warranties set forth in Section 4.01 of the Original Agreement as of the date hereof (except to the extent that any representation and warranty set forth in Section 4.01 of the Original Agreement specifically refers to an earlier or specified date, in which case such representation and warranty shall be as of such earlier or specified date), provided that (a) Section 4.01(j) of the Original Agreement shall include the SWP/CT First Tier Debt and the Toll Equity Loan Note in the form of Appendix A to this Supplement, and (b) Section 4.01(z) of the Original Agreement shall refer only to the Official Statement for the SWP/CT First Tier Debt.

Section 4.02 Representations and Warranties of TxDOT. TxDOT hereby reaffirms all of the representations and warranties set forth in Section 4.02 of the Original Agreement as of the date hereof (except to the extent that any representation and warranty set forth in Section 4.02 of the Original Agreement specifically refers to an earlier or specified date, in which case such representation and warranty shall be as of such earlier or specified date), provided that (a) no representations and warranties are reaffirmed with respect to the Direct Agreement with the Contractor for the SH 161 Project, and (b) Section 4.01(g) of the Original Agreement shall refer only to the Official Statement for the SWP/CT First Tier Debt.

ARTICLE V
COVENANTS OF THE BORROWER

Section 5.01(b) Limitation on Use of Funds to Pay for Certain Operation and Maintenance Expenses and Capital Expenditures. Section 5.01(b) of the Original Agreement is supplemented by adding the following paragraph at the end of said section:

“Notwithstanding anything herein to the contrary, in no event shall amounts held in any of the Project Reserve Funds be used to pay Capital Expenditures for the SWP/CT Project; provided that the Borrower shall be permitted to pledge amounts held in the General Fund for repayment of debt service on indebtedness incurred to pay for Capital Expenditures for the SWP/CT Project. Any such pledge shall comply with the last paragraph of Section 5.06(c) of the Agreement.”

Section 5.02(b)(ii) Covenant re Traffic Engineer. The “Service Commencement Date” referred to in Section 5.02(b)(ii) of the Original Agreement shall be the first Service Commencement Date to occur.

Section 5.02(c)(iii) Consultant Reports; Appointment of Replacement Consultants. The “Service Commencement Date” referred to in Section 5.02(c)(iii) of the Original Agreement shall be each Service Commencement Date.

Section 5.05(d) Use of Proceeds and Amounts Remaining in the Construction Fund After Completion of the Authority Structures. The second paragraph of Section 5.05(d) of the Original Agreement is replaced in its entirety with the following:

“(i) Any amounts remaining in the Series 2011 Construction Account held by the Trustee under the Trust Agreement after the Borrower submits to the Trustee a final completion certificate with regard to construction of the Authority Structures for the SH 161 Project and that are not needed to pay any unpaid costs of the SH 161 Project shall be transferred to the SWP/CT Project Construction Account if the SWP/CT Project is not completed at the time of submission of such final completion certificate. Any amounts remaining in the SWP/CT Project Construction Account of the Construction Fund held by the Trustee under the Trust Agreement after the Borrower submits to the Trustee a final completion certificate with regard to construction of the Authority Structures for the SWP/CT Project and that are not needed to pay any unpaid costs of the SWP/CT Project shall be transferred to the Series 2011 Construction Account if the SH 161 Project is not completed at the time of submission of such final completion certificate.

(ii) After the Borrower submits to the Trustee both final completion certificates with regard to construction of the Authority Structures for the Project, any amounts remaining in the Series 2011 Construction Account shall remain therein, any amounts remaining in the SWP/CT Project Construction Account shall be transferred to the Series 2011 Construction Account, and all amounts on deposit in the Series 2011 Construction Account shall be used to pay for Project Capacity Improvements; provided, if and to the extent such use of such amounts on deposit in the Series 2011 Construction Account is not permitted by applicable

federal tax laws or regulations or by the TIFIA Loan Agreement, at the option and direction of the Borrower such amounts shall be used by the Trustee to redeem, defease or purchase and cancel Outstanding Senior Project Debt.

(iii) The Borrower shall provide as the first contribution of equity to develop the SWP/CT Project an amount equal to \$327,528,911.00.

(iv) Any amounts remaining in the SH 161 Project CIF Construction Account of the Construction Fund after the Borrower submits to the Trustee a final completion certificate with regard to construction of the Authority Structures for the SH 161 Project and that are not needed to pay any unpaid costs of the SH 161 Project shall be transferred to the SWP/CT Project CIF Construction Account of the Construction Fund if the SWP/CT Project is not completed at the time of submission of such final completion certificate. Any amounts remaining in the SWP/CT Project CIF Construction Account of the Construction Fund after the Borrower submits to the Trustee a final completion certificate with regard to construction of the Authority Structures for the SWP/CT Project and that are not needed to pay any unpaid costs of the SWP/CT Project shall be transferred to the SH 161 Project CIF Construction Account of the Construction Fund if the SH 161 Project is not completed at the time of submission of such final completion certificate.

(v) After the Borrower submits to the Trustee both final completion certificates with regard to construction of the Authority Structures for the Project, any amounts remaining in applicable CIF Construction Account of the Construction Fund shall be transferred first to the Revenue Fund and used as provided for "Revenues" in Appendix E of this Supplement, provided that the amount so transferred plus amounts previously expended from the CIF Construction Accounts for both the SH 161 Project and the SWP/CT Project is not required to exceed \$400 million, and second, the balance to the Borrower; provided, if and to the extent such use of such amounts on deposit in the applicable CIF Construction Account of the Construction Fund is not permitted by applicable federal tax laws or regulations, at the option and direction of the Borrower such amounts shall remain in such account and be used to pay for Capital Expenditures, including Project Capacity Improvements, or Major Maintenance Expenses."

Section 5.05(e) Change Orders. The first sentence of Section 5.05(e) of the Original Agreement is hereby amended in its entirety to read as follows:

"The Borrower shall not enter into any Change Order (or any similar term as defined in each Contract) or any Scope Change (or any similar term as defined in each Contract except in compliance with the applicable requirements of federal law and the Project Agreement."

Section 5.05(f) Tolling System. The “Service Commencement Date” referred to in Section 5.02(f) of the Original Agreement shall be each Service Commencement Date.

Section 5.06(a) Senior Project Debt. Section 5.06(a) of the Original Agreement is amended to add the following:

“SWP/CT Project Debt. The Borrower shall issue all of the SWP/CT First Tier Bonds in compliance with the terms and conditions of the Trust Agreement. SWP/CT Project Debt shall only be issued as fixed rate debt. On the date of the issuance of the SWP/CT Project Debt, there shall be no event of default by the Borrower under the Trust Agreement, this Agreement, or the Project Agreement. The Borrower shall deposit proceeds of the SWP/CT First Tier Bonds with the Trustee in an amount sufficient, after taking into account amounts required to be deposited by the Borrower from sources other than SWP/CT Project Debt, (A) to pay for Project Costs on the SWP/CT Project as set forth in the Project Budget, including the contingency in an amount set forth in the Project Budget, and (B) all amounts required to be deposited in Trust Agreement Funds as provided in Appendix E.”

Section 5.06(b). Refunding of Senior Project Debt. Section 5.06(b)(iii) of the Original Agreement is amended in its entirety to read as follows:

“(iii) Unless expressly approved by TxDOT, no refunding transaction involving Project Debt that extends the final maturity of the Series 2011 First Tier Bonds, the TIFIA Loan, or the SWP/CT First Tier Bonds beyond their original final Maturity Date shall be permitted so long as the Toll Equity Loan Commitment will not be terminated in conjunction with such refunding or any amount due and payable under the Toll Equity Loan Note would be outstanding after the issuance of the refunding obligations.”

Section 5.06(c) Additional Project Debt. The first paragraph of Section 5.06(c) of the Original Agreement is amended in its entirety to read as follows:

“The issuance of Senior Project Debt (other than the Series 2011 Project Debt, the SWP/CT Project Debt as provided in Section 5.06(a), the Additional Senior Project Debt as provided in this Section 5.06(c) and Refunding Bonds under the circumstances described in Section 5.06(b)) is not permitted. Additional Senior Project Debt in one or more series bearing interest at a fixed rate and with a final maturity no longer than 2 years after the final maturity of the Series 2011 Project Debt, but in no event longer than 40 years after the execution of the Original Agreement, may be issued by the Borrower at one time or from time to time but only to finance the costs relating to the Project Capacity Improvements in principal amounts that will produce net proceeds in an aggregate amount not to exceed \$53,302,298, plus an amount sufficient to pay the costs of issuance of such Additional Senior Project Debt (the “Aggregate Maximum Principal Amount”); provided that prior to the issuance of such Additional Senior Project

Debt Borrower shall first use funds on deposit in the Construction Fund, the Capital Expenditures Reserve Fund, the General Account of the General Fund, and the Current Year Revenue Account of the General Fund in that order of priority, to pay such costs of the Project Capacity Improvements. If the Borrower issues Additional Senior Project Debt to pay for the Project Capacity Improvements, the Borrower shall not be entitled to obtain advances under the Toll Equity Loan Commitment to also pay for the cost of the Project Capacity Improvements if the principal amount of the Additional Senior Project Debt and the amount of such advance would exceed \$53,302,298.”

Section 5.07 Sources of Funds. The “Service Commencement Date” referred to in Section 5.07 of the Original Agreement shall be the last Service Commencement Date to occur. If the Service Commencement Date for the SH 161 Project has occurred prior to the Effective Date of this Supplement, then the right to reimbursements under the second sentence of Section 5.07 of the Original Agreement shall cease on the Effective Date of this Supplement and shall again arise only after the Service Commencement Date occurs for the SWP/CT Project.

ARTICLE VI

EVENTS OF DEFAULT BY THE BORROWER

Section 6.01(l) Events of Default. Section 6.01(l) of the Original Agreement is replaced in its entirety with the following:

- “(i) Substantial Completion with respect to the Authority Structures under the SH 161 Project Agreement has not occurred by the date that occurs twelve months after the Guaranteed Substantial Completion Date.
- (ii) Substantial Completion with respect to the Authority Structures under the SWP/CT Project Agreement has not occurred by the date that occurs twelve months after the SWP/CT Guaranteed Substantial Completion Date.”

Section 6.01(n) Events of Default. Section 6.01(n) of the Original Agreement is replaced in its entirety with the following:

- “(i) Prior to Substantial Completion of the Authority Structures under the SH 161 Project Agreement, the construction of such Authority Structures is abandoned; provided that, for the purposes of this Section 6.01(n)(i), abandonment of the construction of such Authority Structures is deemed to have occurred if no significant construction on such Authority Structures (taking into account the construction schedule and permitted delay as a result of force majeure) is carried out without reasonable cause, for a continuous period of 90 days.
- (ii) Prior to Substantial Completion of the Authority Structures under the SWP/CT Project Agreement, the construction of such Authority Structures is abandoned; provided that, for the purposes of this Section 6.01(n)(ii),

abandonment of the construction of such Authority Structures is deemed to have occurred if no significant construction on such Authority Structures (taking into account the construction schedule and permitted delay as a result of force majeure) is carried out without reasonable cause, for a continuous period of 90 days.”

Section 6.01(o) Events of Default. The “Service Commencement Date” referred to in Section 6.01(o) of the Original Agreement shall be the first Service Commencement Date to occur.

Section 6.02(e) Remedies upon an Event of Default. Section 6.02(e) of the Original Agreement is replaced in its entirety with the following:

“(i) Upon the occurrence of an Event of Default under Section 6.01(l)(i) or (n)(i), TxDOT shall have the right, but not the obligation, upon notice to Borrower but without waiving or releasing Borrower from any obligations, for so long as Substantial Completion of the Authority Structures under the SH 161 Project Agreement has not occurred, regardless of whether the Borrower is continuing or resumes construction work with respect to such Authority Structures, to step-in and undertake completion of such Authority Structures using any and all reasonable means necessary to achieve Substantial Completion of such Authority Structures substantially in accordance with the plans and specifications for the Authority Structures approved under the SH 161 Project Agreement and to pay or direct the Trustee to pay or reimburse TxDOT for the costs thereof out of funds in the accounts in the Construction Fund related to the SH 161 Project, the General Account of the General Fund, the Current Year Revenue Account of the General Fund or the Capital Expenditure Fund, in that order of priority, and should such costs amount to more than the total available in such funds at the time of the request for payment, then TxDOT shall have the right (but not the obligation) to pay such additional costs by expenditure of TxDOT’s funds for which it shall be entitled to reimbursement from any future deposits to the General Account of the General Fund, the Current Year Revenue Account of the General Fund or the Capital Expenditure Fund. If in the exercise of remedies under this Section 6.02(e) TxDOT incurs costs or causes costs to be paid (or reimbursed to TxDOT) with amounts credited to the General Account of the General Fund, the Current Year Revenue Account of the General Fund or the Capital Expenditure Fund that, taken together with all previously incurred Project Costs, exceed the Project Costs set forth in the Project Budget (the “Excess Construction Cost”), the Borrower shall, without limiting TxDOT’s right to exercise remedies due to the occurrence and continuance of an Event of Default under Section 6.01(l)(i) or (n)(i) hereof, repay TxDOT for the Excess Construction Cost and, upon any such repayment by the Borrower, TxDOT shall apply such repayment in accordance with and to the extent required by the last sentence of Section 15(c) of the Direct Agreement (as defined in the Trust Agreement);

(ii) Upon the occurrence of an Event of Default under Section 6.01(l)(ii) or (n)(ii), TxDOT shall have the right, but not the obligation, upon notice to Borrower

but without waiving or releasing Borrower from any obligations, for so long as Substantial Completion of the Authority Structures under the SWP/CT Project Agreement has not occurred, regardless of whether the Borrower is continuing or resumes construction work with respect to such Authority Structures, to step-in and undertake completion of such Authority Structures using any and all reasonable means necessary to achieve Substantial Completion of such Authority Structures substantially in accordance with the plans and specifications for the Authority Structures approved under the SWP/CT Project Agreement and to pay or direct the Trustee to pay or reimburse TxDOT for the costs thereof out of funds in the accounts in the Construction Fund related to the SWP/CT Project, the General Account of the General Fund, the Current Year Revenue Account of the General Fund or the Capital Expenditure Fund, in that order of priority, and should such costs amount to more than the total available in such funds at the time of the request for payment, then TxDOT shall have the right (but not the obligation) to pay such additional costs by expenditure of TxDOT's funds for which it shall be entitled to reimbursement from any future deposits to the General Account of the General Fund, the Current Year Revenue Account of the General Fund or the Capital Expenditure Fund. If in the exercise of remedies under this Section 6.02(e) TxDOT incurs costs or causes costs to be paid (or reimbursed to TxDOT) with amounts credited to the General Account of the General Fund, the Current Year Revenue Account of the General Fund or the Capital Expenditure Fund that, taken together with all previously incurred Project Costs, exceed the Project Costs set forth in the Project Budget (the "Excess Construction Cost"), the Borrower shall, without limiting TxDOT's right to exercise remedies due to the occurrence and continuance of an Event of Default under Section 6.01(l)(ii) or (n)(ii) hereof, repay TxDOT for the Excess Construction Cost and, upon any such repayment by the Borrower, TxDOT shall apply such repayment in accordance with and to the extent required by the last sentence of Section 15(c) of the Direct Agreement (as defined in the Trust Agreement); and"

ARTICLE VII
COVENANTS AND EVENTS OF DEFAULT BY TXDOT

No changes are made to Article VII of the Original Agreement.

ARTICLE VIII
MISCELLANEOUS

Section 8.01 Notices. Copies of notices to TxDOT also shall be delivered to the following:

Texas Department of Transportation
Ft. Worth District Office
2501 Southwest Loop
Fort Worth, Texas 76133
Attn: Maribel P. Chavez, P.E.
Fax: (817) 370-6787

Email: mchavez@dot.state.tx.us

Section 8.02 Amended and Restated Toll Equity Loan Agreement. After the Effective Date of this Supplement, the parties intend to enter into an Amended and Restated Toll Equity Loan Agreement to combine the terms of the Original Agreement and this Supplement into one document.

APPENDICES

Appendix A Form of Toll Equity Loan Note. Appendix A of the Original Agreement is replaced in its entirety with Appendix A to this Supplement.

Appendix B Schedule of Maximum Available Amounts. Appendix B of the Original Agreement is replaced in its entirety with Appendix B to this Supplement.

Appendix C Form of Certificate of Borrower Re Advances. Appendix C of the Original Agreement is replaced in its entirety with Appendix C to this Supplement.

Appendix D Project Budget. Appendix D of the Original Agreement is replaced in its entirety with Appendix D to this Supplement.

Appendix E Funds and Accounts. Appendix E of the Original Agreement is replaced in its entirety with Appendix E to this Supplement.

Except as expressly amended and supplemented by this Supplement, the Original Agreement remains unchanged and in full force and effect.

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

NORTH TEXAS TOLLWAY AUTHORITY

**TEXAS DEPARTMENT OF
TRANSPORTATION**

By: _____
Allen Clemson
Executive Director

By: _____
John Barton, P.E.,
Interim Executive Director

Date: _____

Date: _____

ATTEST:

Ruby Franklin,
Secretary

APPROVED AS TO FORM:

LOCKE LORD BISSELL & LIDDELL LLP
Outside General Counsel to the Borrower

By: _____
Kevin L. Twining

APPENDIX A

FORM OF TOLL EQUITY LOAN NOTE

APPENDIX B

SCHEDULE OF MAXIMUM AVAILABLE ANNUAL AMOUNTS

APPENDIX C

CERTIFICATE OF BORROWER RE ADVANCES

The undersigned, a Board Representative as such term is defined in that certain Toll Equity Loan Agreement dated as of April 1, 2011, as amended and supplemented by that certain Supplement to Toll Equity Loan Agreement dated as of October 1, 2011 (together the "Agreement") by and between the Texas Department of Transportation ("TxDOT") and the North Texas Tollway Authority ("Borrower"), hereby certifies on behalf of the Borrower with respect to the advance requested by the Trustee pursuant to Section 2.03 of the Agreement, as follows:

- (a) The Trustee has no amounts or insufficient amounts on deposit in the Capitalized Interest Fund for payment of interest on the Series 2011 First Tier Bonds or the SWP/CT First Tier Bonds for the period for which an advance is hereby requested to the extent that any portion of the advance will be used to pay interest on the Series 2011 First Tier Bonds or the SWP/CT First Tier Bonds.
- (b) Borrower has accessed and depleted all funds held in applicable Project Reserve Funds for the purposes permitted therefor under the Trust Agreement and the Agreement.
- (c) The requested advance under the Toll Equity Loan Commitment is no greater than the Maximum Permitted Amount.
- (d) The requested advance under the Toll Equity Loan Commitment when added to other amounts advanced under the Toll Equity Loan Commitment during the current Draw Period will not exceed the Maximum Available Annual Amount for such Draw Period.
- (e) The requested advance, when added to the amount of all prior advances under the Toll Equity Loan Commitment will not exceed the aggregate amount of Eligible Costs.
- (f) Documentation required by Section 2.03 of the Agreement is attached hereto if the requested advance, when added to the amount of all prior advances under the Toll Equity Loan Commitment, exceeds the aggregate of amounts expended or incurred by the Borrower for Capital Expenditures, Major Maintenance and Operating Expenses (not to exceed amounts set forth in the Project Budget), for Project Costs, and for the Upfront Payment (and therefore relates to amounts anticipated to be expended).
- (g) The aggregate amount of Capital Expenditures, Major Maintenance and Operating Expenses expended or incurred by the Borrower (not to exceed amounts set forth in the Project Budget), Project Costs expended or incurred,

and the amount of the Upfront Payment paid, as of the date of the requested advance under the Toll Equity Loan Commitment is \$_____.

Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Agreement.

Dated: _____,_____.

NORTH TEXAS TOLLWAY AUTHORITY

APPENDIX D
PROJECT BUDGET

APPENDIX E
FUNDS AND ACCOUNTS