AMENDMENT NO. 1 TO

COMPREHENSIVE DEVELOPMENT AGREEMENT

FOR A CONCESSION, NORTH TARRANT EXPRESS FACILITY

THIS AMENDMENT NO 1 TO COMPREHENSIVE DEVELOPMENT AGREEMENT ("Amendment") is entered into and effective as of September 24, 2010 between the Texas Department of Transportation, a public agency of the State of Texas ("TxDOT"), and NTE Mobility Partners LLC, a Delaware limited liability company ("Developer"), with reference to the following facts:

- A. TxDOT and Developer entered into that certain Comprehensive Development Agreement for a Concession, North Tarrant Express Facility, dated as of June 23, 2009 (the "CDA"), together with related agreements collectively referred to in the CDA as the "CDA Documents". All capitalized terms used but not defined herein shall have the meanings set forth in the CDA.
- B. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, TxDOT and the Developer agree as follows:

1. Amendments to Agreement.

- 1.1 With the exception of Recital G in the CDA, all references in the CDA Documents to "Cintra Concesiones de Infraestructuras de Transporte, S.A." are hereby deleted and replaced with "Cintra Infraestructuras, S.A." Further, each use of the term "Cintra" in the CDA Documents that in context originally referred to "Cintra Concesiones de Infraestructuras de Transporte, S.A." shall hereafter refer to "Cintra Infraestructuras, S.A."
- 1.2 In Section 8.3.1, replace "the Operating Commencement Date" with "120 days after NTP2."
- 1.3 Section 8.3.2 of the CDA is amended as follows:
 - Upon the following datesOperating Commencement Date, Developer shall assume full responsibility for operation and maintenance for the Facility and shall keep all General Purpose Lanes and the Frontage Roads open for normal and continuous operations and use by the traveling public, except to the extent provided in the TxDOT-approved Traffic Management Plan-: (i) in connection with the Work authorized by NTP2, NTP2 plus 120 days, and (ii) in connection with the NTP Capacity Improvements, the applicable Operating Commencement Date.
- 1.4 References to "the Operating Period" in Sections 2.1.4, 7.6.1.9 through 7.6.1.13, 7.8.3.1, 8.1.1, 8.1.2.1, 8.1.2.5, 8.1.2.6, 8.1.3, 8.1.4, 8.1.5.1, 8.1.5.2, 8.4.3, 8.4.4.1, 9.2.1, 9.2.2, 14.1.3.3 are hereby deleted and replaced with "(i) the period starting 120 days after NTP2 and ending at the end of the Term for Work authorized by NTP2, and (ii) the Operating Period for NTP Capacity Improvements."
- 1.5 Section 7.6.1 of the CDA is amended as follows:

Developer shall ensure that it has met the conditions set forth in Section 7.6.1.9 through Section 7.6.1.13 (excluding the builders' risk insurance requirements of Exhibit 17, which may be met on or before the commencement of construction) (a) with respect to the Work authorized by NTP2 on or before 120 days after NTP2, and (b) with respect to any NTP Capacity Improvements on or before the Operating Commencement Date. Except to the extent expressly permitted in writing by TxDOT, Developer shall not commence or permit or suffer commencement of construction of the Facility or applicable portion thereof until TxDOT issues NTP2 (and, (i) with respect to the General Purpose Lane Capacity Improvement, until TxDOT issues NTP GP or the occurrence of the General Purpose Capacity Improvement Trigger Event, (ii) with respect to the Managed Lane Capacity Improvement, until TxDOT issues NTP ML or the occurrence of the Managed Lanes Capacity Improvement Trigger Event, and (iii) with respect to the Interchange Capacity Improvement, until TxDOT issues NTP IC) and all of the following conditions set forth in (i) Section 7.6.1.1 through Section 7.6.1.8, (ii) the builders' risk insurance requirements of Exhibit 17.6.1.13, and (iii) Section 7.6.1.14 through Section 7.6.1.19 have been satisfied:

1.6 Section 7.6.1.14 of the CDA is amended as follows:

Any Payment and Performance Bonds P&P Letters of Credit, including dual obligee riders in favor of TxDOT, required under Section 16.2 during the Operating Period have been obtained and Developer has delivered the same to TxDOT;

1.7 Section 7.6.1.15 of the CDA is amended as follows:

7.6.1.15 <u>Developer has delivered to TxDOT and TxDOT has approved Developer's modified WBS and Facility Baseline Schedule under Section 2.1.1 of the Technical Provisions Any other guaranty of payment or performance required pursuant to Section 16.4 during the Operating Period has been delivered to TxDOT;</u>

1.8 Section 7.7.2.2 of the CDA is amended as follows:

TxDOT anticipates issuing NTP2 concurrently with TxDOT's approval, in accordance with Section 9.1 of this Agreement and Section 2 of the Technical Provisions, of all the component parts, plans and documentation of the Facility Management Plan that are labeled "A" in the column titled "Required By" in Attachment 2-1 to the Technical Provisions and achievement of the following conditions to issuance of NTP2:

Subsection 7.7.2.2(b) is replaced with the following:

Submittal by Developer to TxDOT of a commitment letter from a duly qualified surety or broker committing to issue property insurance that complies with the requirements of Section 16.1 and Exhibit 17.

Subsections 7.7.2.2(g) and 7.7.2.2(h) are deleted in their entirety, and Subsections 7.7.2.2(i) and 7.7.2.2(j) are renumbered accordingly as Subsections 7.7.2.2(g) and 7.7.2.2(h).

1.9 Section 9.1.3 of the CDA is amended as follows:

Developer shall submit to TxDOT for approval in its good faith discretion in accordance with the procedures described in Section 6.3 of this Agreement and the time line set forth in Attachment 2-1 to the Technical Provisions each component part, plan and other documentation of the Facility Management Plan and any proposed changes or additions to or revisions of any such component part, plan or other documentation, provided that Developer shall obtain TxDOT's approval of all the component parts, plans and documentation of the Facility Management Plan that are labeled "A" in the column titled "Required By" in Attachment 2-1 to the Technical Provisions no later than 120 days after NTP2. Each component part, plan and other documentation of the Facility Management Plan and each proposed change or addition to or revision of any such component part, plan or other documentation shall constitute a separate Submittal for purposes of Section 6.3. TxDOT shall have a period of 15 Business Days to review WBS and Facility Baseline Schedule Submittals prior to NTP2. TxDOT may propose any change required to comply with Good Industry Practice or to reflect a change in working practice to be implemented by Developer.

1.10 Section 16.2.4.1 of the CDA is amended as follows:

This contract concerns a public works project (the "Project") for which a letter of credit has been posted to secure obligations that would otherwise be secured by a payment bond provided by ________Bluebonnet Contractors, LLC (the "Prime Contractor") pursuant to Transportation Code, Section 223.205. Each person or entity that would have the right under said statute to make a claim against a payment bond provided thereunder (a "Claimant") will instead have the right to make a claim under said letter of credit, as described below. Such alternative security is authorized by and provided in accordance with Transportation Code, Section 223.205, and no Claimant will have any right to make a claim against TxDOT for failure to obtain a payment bond under Transportation Code, Section 223.205.

1.11 Section 16.2.4.3 of the CDA is amended as follows:

	The notices	s of claim	n must b	e delive	ered b	y certif	ied or	regist	ered r	nail to
the Prime	Contractor at	the follow	wing add	lress: <u>I</u>	<u> Bluebo</u>	nnet C	ontrac	ctors,	LLC,	14333
Chrisman		Road,			Ho	uston,				Texas
77039—										
, with	a copy to the C	Collateral	Agent at	the fol	lowing	addres	s: De	utsche	Bank	Trust
	Americas, 60									
10005	•									
	a copy to {Dev	eloper-if-t	the Deve	loper is	sepa	rate fro	m the	Prime	Cont	ractor
at the fol	lowing address	: Belen	Marcos.	NTE I	Mobilit	y Parti	ners L	LC, 9	3001 <i>i</i>	Airport
	Suite					hland				Texas
76180-										opy to
	Department of									
	epartment of									
78701—										
	In add	lition, if t	he Claim	ant do	es not	have a	direc	t cont	ract w	ith the
Prime									_	to
	o o mi dotor,	~	0007	•						m the
Claimant I	nas entered into	a contr	act1 at th	e follo	wina s					
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1.12 Section 24.12.2 of the CDA is amended as follows:

> All notices, correspondence and other communications to Developer shall be delivered to the following address or as otherwise directed by Developer's Authorized Representative:

> > Jose Maria Lopez de Fuentes Belen Marcos

NTE Mobility Partners LLC

7700 Chevy Chase Drive, Bldg One, Suite 500C9001 Airport Freeway,

Suite 600

AustinNorth Richland Hills, Texas 7618078752-1562

Telephone: (512) 637-8545(817) 710-0502 Facsimile: (512) 637-1498(817) 710-0509

E-mail: bmarcos@northtarrantexpress.com-jmlopez@cintra.us.com

2. Amendments to Exhibit 1 to the CDA.

- References to "the Operating Period" in the definitions of "Audit Inspection," "O&M 2.1 Work," Performance Requirements," and "Target" are hereby deleted and replaced with "(i) the period starting 120 days after NTP2 and ending at the end of the Term, for Work authorized by NTP2, and (ii) the Operating Period, for NTP Capacity Improvements."
- 2.2 A new definition of Design-Build Phase or DB Phase is added as follows:

Design-Build Phase or DB Phase means (i) for the Work authorized by NTP2, the period from 120 days after issuance of NTP2 until the Service Commencement Date. and (ii) for the NTP Capacity Improvements, the period from the Operating Commencement Date until the Service Commencement Date for the applicable NTP Capacity Improvement.

2.3 The definition of Record Drawings is amended as follows:

> Record Drawings means construction drawings and related documentation revised to show significant changes to the Facility made during the construction process-or during the-Operating-Period; usually based on marked-up Final Design Documents furnished by Developer; also known as as-built plans.

- 3. Amendment to Exhibit 6 to the CDA. Exhibit 6 to the CDA is replaced with Exhibit 6 as set forth in Attachment A to this Amendment.
- 4, Amendments to Exhibit 7 to the CDA.
- 4.1 The first paragraph in Part C, Section 1 of Exhibit 7 is amended as follows:

TxDOT shall pay to Developer, as reimbursement pursuant to Section 2.2.2 of the Agreement, the amount of \$572,730,000570 million (the "Public Funds Amount") in accordance with this Part C.

4.2 The first paragraph in Part C, Section 2 of Exhibit 7 is amended as follows: Within ninety-two days after NTP21, and concurrent with the Facility Baseline Schedule, the Developer shall submit to TxDOT a complete Schedule of Values for all Payment Activities as described below for TxDOT's approval. The Schedule of Values level of detail shall be based on the WBS Levels shown in Attachment 2-2 of the Technical Provisions. No payment of the Public Funds Amount, if applicable, will be made until the Schedule of Values is approved by TxDOT. The following pertains to presentation of the Schedule of Values:

- The Payment Activities shall be organized and grouped according to the approved WBS with subtotals for each WBS item at each WBS level.
- The Schedule of Values shall contain for each Payment Activity from the Facility Baseline Schedule, the activity identification number, the activity description, the quantity, the applicable unit, unit price and scheduled value.
- 4.3 Part C, Section 3.4 of Exhibit 7 is amended as follows:

Subject to <u>Section 5.4</u> of this <u>Part C</u>, the "Payment Request Amount" will be determined as follows:

\$ <u>572,730,000</u> 570,000,000		Sum of Schedule of	Total Funds
÷	Χ	Values of 100%	 Paid by TxDOT
\$ <u>1,738,656,970</u> 1,806,979,2		Completed Payment	
63		Activities	•

Partially completed Payment Activities are not eligible for payment.

4.4 The following table is inserted before the existing table on the first page of Attachment 1 to Exhibit 7:

Band	Revenue Payment
1	0%
2	12.5%
3	25.0%
4	50.0%
5	75.0%

- 4.5 A footnote shall be affixed to the title "ATTACHMENT 1 TO EXHIBIT 7" as follows: "All dollar amounts are in 000's."
- 4.6 Attachment 3 to Exhibit 7 is replaced with Attachment 3 to Exhibit 7 as set forth in Attachment B to this Amendment.

- **5.** Amendment to Exhibit 15 to the CDA: The following text is added to Section XII on page 88 of Exhibit 15 to the CDA:
 - XII. Texas Department of Transportation
 - Education and Outreach, including the Learning, Information, Networking, Collaboration (LINC) Mentor Protégé Program http://www.txdot.gov/business/business outreach/education outreach.htm
 - Small Business Briefings http://www.txdot.gov/business/business_outreach/small_business.htm
- **6.** Amendment to Exhibit 16 to the CDA: Section 2.2.3(ii) on page 2 of Exhibit 16 to the CDA is amended as follows:
 - (ii) if Service Commencement of the Managed Lane Capacity Improvement has been achieved, as-the Base Case Toll Revenues-minus-the Toll Revenues set forth on Revenue Line 3 minus the Toll Revenues set forth on Revenue Line 2.
- 7. Amendments to Exhibit 17 to the CDA:
- 7.1 The first paragraph of Section 1 on the first page of Exhibit 17 to the CDA is amended as follows:

At all times during the period from the Operating Commencement Datecommencement of construction until the last Service Commencement Date and during any other period in which other construction work is in progress during the Operating Period (including elements of initial construction not required to be constructed as part of achieving Substantial Completion, unless covered by property insurance pursuant to Section 2 of this Exhibit 17), Developer shall, or shall require the Design-Build Contractor, to procure and keep in force a policy of builder's risk insurance as specified below.

7.2 The first paragraph of Section 2 on page 2 of Exhibit 17 to the CDA is amended as follows:

At all times <u>during (i)</u> the <u>period starting 120 days after NTP2 and ending at the end of</u> the Term, for Work authorized by NTP2, and (ii) the <u>Operating Period</u>, for <u>NTP Capacity Improvements during the Term</u>, Developer shall procure and keep in force, or cause to be procured and kept in force, a policy of property insurance as specified below.

- 8. Amendments to Exhibit 18 to the CDA:
- 8.1 Paragraphs (a) and (b) of Section 3.4 in Exhibit 18 to the CDA is amended as follows:
 - (a) Subject to Section 3.4(d) below, Lane Rental Charges shall be assessed for any period between 120 days after NTP2 and the Service Commencement Date (and for construction related to NTP Capacity Improvements, the applicable Operating Commencement Date and the applicable Service Commencement Date) during which one or more General Purpose Lanes are closed beyond or have a width that is less than the minimum requirements set forth in Section 18.3.1 of the Technical Provisions.

(b) Lane Rental Charges shall apply to both scheduled and unscheduled occurrences. Lane Rental Charges shall be assessed for every quarter hour or part thereof. For the period between 120 days after NTP2 and the Service Commencement Date (and for construction related to NTP Capacity Improvements, the applicable Operating Commencement Date and the applicable Service Commencement Date), Developer shall report to the Independent Engineer on a daily basis any General Purpose Lane closures or reduced widths which give rise to Lane Rental Charges. Liquidated damages shall be applied according to Table 3.4-1.

9. <u>Amendments to Book 2 of the Technical Provisions</u>:

- 9.1 References to "the Operating Period" in Book 2 are hereby deleted and replaced with "(i) the period starting 120 days after NTP2 and ending at the end of the Term for Work authorized by NTP2, and (ii) the Operating Period for NTP Capacity Improvements."
- 9.2 Section 2.9 of Book 2 is amended as follows:

During the DB phase of construction of the Facility described in Section 1.2.1.2, Developer shall provide office space for one TxDOT employee per \$100 million in construction value (minimum one employee) and space for three Independent Engineer employees per \$100 million in construction value (minimum three employees) commencing 120 days after the date of issuance of NTP2 until the Service Commencement Date. This office space shall be in permanent facility for the term of such construction. Calculations of the number of employees shall be rounded up to the next highest integer (i.e. \$320 million/ \$100 million = 3.2, provide space for four employees).

9.3 Section 15.5 of Book 2 is amended as follows:

No additional requirements. Section 15.5 of Book 3 is replaced with the following:

Developer shall submit three aesthetic concepts to TxDOT within 240 Days of issuance NTP 1. Developer shall submit the final aesthetic concept to TxDOT within 270 Days of issuance of NTP 1 for review and approval in its good faith discretion.

Developer shall submit the Aesthetics and Landscaping Plan to TxDOT within 120 Days of TxDOT approval of the final aesthetic concept for review and approval in its good faith discretion.

- 9.4 Table 18-1a: "Permitted Lane Closures During the DB Phase," in Section 18.3.1.1.2, Part A of Book 2 is amended as set forth in Attachment C hereto.
- 9.5 Section 1.6 "Operation" and Section 1.7 "Maintenance" of Table 2-1 in Attachment 2-2 of Book 2 are deleted in their entirety.
- **10.** <u>Effectiveness of CDA Documents</u>. Except as specifically amended hereby, the provisions of the CDA Documents are hereby confirmed without change.

- 11. Binding Effect of Amendment. This Amendment is entered into pursuant to Section 24.3 of the CDA, and shall be valid, effective and enforceable notwithstanding Section 24.13 of the CDA or any similar provision in any other CDA Document declaring that the CDA Document constitutes the sole, integrated agreement of the Parties.
- **12.** <u>Counterparts.</u> 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.

[SIGNATURES FOLLOW ON NEXT PAGE]

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

Developer

TxDOT

NTE MOBILITY PARTNERS LLC

TEXAS DEPARTMENT OF TRANSPORTATION

Name: Amadeo Saenz, P.E.

Name: Belen Marcos

Title: CEO

ATTACHMENT A

EXHIBIT 6

LIST OF INITIAL FUNDING AGREEMENTS AND INITIAL SECURITY DOCUMENTS

Funding Agreements

- (i) Purchase Contract, dated December 10, 2009, among Developer, PABs Issuer and J.P. Morgan Securities Inc., on behalf of itself and as representative of Merrill Lynch, Pierce, Fenner & Smith, Incorporated and Estrada Hinojosa & Company, Inc., as underwriters (the "<u>Underwriters</u>");
- (ii) Trust Indenture, dated as of December 1, 2009, between the Issuer and Deutsche Bank Trust Company Americas, as trustee (the "Trustee")
- (iii) TIFIA Loan Agreement, dated as of December 1, 2009, between Developer and the United States Department of Transportation, acting by and through the FHWA (the "TIFIA Lender");
- (iv) the Loan Agreement, dated as of December 1, 2009, between PABs Issuer and Developer;
- (v) Collateral Agency and Account Agreement, dated as of December 1, 2009, among Developer, Deutsche Bank Trust Company Americas, as Intercreditor Agent on behalf of the Secured Creditors (the "Intercreditor Agent") and Deutsche Bank Trust Company Americas, as Collateral Agent and Securities Intermediary (the "Collateral Agent");
- (vi) Subordination and Intercreditor Agreement, dated as of December 1, 2009, among the Intercreditor Agent, the Trustee, the TIFIA Lender and the Collateral Agent;
- (vii) Equity Contribution Agreement, dated as of December 1, 2009, among Developer, Cintra Infraestructuras, S.A., Sociedad Unipersonal, Meridiam Infrastructure Finance S.a.r.I., Dallas Police and Fire Pension System and the Collateral Agent:
- (viii) Note, dated as of December 1, 2009, issued by Developer in favor of the TIFIA Lender:
- (ix) Texas Private Activity Bond Surface Transportation Corporation Senior Lien Revenue Bonds (NTE Mobility Partners LLC North Tarrant Express Managed Lanes Project), Series 2009, dated as of the Effective Date.

Security Documents

- (i) Security Agreement, dated as of December 1, 2009, between Developer and the Collateral Agent:
- the Membership Interest Pledge Agreement, dated as of December 1, 2009, between NTE Mobility Partners Holding LLC and the Collateral Agent;

- (iii) Leasehold Deed of Trust, Security Agreement and Financing Statement (Fixture Filing) to be executed by Developer, as grantor, to the trustee named therein for the benefit of the Collateral Agent for the benefit of the Secured Parties upon the Operating Commencement Date;
- (iv) the Deposit Account Control Agreement, dated as of December 1, 2009, among Developer, the Collateral Agent and Wells Fargo Bank, N.A.;
- (v) Consent and Agreement (North Tarrant Express Facility Design-Build Contract), dated as of December 16, 2009, made by Bluebonnet Contractor, LLC and acknowledged and agreed to by Developer and the Collateral Agent;
- (vi) Consent and Agreement (Design-Build Guaranty), dated as of December 16, 2009, made by Ferrovial Agromán, S.A. and acknowledged and agreed to by Developer and the Collateral Agent; and
- (vii) Lender's Direct Agreement, dated as of December 16, 2009, between TxDOT and the Collateral Agent.

ATTACHMENT B

ATTACHMENT 3 TO EXHIBIT 7

MAXIMUM PAYMENT CURVE

NTP2 +	NTP2 + Maximum Payment from Public Funds Amount (Cumulative)		Maximum Payment from Public Funds Amount (Cumulative)		
3 mos.	\$0	39 mos.	\$365,397,539		
6 mos.	\$0	42 mos.	\$380,212,337		
9 mos.	\$91,458,726	45 mos.	\$419,901,521		
12 mos.	\$106,147,881	48 mos.	\$440,801,142		
15 mos.	\$125,177,402	51 mos.	\$461,901,721		
18 mos.	\$144,258,344	54 mos.	\$500,485,637		
21 mos.	\$172,259,738	57 mos.	\$526,547,134		
24 mos.	\$200,314,172	60 mos.	\$546,310,952		
27 mos.	\$238,653,091	63 mos.	\$559,500,529		
30 mos.	\$277,051,666	66 mos.	\$572,730,000		
33 mos.	\$307,063,212	69 mos.	\$572,730,000		
36 mos.	\$336,457,173	72 mos.	\$572,730,000		

ATTACHMENT C

Table 18-1a: Permitted Lane Closures During the DB Phase

Description of Operat	Permitted Lane Closures ¹ (For all mainlane facilities other than the Managed Toll Lanes)				
Category of Work	Roadway Lanes (One Direction)	Peak Hours ²	Night-Time / Off Peak_Hours ³	Night Time Hours	
	<u>5</u>	None	3	3	
Any work necessary from NTP2 plus 120 days until the commencement of	4	None	2	2	
construction.	3	None	1	1	
	2	None	None*	1	
Work after commencement of	5	None	3	3	
construction:	4	None	2	<u>2</u>	
Placement of CTB, Placement of Pavement Markings, Full Depth	3	None	1	1	
Roadway Repair, Placement of Bridge Beams, Bridge Demolition or Similar Operations	2	None	None	None	
Work after commencement of	5	None	2	<u>2</u>	
construction:	4	None	2	2	
Adjacent Construction, Lanes for Construction Traffic or Similar	3	None	1	1	
Operations	2	None	None	None	

Notes:

- 1. A minimum of 2 lanes in each direction will be required on 1H820, IH35W, SH121 and SH183 at all times except as specifically approved by TxDOT.
- 2. Peak Hours means the period as described in Exhibit 1 of the Agreement.
- 3. Night Time / Off Peak Hours means the periods as described in Exhibit 1 of the Agreement.
- * Lane Rental charges applied: Period D (Night Time hours) of table 3.4-1 of Exhibit 18 Book 1 CDA.
- *—Times will be established utilizing 7 day-24 hour traffic counts to be performed by the Developer, results of which shall be provided to TxDOT for evaluation. Peak Hours shall be evaluated on an annual basis and the Peak Hours will be adjusted as necessary.

CONSENT TO AMENDMENT NO. 1 TO THE CDA

As of the date indicated below, pursuant to Section 20.2 of that certain Comprehensive Development Agreement for a Concession between Texas Department of Transportation and NTE Mobility Partners LLC dated as of June 23, 2009 (the "CDA"), the undersigned Authorized Representative of the Collateral Agent hereby consents to Amendment No. 1 to the CDA.

Name

Charanjeet Singh Associate

Title

September 24, 2010

Date