

**AMENDMENT NO. 8 TO**  
**FACILITY CONCESSION AGREEMENT**  
**SH 130, SEGMENTS 5 & 6 FACILITY**

THIS AMENDMENT NO. 8 TO FACILITY CONCESSION AGREEMENT ("Amendment") is entered into and effective as of 10-8-2010, 2010 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 "FCA"), together with related agreements collectively referred to in the FCA as the "FCA Documents". All capitalized terms used but not defined herein shall have the meanings set forth in the FCA.

B. The purpose of this amendment is to clarify the provisions contained in FCA Exhibit 4 (Toll Regulation) and the Book 2 Technical Requirements, so that the FCA more clearly reflects the intent of the parties to establish a toll rate methodology consistent with that utilized by TxDOT for its other toll road projects.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, TxDOT and the Developer agree as follows:

1. Amendment to FCA Section 3.2.1. Section 3.2.1 of the FCA is hereby amended to read as follows:

"3.2.1. The toll rates and charges in any year for use of a Tolling Zone within the Facility shall not exceed the maximum amounts for each User Classification for such year determined according to the toll rate policy, schedule and methodology set forth in Exhibit 4 to this Agreement;"

2. Amendment to Exhibit 4 to the FCA. Exhibit 4 to the FCA is hereby amended to read in full as set forth in Attachment 1 to this Amendment.

3. Amendment to Book 2 Section 21.1. The last sentence of the first paragraph of Section 21.1 of Book 2 is hereby amended to read as follows:

"Developer acknowledges that tolls shall be collected according to the screenline principle, in which Users are assessed a toll whenever they pass a given mainline plaza or a ramp plaza, regardless of the distance traveled on the Facility or within a Tolling Zone, and not according to the point-to-point principle in which Users are assessed a toll depending on the distance traveled."

4. Effectiveness of FCA Documents. Except as specifically amended hereby, the provisions of the FCA Documents, as previously amended by Amendments 1 – 7, are hereby confirmed without change.

5. Binding Effect of Amendment. This Amendment is entered into pursuant to Section 24.3 of the FCA, and shall be valid, effective and enforceable.

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.

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

**Developer**

**TxDOT**

**SH 130 CONCESSION COMPANY LLC**

**TEXAS DEPARTMENT OF TRANSPORTATION**

By: 

Name: Javier Gutierrez

Title: Chief Executive Officer

By: 

Name: STEW E. SIMMONS

Title: DEPUTY EXECUTIVE DIRECTOR

# ATTACHMENT 1

## EXHIBIT 4

### TOLL REGULATION

#### **Toll Rates and Charges**

##### **A. Maximum Toll Rate**

1. On the Service Commencement Date and on each anniversary of the Service Commencement Date during the Term, the Maximum Toll Rate will be adjusted for the next 12-month period in accordance with the following formula:

$$\text{Maximum Toll Rate}^t = \text{Maximum Toll Rate Base} \times \{ \text{NGSPPC}^t / \text{NGSPPC Base} \}$$

Where:

Maximum Toll Rate = the maximum toll per mile for Users that travel the full length of a Tolling Zone (prorated for each 1/10<sup>th</sup> mile), in U.S. dollars, for an applicable 12-month period for a vehicle, determined by User Classification.

t = the next 12-month time period, measured from the Service Commencement Date and each anniversary of the Service Commencement Date.

Maximum Toll Rate<sup>t</sup> = the Maximum Toll Rate for the next 12 month period. For example, if the Service Commencement Date is June 1, 2011 and the year is 2014, the Maximum Toll Rate<sup>2014</sup> will be the toll rate for each applicable User Classification from June 1, 2014 until May 31, 2015.

Maximum Toll Rate Base = the Maximum Toll Rate (prorated for each 1/10<sup>th</sup> mile) for calendar year 2006 for each User Classification set forth in Table 4-1 below.

NGSPPC Base = 42,974.82 being the quotient of 2005 NGSP value and 2005 PC each published by the Bureau of Economic Analysis in June 2006.

NGSPPC<sup>t</sup> = the greater of NGSP<sup>t</sup> / PC<sup>t</sup> or NGSPPC<sup>t-1</sup>

NGSP<sup>t</sup> = the most recently published value of the nominal gross state product for the State of Texas as published by Bureau of Economic Analysis prior to the anniversary date of the Service Commencement Date in year t. For example, if the Service Commencement Date is June 1, 2011 and the most recent publication of the value of the nominal gross state product for the State of Texas was in December 2013, NGSP<sup>2014</sup> will be nominal gross state product for the State of Texas as published by Bureau of Economic Analysis in December 2013.

PC<sup>t</sup> = the most recently published annual estimate of the population for the State of Texas as published by Bureau of Economic Analysis prior to the anniversary



date of the Service Commencement Date in year t. For example, if the Service Commencement Date is June 1, 2011 and the most recent publication of the annual estimate of the population for the State of Texas was in March 2014, PC<sup>2014</sup> will be the estimate of the population for the State of Texas as published by Bureau of Economic Analysis in March 2014.

NGSPPC<sup>t-1</sup> = the nominal gross state product per capita value used in year t-1.

In the event that the Bureau of Economic Analysis discontinues publishing nominal gross state product or population data or changes the frequency in which it publishes the foregoing, then the Parties will select a mutually acceptable publication of comparable figures that has the original frequency of publication and a comparable basis for computation. In the event the Parties fail to make such selection, the selection of an alternate publication shall be made by the Disputes Board upon application by either Party.

2. The resulting Maximum Toll Rate for each User Classification will be rounded to the nearest tenth of a cent (\$0.001).
3. Developer shall have the right to change toll rates for each User Classification at any time or times, provided that (a) the toll rates charged to Users that travel the full length of a Tolling Zone do not exceed the applicable Maximum Toll Rate, (b) the toll rates charged are rounded to the nearest tenth of a cent (\$0.001) and (c) Developer first complies with Section 3.2.3 of the Agreement.
4. The Parties hereby establish the following User Classifications, further defined in Table 4-1:

**Table 4-1**

<b>User Classification</b>	<b>Description</b>	<b>Maximum Toll Rate Base</b>	<b>Measurements</b>
A.	Vehicles, including motorcycles	\$0.125	Height < 7'; and Length < 20'
B.	Same as Classification A	\$0.25	Same as User Classification A vehicle, plus a trailer
C.	Larger vehicle without trailer	\$0.375	Height 7' to 12'; or Length 20' to 46'
D.	Larger vehicle with one trailer	\$0.50	Height >12'; or Length >46'

E.	Any vehicle with more than one trailer or any vehicle exceeding the length or height measurement for User Classification C which is not a special class vehicle	\$0.625 mile	Any measurement
F.	Special class vehicle	Defined below	

Protocols: Measurements are determined by the highest point of any vehicle or its attached trailers and the total length of the vehicle plus all of its attached trailers. Towed vehicles of any type are classified as a trailer. Special class vehicles are defined as vehicles meeting one or more of the following characteristics: (a) over 8'6" wide; (b) over 14' tall; (c) over 65' long; (d) over 80,000 pounds; or (e) any vehicle otherwise required to obtain a permit for travel on state highways under applicable Law.

The Maximum Toll Rate for Special Vehicles shall not exceed the sum of:

- Lost revenue due to lane closures or impeded traffic flow;
- Additional wear and tear on the roadway due to oversize, overweight condition;
- Expenses for special services such as escort, additional security, lane closures, physical modifications to the roadway;
- Other direct costs associated with the trip; and
- 5 times the highest regular toll rate in effect at the time of the trip.

**Other Exempt Vehicles:** None

**B. Toll Charges**

1. The amount charged by the Developer for use of any Tolling Zone ("Toll Charges") shall be based on the tolled length of each Tolling Zone as shown in Table 4-2 regardless of the distance traveled on the Facility or within a Tolling Zone.

**Table 4-2**

Plaza / Tolling Zone	Location Northbound (NB) and Southbound (SB)	Tolled length	Beginning and ending cross roads
L1	NB frontage to NB mainlane south of CR 176	4.853	SH 45 to SH 21
L2	SB main lane to SB frontage south of CR 176	4.853	SH 45 to SH 21
T1	Approx. STA 3225+000	12.879	SH 45 to US 183
L4	NB mainlane to NB frontage south of FM 1185	2.667	FM 1185 to US 183



L5	SB frontage to SB mainlane south of FM 1185	2.667	FM 1185 to US 183
L6	NB frontage to NB mainlane south of FM 2001	4.140	US 183 to CR 218
L7	SB mainlane to SB frontage south of FM 2001	4.140	US 183 to CR 218
T2	Approx. STA 4000+000	28.144	US 183 to I-10
L9	NB mainlane to SH 80	16.212	SH 80 to I-10
L10	SH80 to SB mainlane	16.212	SH 80 to I-10
L11	NB mainlane to FM 621	13.488	FM 621 to I-10
L12	FM 621 to SB mainlane	13.488	FM 621 to I-10
L13	NB mainlane to FM 20	6.915	FM 20 to I-10
L14	FM 20 to SB mainlane	6.915	FM 20 to I-10

2. Maximum Toll Charges for passing a given mainline plaza or ramp plaza and for each User Classification shall be calculated as shown in Table 4-3:

**Table 4-3**

Plaza / Tolling Zone	Maximum Toll Charge
L1	Maximum Toll Charge (L1) <sup>t</sup> = Maximum Toll Rate <sup>t</sup> x 4.853
L2	Maximum Toll Charge (L2) <sup>t</sup> = Maximum Toll Rate <sup>t</sup> x 4.853
T1	Maximum Toll Charge (T1) <sup>t</sup> = Maximum Toll Rate <sup>t</sup> x 12.879
L4	Maximum Toll Charge (L4) <sup>t</sup> = Maximum Toll Rate <sup>t</sup> x 2.667
L5	Maximum Toll Charge (L5) <sup>t</sup> = Maximum Toll Rate <sup>t</sup> x 2.667
L6	Maximum Toll Charge (L6) <sup>t</sup> = Maximum Toll Rate <sup>t</sup> x 4.140
L7	Maximum Toll Charge (L7) <sup>t</sup> = Maximum Toll Rate <sup>t</sup> x 4.140
T2	Maximum Toll Charge (T2) <sup>t</sup> = Maximum Toll Rate <sup>t</sup> x 28.144
L9	Maximum Toll Charge (L9) <sup>t</sup> = Maximum Toll Rate <sup>t</sup> x 16.212

L10	Maximum Toll Charge (L10) <sup>t</sup> = Maximum Toll Rate <sup>t</sup> x 16.212
L11	Maximum Toll Charge (L11) <sup>t</sup> = Maximum Toll Rate <sup>t</sup> x 13.488
L12	Maximum Toll Charge (L12) <sup>t</sup> = Maximum Toll Rate <sup>t</sup> x 13.488
L13	Maximum Toll Charge (L13) <sup>t</sup> = Maximum Toll Rate <sup>t</sup> x 6.915
L14	Maximum Toll Charge (L14) <sup>t</sup> = Maximum Toll Rate <sup>t</sup> x 6.915

3. Tolling Zones and plaza locations are hereby established, as shown on Appendix 1 attached to this Exhibit 4. Any changes or additions to the established Tolling Zones or plaza locations, or to the Tolling Zone lengths shown in Table 4-2, will be subject to TxDOT's consent, in its sole discretion.

# Appendix 1 to Exhibit 4

## Tolling Zones and Plaza Locations

