COMMERCIAL CLOSING TRANSCRIPT

PUBLIC-PRIVATE AGREEMENT

THE EAST END CROSSING

(LOUISVILLE-SOUTHERN INDIANA OHIO RIVER BRIDGES PROJECT)

Between

Indiana Finance Authority

and

WVB East End Partners, LLC

Dated as of December 27, 2012

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ii. 20-B Form of Performance Bond

iii. 20-C Form of Multiple Obligee Rider for Payment Bond

iv. 20-D Form of Multiple Obligee Rider for Performance Bond

v. 20-E Form of Performance Letter of Credit

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   A. Developer's Counsel Opinion – Mayer Brown LLP

B. Developer's Counsel Opinion – Bingham Greenebaum Doll LLP

C. IFA Counsel Opinion - Ice Miller (regarding Public-Private Agreement)

D. IFA Counsel Opinion – Ice Miller LLP (regarding Milestone Payment Agreement, Use Agreement, Project Trust Agreement)

E. IFA Counsel Opinion - Nossaman LLP

F. Indiana Attorney General Opinion

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O. Lead Engineer - Indiana Authorization (INDOT) – Jacobs Engineering

P. Lead Engineer - Kentucky Authorization (KYTC) – Jacobs Engineering

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BETWEEN

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PUBLIC PRIVATE AGREEMENT

THE EAST END CROSSING (LOUISVILLE-SOUTHERN INDIANA OHIO RIVER BRIDGES PROJECT)

This Public-Private Agreement (the "**Agreement**") is entered into and effective as of December 27, 2012 by and between the Indiana Finance Authority, a body corporate and politic, not a state agency but an instrumentality exercising essential public functions, of the State of Indiana ("**IFA**"), and WVB East End Partners, LLC, a Delaware limited liability company ("**Developer**").

RECITALS

A. The State of Indiana (the "State") desires to facilitate private sector investment and participation in the development of the East End Crossing (Louisville-Southern Indiana Ohio River Bridges Project) via a public-private agreement, and has enacted Indiana Code 8-15.5, as amended (the "Act"), to accomplish that purpose.

B. The Act grants IFA the authority to enter into agreements with private entities to design, build, finance, operate and maintain transportation facilities.

C. Pursuant to the provisions of the Act, IFA issued a Request for Qualifications on March 9, 2012, as amended.

D. IFA received six (6) responsive statement of qualification submittals on April 9, 2012, and subsequently shortlisted four (4) responsive proposers.

E. On April 23, 2012, IFA issued to the shortlisted proposers a Request for Proposals to Design, Construct, Finance, Operate and Maintain the East End Crossing (Louisville-Southern Indiana Ohio River Bridges Project) through a Public-Private Agreement (as amended, the "RFP").

F. On October 26, 2012 IFA received responses to the RFP, including the response of Developer (the "Proposal").

G. A RFP evaluation committee determined that Developer was the proposer which best met the selection criteria contained in the RFP and that its Proposal was the one which provided the best value to the State.

H. On November 16, 2012, IFA accepted the recommendation of the Public Finance Director of the State of Indiana (the "Public Finance Director") and the RFP evaluation committee and authorized IFA staff to negotiate, execute and deliver this Agreement.

I. On December 20, 2012, Developer's governing body authorized Developer to negotiate, execute and deliver this Agreement.

J. As required by the Act, IFA held a public hearing on the preliminary selection of Developer and the Proposal and has received approval of such selection by the Governor of the State of Indiana and the review of such selection by the State Budget Committee.

K. This Agreement, the other PPA Documents, the Financial Escrow, the Intellectual Property Escrows and other ancillary agreements collectively constitute a public-private agreement as contemplated under the Act, and are entered into in accordance with the provisions of the RFP.

L. The Public Finance Director has been authorized to enter into this Agreement, the other PPA Documents, the Financial Escrow, the Intellectual Property Escrows and other ancillary agreements pursuant to the Act, and IFA Resolution Nos. G33-2012, G-34-2012 and G39-2012.

M. The Act authorizes IFA to provide that the Indiana Department of Transportation (the "Department") or any other agency of the State of Indiana may perform any duties or exercise powers of IFA under the Act or the public-private agreement. IFA has entered into a memorandum of understanding with the Department ("Department MOU") to perform certain of the duties and exercise certain of the powers of IFA under the Act and this Agreement.

NOW, THEREFORE, in consideration of the sums to be paid by IFA to Developer, the Work to be financed and performed by Developer, the foregoing premises and the covenants and agreements set forth herein, the Parties hereby agree as follows:

ARTICLE 1. DEFINITIONS; PPA DOCUMENTS; ORDER OF PRECEDENCE; OTHER DOCUMENTS

1.1 Definitions

Definitions for the terms used in this Agreement and the other PPA Documents are contained in Exhibit 1 (Abbreviations and Definitions).

1.2 PPA Documents; Rules to Reconcile Conflicting Provisions

1.2.1 The term "PPA Documents" shall mean the documents listed in this Section 1.2. Each of the PPA Documents is an essential part of the agreement between the Parties. The PPA Documents are intended to be complementary and to be read together as a complete agreement.

1.2.2 Subject to Sections 1.2.3 and 1.2.4, in the event of any irreconcilable conflict, ambiguity or inconsistency among the PPA Documents, the order of precedence, from highest to lowest, shall be as follows:

1. Change Orders and Agreement amendments and supplements, and all exhibits, appendices and attachments to such amendments and supplements;

2. This Agreement, including all Exhibits other than Exhibit 2 (Developer's Schematic Design of Project and Proposal Commitments) which has a lower order of precedence, and the executed originals of Exhibits that are contracts;

3. Technical Provisions amendments, including all exhibits and attachments to such amendments;

4. The Technical Provisions, including all exhibits and attachments to the Technical Provisions, except that Attachment 16-1 to the Technical Provisions has a lower order of precedence as noted below;

5. Attachment 16-1 to the Technical Provisions;

6. Supplements and amendments to Exhibit 2 (Developer's Schematic Design of East End Crossing and Proposal Commitments); and

7. Developer's Proposal commitments set forth in Exhibit 2 (Developer's Schematic Design of East End Crossing and Proposal Commitments), including Developer's Schematic Design.

1.2.3 In the event of any irreconcilable conflict, ambiguity or inconsistency among the PPA Documents or provisions within a PPA Document, the following rules of interpretation shall apply.

1.2.3.1 Notwithstanding the order of precedence among PPA Documents set forth in this Section 1.2, if Exhibit 2 (Developer's Schematic Design of East End Crossing and Proposal Commitments) includes statements, offers, terms, concepts or designs that can reasonably be interpreted as offers to provide higher quality items than otherwise required by the other PPA Documents or to perform services or meet standards in addition to or better than those otherwise required, or otherwise contain terms or designs which are more advantageous to IFA than the requirements of the other PPA Documents, as reasonably determined by IFA, then Developer's obligations hereunder shall include compliance with all such statements, offer, terms, concepts and designs, which shall have the priority of Agreement amendments and Technical Provisions amendments, as applicable.

1.2.3.2 Notwithstanding the order of precedence among PPA Documents set forth in this Section 1.2, if the PPA Documents contain differing provisions on the same subject matter, the provisions that establish the higher quality, manner or method of performing the Work, establish higher or better Good Industry Practice, or use more stringent standards will prevail.

1.2.3.3 Additional details in a lower priority PPA Document shall be given effect except to the extent they irreconcilably conflict with requirements, provisions and practices contained in the higher priority PPA Document.

1.2.3.4 If the PPA Documents contain differing provisions on the same subject matter that cannot be reconciled by applying the foregoing rules, then the provisions (whether setting forth performance or prescriptive requirements) contained in the document of higher order of precedence shall prevail over the provisions (whether setting forth performance or prescriptive requirements) contained in the document of lower order of precedence unless IFA, in its sole discretion, approves otherwise in writing.

1.2.3.5 In the event of an irreconcilable conflict between or among provisions in PPA Documents having the same order of precedence, the provisions that establish the higher quality, manner or method of performing the Work, exceed Good Industry Practice, or use more stringent standards will prevail.

1.2.3.6 In the event of an irreconcilable conflict among any standards,

criteria, requirements, conditions, procedures, specifications or other provisions applicable to the East End Crossing established by reference to a described manual or publication within a PPA Document or set of PPA Documents with the same order of priority (including within documents referenced therein), the standard, criterion, requirement, condition, procedure, specification or other provision offering higher quality or better performance will apply, unless IFA, in its sole discretion, approves or directs otherwise in writing.

1.2.3.7 In the event of an irreconcilable conflict between the standards, criteria, requirements, conditions, procedures, specifications or other provisions of the Technical Provisions and those established by reference to a described manual or publication within a PPA Document, the Technical Provisions shall prevail.

1.2.4 If either Party becomes aware of any such conflict, it shall promptly notify the other Party of the conflict and which of the conflicting items is to apply based upon the notifying Party's good faith judgment of the application of the rules set forth in Sections 1.2.2 and 1.2.3, as applicable. If (a) such conflict cannot be reconciled applying the applicable rules or (b) the Parties disagree about (i) which rule applies and/or (ii) the results of the application of such applicable rule(s), then IFA will issue promptly a written determination, as evaluated in its good faith discretion, respecting which of the conflicting items is to apply thereafter.

1.2.5 Erroneous provisions shall not be treated as inconsistent or conflicting provisions of the PPA Documents under this Section 1.2, but instead shall be reconciled under Section 5.2.5.

1.3 Order of Precedence of Project Management Plan

In the event of any irreconcilable conflict, ambiguity or inconsistency between the Project Management Plan and any of the PPA Documents, the latter shall take precedence and control and Developer shall promptly modify the Project Management Plan to cure the conflict, ambiguity or inconsistency, unless IFA, in its sole discretion, approves otherwise in writing.

1.4 Reference Information Documents

1.4.1 IFA has provided and disclosed to Developer the Reference Information Documents. Except as set forth in the next two sentences of this Section 1.4.1, the Reference Information Documents are provided only for the purposes of disclosure and, in the case of general industry and general governmental manuals and publications, of guidance regarding Good Industry Practice. Portions of the Reference Information Documents are referenced in the PPA Documents for the purpose of defining requirements of the PPA Documents. To the extent that such portions are so expressly referenced, such portions of the referenced Reference Information Documents shall be deemed incorporated in the PPA Documents with the referenced portions having the same order of priority pursuant to Section 1.2 as the PPA Document in which the reference occurs.

1.4.2 IFA shall not be responsible or liable in any respect for any causes of action, claims or Losses whatsoever suffered by any Developer-Related Entity by reason of any use of information, opinions or recommendations contained in, any conclusions Developer may draw from, or any action or forbearance in reliance on, the Reference Information Documents, except to the extent that information in Reference Information Documents is expressly made (a) the basis for any schedule or monetary relief available hereunder in the case of clauses (m), (o),

(p), (q), (r) or (u) of the definition of Relief Event or (b) a contractual requirement as part of the Technical Provisions. For the avoidance of doubt, the foregoing does not affect use of information in Reference Information Documents for determining Known or Suspected Hazardous Materials.

1.4.3 Except for (i) the Utility Information for purposes of the Relief Event under clause (u) of the definition of Relief Event, (ii) the Geotechnical Baseline Report for purposes of the Relief Event under clause (p)(i) of the definition of Relief Event, (iii) those portions of the Reference Information Documents expressly referenced pursuant to Section 1.4.1 and (iv) the geotechnical data report included among the Reference Information Documents for the purposes of the Relief Event under clause (p)(ii) of the definition of Relief Event, (a) IFA does not represent, warrant or guarantee the accuracy, completeness or fitness of and (b) Developer is not entitled to rely upon a presumption that: (1)(A) the Reference Information Documents, (B) any opinions or recommendations therein as accurately describing existing conditions, presenting financing, design, engineering, construction, operating or maintenance solutions or directions, or defining means or methods for complying with or (C) any other information contained in the Reference Information Documents or (2) any such opinions, recommendations or other information in the Reference Information Documents comply with, or otherwise is/are in conformity with, the requirements of the PPA Documents, Governmental Approvals or Laws. Except to the extent expressly provided otherwise in this Agreement, Developer shall have no right to additional compensation, time or deadline extension or other Claim or relief based on any incompleteness or inaccuracy in the Reference Information Documents, except to the extent directly attributable to the fraud, willful misconduct or intentional misrepresentation by IFA with respect only to Reference Information Documents originally prepared by IFA or its agents. For the avoidance of doubt, the foregoing does not affect use of information in Reference Information Documents for determining Known or Suspected Hazardous Materials.

1.4.4 The Parties acknowledge that general industry or general government manuals and publications that are part of the Reference Information Documents may be revised, changed, added to or replaced from time to time by the agencies or organizations that issue such manuals and publications. All such revisions, changes, additions or replacements shall, when issued, automatically become part of the Reference Information Documents.

1.4.5 Where the Technical Provisions expressly require compliance with specified general industry or general government manuals and publications or portions thereof, then the manual, publication or portion thereof to be complied with is not considered a Reference Information Document and instead is considered to be part of, and at the same level of priority as, the Technical Provisions.

1.4.6 Nothing contained in this Section 1.4 is intended to diminish to derogate from the rights of Developer for compensation or time relief in connection with Relief Events or pursuant to Article 16.

ARTICLE 2. GRANT OF CONCESSION; TERM

2.1 Grant of Concession

2.1.1 Pursuant to the provisions of the Act and subject to the terms and conditions of the PPA Documents, IFA hereby grants to Developer the exclusive right, and Developer accepts the obligation and agrees, during the Term, to finance, develop, design, construct, insure,

manage, and in respect of the O&M Limits, to operate, maintain and repair, and perform Rehabilitation Work on and for, the East End Crossing as provided in the PPA Documents.

2.1.2 On or after the Effective Date, Developer and its authorized Developer-Related Entities shall have the right and license to enter onto Project Right of Way, and other lands, owned by or in the possession and control of IFA or subject to a right of entry or access in favor of IFA for the purpose of carrying out Developer's obligations under this Agreement (the "Project Right of Entry"). Prior to issuance of NTP2, the Project Right of Entry shall be limited solely to the activities and Work authorized under, and subject to the conditions set forth in, Section 5.3. The Project Right of Entry also is subject to conditions to commencement of Construction Work and Utility Adjustments as set forth in Section 5.5, and may be subject to interim limits on activities as set forth in the Technical Provisions, including Section 21.1 thereof. Absent agreement by the Parties as to a later date pursuant to an approved transition plan as set forth in Section 20.7, the Project Right of Entry shall automatically terminate at the end of the Term.

2.1.3 Developer has no fee title, leasehold estate, possessory interest, permit, easement or other real property interest of any kind in or to the East End Crossing or the Project Right of Way by virtue of this Agreement, any of the other PPA Documents or otherwise.

2.1.4 Developer's property interests under this Agreement are limited to contract rights constituting intangible personal property (and not real estate interests). Developer's property interests under this Agreement are solely those of an independent contracting party, and IFA and Developer are not in a relationship of co-venturers, partners, lessor-lessee or principal-agent (except to the extent the PPA Documents expressly appoint Developer as IFA's agent for specified purposes).

2.1.5 Developer's rights granted in this Section 2.1 are limited by and subject to the terms and conditions of the PPA Documents, including the following:

2.1.5.1 Receipt of all Governmental Approvals necessary for the Work to be performed and satisfaction of any requirements applicable under the Governmental Approvals (including the NEPA Approval) for the Work to be performed;

2.1.5.2 IFA's ownership, as joint tenant with KPTIA of fee simple title to or other property interest or right in the East End Crossing and Project Right of Way and all improvements constructed thereon; and

2.1.5.3 IFA's rights and remedies under the PPA Documents.

2.1.6 Developer's rights granted in this Section 2.1 are limited by and subject to, and Developer shall be responsible for compliance with, the provisions of all agreements, easements, rights of entry, Governmental Approvals, and other instruments under which IFA has received or will receive title, rights of entry or rights of access on and to lands owned by public entities, including the State of Indiana, the Commonwealth of Kentucky, including paying all applicable charges and related fees and obtaining all consents or approvals for access by any Developer-Related Entity to the Project Right of Way to perform any Work required under this Agreement, as such matters are described in the Technical Provisions or Reference Information Documents. IFA shall provide reasonable assistance in accordance with Section 3.2.3 to Developer in obtaining any consents or approvals required from such public entities to access such lands.

2.1.7 Term of Concession

This Agreement shall take effect on the Effective Date, and shall remain in effect until the earliest of (a) thirty-five (35) years after the Baseline Substantial Completion Date, (b) thirty-five (35) years after the Substantial Completion Date, or (c) the termination of this Agreement as provided herein (the "Term"); provided that IFA may extend the Term as provided in Section 15.4.2(e).

ARTICLE 3. MANAGEMENT SYSTEMS AND OVERSIGHT

3.1 Submittal, Review and Approval Terms and Procedures

3.1.1 General

This Section 3.1 sets forth uniform terms and procedures that shall govern all Submittals to IFA pursuant to the PPA Documents or Project Management Plan and component plans thereunder. In the event of any irreconcilable conflict between the provisions of this Section 3.1 and any other provisions of the PPA Documents or Project Management Plan and component plans thereunder concerning submission, review and approval procedures, this Section 3.1 shall exclusively govern and control, except to the extent that the conflicting provision expressly states that it supersedes this Section 3.1.

3.1.2 Time Periods

3.1.2.1 Except as otherwise provided in this Section 3.1.2, whenever IFA is entitled to review, comment on, review and comment on, or to affirmatively approve or accept, a Submittal, IFA shall have a period of twenty-eight (28) days to act after the date it receives an accurate and complete Submittal in conformity with the PPA Documents, together with a completed transmittal form in form to be mutually agreed and all necessary or requested information and documentation concerning the subject matter.

3.1.2.2 Notwithstanding the provisions of Section 3.1.2.1, and except as otherwise mutually agreed by the Parties at the Design Workshop, whenever IFA is entitled to review, comment on, review and comment on, or to affirmatively approve or accept, a Submittal consisting of Design Documents or Construction Documents, IFA shall have a period of fifteen (15) days to act after the date it receives an accurate and complete Submittal or re-submittal in conformity with the PPA Documents, together with a completed transmittal form in form to be mutually agreed and all necessary or requested information and documentation concerning the subject matter. If IFA determines that a Submittal of Design Documents or Construction Documents is not complete, it will notify Developer of such determination within such fifteen- (15)-day period. The Parties shall agree in good faith upon any necessary extensions of the review-comment-and-approval period to accommodate particularly complex or comprehensive Submittals.

3.1.2.3 If any other provision of the PPA Documents expressly provides a longer or shorter period for IFA to act, such period shall control over the time periods set forth in Section 3.1.2.1 and 3.1.2.2. If the time period for IFA to act should end on a day when IFA is closed, the time period shall automatically be extended to the next day when IFA is open.

3.1.2.4 If at any given time IFA is in receipt of more than (a) ten (10) concurrent Submittals in the aggregate (or other number of aggregate concurrent Submittals

mutually agreed in writing by IFA and Developer) that are subject to IFA's review and comment or approval, except Submittals of parts or components of the Project Management Plan prior to issuance of NTP2, or (b) the maximum number of concurrent Submittals of any particular type set forth in any other provision of the PPA Documents, IFA may extend the applicable period for it to act to that period in which IFA can reasonably accommodate the Submittals under the circumstances, or such other period of extension set forth in any other provision of the PPA Documents, and no such extension shall constitute an IFA-Caused Delay, IFA Change, Relief Event or other basis for any Claim. However, if at any time IFA is in receipt of some Submittals subject to clause (a) above and some Submittals subject to clause (b) above, then the higher number of Submittals shall be used to determine whether IFA may extend the applicable period. Submittals are deemed to be concurrent to the extent the review time periods available to IFA under this Section 3.1.2 regarding such Submittals entirely or partially overlap. Whenever IFA is in receipt of excess concurrent Submittals, Developer may establish by Notice to IFA an order of priority for processing such Submittals; and IFA shall comply with such order of priority.

3.1.2.5 All time periods for IFA to act shall be extended by the period of any delay caused by any Relief Event (for this purpose modified where applicable to refer to Developer acts or omissions rather than IFA) or caused by delay, act, omission, breach, fault or negligence of any Developer-Related Entity.

3.1.2.6 During any time that IFA is entitled under Section 3.4.2 to increase the level of its Oversight of Developer's compliance with its obligations under the PPA Documents, the applicable period for IFA to act on any Submittals received during such time and not related to curing the Developer Default(s) that instigated the Section 3.4.2 action shall automatically be extended by fourteen (14) days.

3.1.2.7 IFA shall endeavor to reasonably accommodate a written request from Developer for expedited action on a specific Submittal, within the practical limitations on availability of IFA personnel appropriate for acting on the types of Submittal in question; provided Developer sets forth in its request specific, abnormal circumstances, not caused by a Developer-Related Entity, demonstrating the need for expedited action. This provision shall not apply, however, during any time described in Section 3.1.2.5 or 3.1.2.6.

3.1.3 IFA Discretionary Approvals

If the Submittal or other approval, consent, determination, acceptance, decision or other action or matter is one where the PPA Documents indicate approval, consent, determination, acceptance, decision or other action is required from IFA in its sole discretion or good faith discretion, then IFA's lack of approval, consent, determination, acceptance, decision or other action within the applicable time period under Section 3.1.2 shall be deemed disapproval. If the approval, consent, determination, acceptance, decision or other action is subject to the sole discretion of IFA, then its approval, consent, determination, decision or other action (including a failure to act which constitutes a disapproval) shall be final, binding and not subject to dispute resolution, and such approval, consent, determination, acceptance, decision or other action shall not constitute an IFA-Caused Delay, IFA Change, Relief Event or other basis for any Claim. If the approval, consent, determination, acceptance, decision or other action (including a failure to act which constitutes a disapproval) is subject to the good faith discretion of IFA, then its approval, consent, determination, acceptance, decision or other action shall be binding, unless it is finally determined through the Dispute Resolution Procedures by clear and convincing evidence that such approval, consent, determination, acceptance, decision or other

action (including a failure to act which constitutes a disapproval) or matter was arbitrary or capricious, and if determined to be arbitrary and capricious through such Dispute Resolution Procedures and causes delay, it will constitute and be treated as an IFA-Caused Delay.

3.1.4 Other IFA Approvals

3.1.4.1 Whenever the PPA Documents indicate that a Submittal or other matter is subject to IFA's approval or consent but the approval or consent is one not governed by Section 3.1.3 concerning discretionary approvals or the Submittal or other matter is subject to IFA's reasonable discretion, then the standard shall be reasonableness.

3.1.4.2 If the reasonableness standard applies and IFA delivers no approval, consent, determination, decision or other action within the applicable time period under Section 3.1.2, then Developer may deliver to IFA a Notice stating the date within which IFA was to have decided or acted and that if IFA does not decide or act within five (5) Business Days after receipt of the Notice, delay from and after lapse of the applicable time period under Section 3.1.2 may constitute IFA-Caused Delay for which Developer may be entitled to issue a Relief Event Notice under Section 15.1.

3.1.5 IFA Review and Comment

Whenever the PPA Documents indicate that a Submittal or other matter is subject to IFA's review, comment, review and comment, disapproval or similar action not entailing a prior approval and IFA delivers no comments, exceptions, objections, rejections or disapprovals within the applicable time period under Section 3.1.2, then Developer may proceed thereafter at its election and risk, without prejudice to IFA's rights to later object or disapprove in accordance with Section 3.1.7.1. No such failure or delay by IFA in delivering comments, exceptions, objections, rejections or disapprovals within the applicable time period under Section 3.1.2 shall constitute an IFA-Caused Delay, IFA Change, Relief Event or other basis for any Claim. When used in the PPA Documents, the phrase "completion of the review and comment process" or similar terminology means either (a) IFA has reviewed, provided comments, exceptions, objections, rejections or disapprovals, and all the same have been resolved, or (b) the applicable time period has passed without IFA providing any comments, exceptions, objections, rejections or disapprovals.

3.1.6 Submittals Not Subject to Prior Review, Comment or Approval

Whenever the PPA Documents indicate that Developer is to deliver a Submittal to IFA but express no requirement for IFA review, comment, disapproval, prior approval or other IFA action, then Developer is under no obligation to provide IFA any period of time to review the Submittal or obtain approval of it before proceeding with further Work, and IFA shall have the right, but is not obligated, to at any time review, comment on, take exception to, object to, reject or disapprove the Submittal in accordance with Section 3.1.7.1. No failure or delay by IFA in delivering comments, exceptions, objections, rejections or disapprovals with respect to the Submittal shall constitute an IFA-Caused Delay, IFA Change, Relief Event or other basis for any Claim.

3.1.7 Resolution of IFA Comments and Objections

3.1.7.1 If the Submittal or other approval, consent, determination,

acceptance, decision or other action or matter is one not governed by Section 3.1.3, IFA's exception, objection, rejection or disapproval shall be deemed reasonable, valid and binding if based on any of the following grounds or other grounds set forth elsewhere in the PPA Documents:

a. The Submittal or subject provision thereof fails to comply, or is inconsistent, with any applicable covenant, condition, requirement, standard (including Safety Standards), term or provision of the PPA Documents or Project Management Plan and component plans thereunder;

b. The Submittal or subject provision thereof is not to a standard equal to or better than Good Industry Practice;

c. Developer has not provided all content or information required or reasonably requested in respect of the Submittal or subject provisions thereof, provided that (i) IFA assumes no duty, obligation or liability regarding completeness or correctness of any Submittal, including a Submittal that is to be delivered to a Governmental Entity as a proposed Governmental Approval, or in order to obtain, modify, amend, supplement, renew, extend, waive or carry out a Governmental Approval, and (ii) Developer shall have the subsequent opportunity to resubmit the Submittal with the required content or information;

d. Adoption of the Submittal or subject provision thereof, or of any proposed course of action thereunder, would result in a conflict with or violation of any Law or Governmental Approval; or

e. In the case of a Submittal that is to be delivered to a Governmental Entity as a proposed Governmental Approval, or in order to obtain, modify, amend, supplement, renew, extend, waive or carry out a Governmental Approval, it proposes commitments, requirements, actions, terms or conditions that are (i) inconsistent with the PPA Documents, the Project Management Plan (and component plans thereunder), applicable Law, the requirements of Good Industry Practice, or the Department policy (except for policies that are incompatible with the East End Crossing's public-private contracting methodology) or (ii) not usual and customary arrangements that the Department offers or accepts for addressing similar circumstances affecting its own projects (except for usual and customary arrangements that are incompatible with the East End Crossing's public-private contracting methodology).

3.1.7.2 Developer shall respond in writing to all of IFA's comments, exceptions, disapprovals and objections to a Submittal and, except as provided below, make modifications to the Submittal as necessary to fully reflect and resolve all such comments, exceptions, disapprovals and objections, in accordance with the review processes set forth in this Section 3.1. Developer acknowledges that IFA may provide comments, exceptions, disapprovals and objections which reflect concerns regarding interpretation or preferences of the commenter or which otherwise do not directly relate to grounds set forth in Section 3.1.7.1. Developer agrees to undertake reasonable efforts to accommodate or otherwise resolve any such comments, exceptions, disapprovals or objections through the review processes described in this Section 3.1. However, if the Submittal is not governed by Section 3.1.3, the foregoing shall in no way be deemed to obligate Developer to incorporate any comments or resolve exceptions, disapprovals or objections that (a) are not on any of the grounds set forth in Section 3.1.7.1 (and not on any other grounds set forth elsewhere in the PPA Documents), (b) are otherwise not reasonable with respect to subject matter or length, and (c) would result in a delay

to a Critical Path on the Project Schedule, in Extra Work Costs or in Delay Costs, except pursuant to an IFA Change. If, however, Developer does not accommodate or otherwise resolve any comment, exception, disapproval or objection, Developer shall deliver to IFA within a reasonable time period, not to exceed thirty (30) days after receipt of IFA's comments, exceptions, disapprovals or objections, a written explanation why modifications based on such comment, exception, disapproval or objection are not required. The explanation shall include the facts, analyses and reasons that support the conclusion.

3.1.7.3 The foregoing shall in no way be deemed to obligate Developer to incorporate any comments or resolve exceptions, disapprovals and objections that would render the Submittal erroneous, defective or less than Good Industry Practice, except pursuant to an IFA Change.

3.1.7.4 If Developer fails to notify IFA within such time period, IFA may deliver to Developer a Notice stating the date by which Developer was to have addressed IFA's comments and that if Developer does not address those comments within five (5) Business Days after receipt of this Notice, then that failure shall constitute Developer's agreement to make all changes necessary to accommodate and resolve the comment or objection and full acceptance of all responsibility for such changes without right to an IFA-Caused Delay, Change Order, Relief Event or other Claim, including any Claim that IFA assumes design or other liability.

3.1.7.5 After IFA receives Developer's explanation as to why the modifications are not required as provided in Sections 3.1.7.2, 3.1.7.3 and 3.1.7.4, if IFA is not satisfied with Developer's explanation the Parties shall attempt in good faith to resolve the Dispute. If they are unable to resolve the Dispute and the Submittal or other matter is not one, subject to the sole discretion of IFA under Section 3.1.3 the Dispute shall be resolved according to the Dispute Resolution Procedures; provided that if IFA elects to issue a Directive Letter pursuant to Section 16.3 with respect to the matter in Dispute, Developer shall proceed in accordance with IFA's Directive Letter while retaining any Claim as to the matter in Dispute.

3.1.8 Limitations on Developer's Right to Rely

3.1.8.1 No review, comment, objection, rejection, approval, disapproval, acceptance, concurrence, certification (including certificates of Substantial Completion and Final Acceptance), or Oversight by or on behalf of IFA, including review and approval of the Project Management Plan, and no lack thereof by IFA, shall constitute acceptance by IFA of materials or Work or waiver of any legal or equitable right under the PPA Documents, at Law, or in equity. IFA shall be entitled to remedies for unapproved Deviations, Nonconforming Work and Developer Defaults and to identify additional Work which must be done to bring the Work and East End Crossing into compliance with requirements of the PPA Documents, regardless of whether previous review, comment, objection, rejection, approval, disapproval, acceptance, concurrence, certification, or Oversight was conducted or given by IFA. Regardless of any such activity or failure to conduct any such activity by IFA, Developer at all times shall have an independent duty and obligation to fulfill the requirements of the PPA Documents. Developer agrees and acknowledges that any such activity or failure to conduct any such activity by IFA:

a. Is solely for the benefit and protection of IFA;

b. Does not relieve Developer of its responsibility for the selection and the competent performance of all Developer-Related Entities;

c. Does not create or impose upon IFA any duty or obligation toward Developer to cause it to fulfill the requirements of the PPA Documents;

d. Shall not be deemed or construed as any kind of warranty, express or implied, by IFA;

e. May not be relied upon by Developer or used as evidence in determining whether Developer has fulfilled the requirements of the PPA Documents;

f. Shall not be deemed or construed as any assumption of risk by IFA as to design, construction, operations, maintenance, performance or quality of Work or materials; and

g. May not be asserted by Developer against IFA as a defense, legal or equitable, to, or as a waiver of or relief from, Developer's obligation to fulfill the requirements of the PPA Documents.

3.1.8.2 Developer shall not be relieved or entitled to reduction of its obligations to perform the Work in accordance with the PPA Documents, or any of its other liabilities and obligations, including its indemnity obligations, as the result of any activity identified in Section 3.1.8.1 or failure to conduct any such activity by IFA. Such activity by IFA shall not relieve Developer from liability for, and responsibility to cure and correct, any unapproved Deviations, Nonconforming Work or Developer Defaults.

3.1.8.3 To the maximum extent permitted by Law, Developer hereby releases and discharges IFA from any and all duty and obligation to cause Developer's Work or the East End Crossing to satisfy the standards and requirements of the PPA Documents.

3.1.8.4 Notwithstanding the provisions of Sections 3.1.8.1, 3.1.8.2 and 3.1.8.3:

a. Developer shall be entitled to rely on written approvals and acceptances from IFA (i) for the limited purpose of establishing that the approval or acceptance occurred or (ii) that are within its sole or absolute discretion, but only to the extent that Developer is prejudiced by a subsequent decision of IFA to rescind such approval or acceptance;

b. Developer shall be entitled to rely on specific written Deviations IFA approves under Section 5.2.4 or 6.1.2.7;

c. Developer shall be entitled to rely on the certificate of Substantial Completion from IFA for the limited purpose of establishing the commencement of IFA's payment obligations and Developer's entitlement to receive Availability Payments, and the respective dates thereof, nevertheless without prejudice to any rights and remedies available to IFA respecting unapproved Deviations, Nonconforming Work and Developer Defaults;

d. IFA is not relieved from any liability arising out of a knowing and intentional material misrepresentation under any written statement IFA delivers to Developer; and

e. IFA is not relieved from performance of its express responsibilities under the PPA Documents in accordance with all standards applicable thereto.

3.2 Project Management Plan

3.2.1 Developer is responsible for all quality assurance and quality control activities necessary to manage the Work, including the Utility Adjustment Work. Developer shall undertake all aspects of quality assurance and quality control for the East End Crossing and Work in accordance with the approved Project Management Plan, Good Industry Practice and applicable Law.

3.2.2 Developer shall develop the Project Management Plan and its component parts, plans and other documentation in accordance with the requirements set forth in Section 1.5.2.5 of the Technical Provisions and Good Industry Practice. The Project Management Plan shall include all the parts, Management Plans and other documentation identified in Section 25 and Attachment 01-1 of the Technical Provisions. In accordance with the Request for Proposals, Developer was authorized to commence work on the Project Management Plan prior to the Effective Date, and is authorized to continue such work, as necessary, after the Effective Date.

3.2.3 Developer shall ensure that the Project Management Plan meets all requirements of Good Industry Practice, including those for quality assurance and quality control, and all FHWA oversight requirements.

3.2.4 Developer shall submit to IFA for approval in its good faith discretion, in accordance with the procedures described in Section 3.1 and the time line set forth in Attachment 01-1 of the Technical Provisions, each component part, plan and other documentation of the Project Management Plan and any proposed changes or additions to or revisions of any such component part, plan or other documentation. It is deemed good faith for IFA to disapprove and/or require changes to comply with Good Industry Practice, applicable provisions of the PPA Documents, FHWA oversight requirements or applicable Law.

3.2.5 Developer shall not commence or permit the commencement of any aspect of the design, construction, operation or maintenance before the relevant component parts, plans and other documentation of the Project Management Plan applicable to such Work have been submitted to and approved by IFA in accordance with the procedures described in Section 3.1 and the time line set forth in Attachment 01-1 of the Technical Provisions. The schedule for submission of each component part, plan and other documentation of the Project Management Plan or any proposed changes or additions thereto is included in Sections 1.5.2.5 and Attachment 01-1 of the Technical Provisions.

3.2.6 If any part, plan or other documentation of the Project Management Plan refers to, relies on or incorporates any manual, plan, procedure or like document, then all such referenced or incorporated materials shall be submitted to IFA for approval at the time that the relevant part, plan or other documentation of the Project Management Plan or change, addition or revision to the Project Management Plan is submitted to IFA.

3.2.7 Developer shall carry out internal audits of the Project Management Plan at the times prescribed in the Project Management Plan.

3.2.8 Developer shall cause each of its Contractors at every level to comply with the applicable requirements of the approved Project Management Plan.

3.2.9 The Quality Manager shall, irrespective of his or her other responsibilities, have defined authority for ensuring the establishment and maintenance of the Project Management Plan and reporting to IFA on the performance of the Project Management Plan. The Quality Manager shall have authority independent of the Project Manager and at least equivalent in level of authority to that of the Project Manager. The Quality Manager shall have direct reporting obligations to superiors that are above the level of the Project Manager. The Project Management Plan, including the Design QA/QC Plan and Construction QA/QC Plan, shall be consistent with this Section. Refer to Sections 2.1 and 3.1 of the Technical Provisions for additional terms and conditions applicable to the Quality Manager and quality assurance staff.

3.3 Traffic Management

3.3.1 Developer shall be responsible for the management of traffic on the East End Crossing (a) from the NTP2 until commencement of the Operating Period, for the entire East End Crossing and (b) from commencement of the Operating Period through the Term, for the O&M Limits only. Developer shall manage traffic so as to preserve and protect safety of traffic on the East End Crossing and Related Transportation Facilities and, to the maximum extent practicable, to avoid disruption, interruption or other adverse effects on traffic flow, throughput or level of service on the East End Crossing and Related Transportation Facilities. Developer shall conduct traffic management in accordance with all applicable Technical Provisions, Laws and Governmental Approvals, and in accordance with the Transportation Management Plan and Temporary Traffic Control Plans.

3.3.2 Developer shall prepare and submit to IFA for its approval a Transportation Management Plan for managing traffic. It shall address (a) during the initial construction of the East End Crossing, orderly and safe movement and diversion of traffic on Related Transportation Facilities, (b) throughout the Term after commencement of traffic operations, orderly and safe movement and diversion of traffic on the East End Crossing and Related Transportation Facilities, and (c) between Substantial Completion and Final Acceptance, orderly and safe movement and diversion of traffic on the East End Crossing and Related Transportation Facilities. Developer shall prepare the Transportation Management Plan in accordance with Section 12.3 of the Technical Provisions. The Transportation Management Plan shall comply with the Technical Provisions concerning traffic management and traffic operations. Throughout the Term, Developer shall carry out all construction, maintenance, repair and operational activities, including Incident and Emergency response and Rehabilitation Work in accordance with the approved Transportation Management Plan.

3.3.3 Developer shall prepare and implement Temporary Traffic Control Plans in accordance with Section 12.3.1 of the Technical Provisions and the approved Transportation Management Plan to promote safe and efficient operation of the East End Crossing and Related Transportation Facilities at all times during the course of any construction or operation of the East End Crossing by Developer and during the Utility Adjustment Work.

3.3.4 IFA shall have at all times, without obligation or liability to Developer, the right to:

3.3.4.1 Issue Directive Letters to Developer regarding traffic management and control (with which Developer shall promptly and reasonably comply), or

directly assume or enable the Department to directly assume traffic management and control, of the East End Crossing or any portion thereof during any period IFA or the Department designates the East End Crossing or a portion thereof for immediate use as an emergency evacuation route or route to respond to a disaster proclaimed by the Governor of Indiana or his/her designee, including reversing the direction of traffic flow during such period; and

3.3.4.2 Provide on the East End Crossing, via variable message signs or other means consistent with Good Industry Practice, traveler and driver information, and other public information (e.g. Amber alerts), provided that the means to disseminate such information does not materially interfere with the functioning of the TCS; provided, however, that notwithstanding any such material interference, Developer shall nonetheless provide such traveler, driver and other public information as is required to comply with the Technical Provisions and applicable Law.

3.4 Oversight, Inspection and Testing

3.4.1 Oversight by IFA, FHWA, the Department; Assistance with Federal Financial Plan Requirement

3.4.1.1 IFA shall have the right at all times to conduct Oversight, to the extent necessary or advisable, including as provided in the Technical Provisions, (a) to comply with FHWA, U.S. Army Corps of Engineers, U.S. Coast Guard or other applicable federal agency requirements, (b) to verify Developer's compliance with the PPA Documents and Project Management Plan and (c) otherwise to comply with other applicable Law. IFA may designate any Person or Persons to carry out any Oversight on IFA's behalf. IFA shall conduct Oversight in accordance with Developer's safety procedures and manuals, and in a manner that does not unreasonably interfere with normal construction activity or normal operation and maintenance activity.

3.4.1.2 Without limiting Section 3.4.1.1, IFA's Oversight rights shall include the following:

a. Monitoring and auditing Developer and its Books and Records to determine compliance with requirements of the PPA Documents and the approved Project Management Plan, including (i) audit review of compliance with quality procedures and processes under the Design QA/QC Plan and Construction QA/QC Plan, (ii) audit review of Design Documents, Plans, Construction Documents, field work plans, land surveys, mapping, other data collection tasks, other Submittals and other Books and Records, and (iii) audit of performance of the activities set forth in the Public Involvement Plan, as provided in Section 6 of the Technical Provisions;

b. Conducting audits of all design and pre-design activities for the East End Crossing as needed to ascertain and evaluate Developer's design quality and safety control processes, including (i) review of engineering calculations, engineering reports, and findings, (ii) review of the work of Developer's Environmental Compliance Manager (set forth in Section 7.3 of the Technical Provisions) for compliance with the Environmental Compliance and Mitigation Plan, and (iii) review of certifications that Developer's quality control checks of final Construction Documents have been performed and documented, and that the Construction Documents conform to the requirements of the PPA Documents;

c. Conducting audits of all construction-related activities for the East End Crossing as needed to audit Developer's construction quality and safety control processes, including (i) auditing the services of Developer's accredited laboratories and associated testing devices and equipment, (ii) reviewing Developer's construction quality procedures, including conducting limited field monitoring and inspections as needed for audit purposes of construction activities, materials, and system components, as indicated in the PPA Documents, (iii) auditing Developer's records of all materials, materials tests, materials certifications, and performance tests for East End Crossing systems, (iv) reviewing and investigating East End Crossing progress, East End Crossing quality, Deviations, Defects, and rectification of Nonconforming Work, and (v) conducting field monitoring and inspections in connection with IFA's certifications of Substantial Completion and Final Acceptance;

d. Conducting monthly reviews of East End Crossing documentation and files as set forth in Section 1.5.2.6 of the Technical Provisions;

e. Conducting material tests, according to the Department's test methods, to verify Developer's compliance with all testing frequencies and requirements, including performance and acceptance testing, set forth in the PPA Documents and the approved Project Management Plan, the accuracy of the tests, inspections and audits performed by or on behalf of Developer pursuant to the approved Design QA/QC Plan and approved Construction QA/QC Plan, and compliance of materials incorporated into the East End Crossing with the applicable requirements, conditions and standards of the PPA Documents, Governmental Approvals, the Project Management Plan and Law;

f. Reviewing and commenting on Submittals;

g. Reviewing, commenting on and giving recommendations, objections or exceptions regarding the Rehabilitation Work Schedule and revisions thereto, as provided in Section 6.8.5;

h. Participating in meetings to discuss design progress, construction progress, Developer's quality control processes, audit activities, and other PMP issues;

i. Accompanying Developer on physical inspections associated with Developer's Performance Inspections, conducting its own Performance Inspections, assessing and scoring Developer's O&M Records, and assessing and scoring the condition of Elements, as provided in Section 22 of the Technical Provisions;

j. Attending and witnessing Developer's other tests and inspections, including system start-up and acceptance tests and inspections;

k. Reviewing Developer's certification of Record Drawings and surveys;

l. Auditing the Books and Records of Key Contractors to confirm compliance with this Agreement and applicable Law;

m. Investigating, analyzing and reporting on Safety Compliance and performance of Safety Compliance Orders; and

n. Monitoring and auditing Developer's detection, reporting, response times and time to achieve rectification of breaches and failures for which Noncompliance Points may

be assessed pursuant to Section 11.3 and deductions or withholdings may be made from the Availability Payments for Unavailability Events and Noncompliance Events in accordance with Exhibit 10 (Payment Mechanism).

3.4.1.3 Refer to Section 23.2 for IFA's rights to audit Developer and its Contractors.

3.4.1.4 IFA shall have the right, but not the obligation. to conduct, formal prior reviews of every Design Document and Construction Document, except to the extent necessary or advisable to comply with FHWA, U.S. Army Corps of Engineers or other applicable federal agency requirements. IFA shall have the right, but not the obligation, to conduct "over-the-shoulder" reviews of Design Documents and other Submittals.

3.4.1.5 Nothing in the PPA Documents shall preclude, and Developer shall not interfere with, any review, inspection or oversight of Submittals or of Work that FHWA, the Department or any regulatory agency with jurisdiction may desire to conduct pursuant to their agreements with IFA and applicable Law.

3.4.1.6 Developer acknowledges that FHWA is involved with the East End Crossing in a funding and oversight role of the East End Crossing. By virtue of the Project being an FHWA "Major Project," IFA has certain reporting and coordination requirements with FHWA. To assist IFA in the preparation of its financial plan in respect of IFA's obligations to FHWA, no later than July 31 of each year, commencing on the July 31 following the Effective Date:

For the period commencing on the Effective Date up to and including the Substantial Completion Date, Developer shall: (1) provide to IFA the current estimate of the total cost of the East End Crossing and the remaining cost to complete the East End Crossing, identify any significant cost changes since the previous submission, discuss reasons for and implications of the cost changes, and include a summary table showing the history of Developer's total project costs by major activity or category since the preceding submission; (2) provide to IFA the current schedule and implementation plan for completing the East End Crossing, including a date on which Substantial Completion is expected to occur, identify major milestones for each phase of the East End Crossing and compare current milestone dates with milestone dates in the Baseline Project Schedule and the preceding submission, and discuss reasons for changes in such milestones; (3) provide to IFA current estimates of sources and uses of funds for the East End Crossing, identify any significant funding changes since the preceding submission, discuss reasons for and implications of the funding changes, and include a summary table showing the history of East End Crossing funding since the prior submission; (4) provide to IFA an updated cash flow schedule showing annual cash needs versus available revenue and funding to meet those needs and identify any potential revenue and funding shortfalls, addressing contingency measures that will or may be taken to address any shortfalls; (5) provide to IFA cost containment strategies and risk mitigation plans that have been or may be implemented to address factors that are affecting or could affect the scheduled completion or financial viability of the East End Crossing; (6) provide to IFA the total value of approved changes in project design or scope, and provide a listing of each individual change valued at $2,500,000 or more, setting forth the rationale or need for the proposed change and describing the impact of such change on the East End Crossing; and (7) provide to IFA, in form and substance satisfactory to IFA, a written narrative report on the progress of design, permitting, acquisition and construction of the East End Crossing since Developer's previous submission to

IFA, describing in reasonable detail all significant activities concerning East End Crossing status.

For the period following the Substantial Completion Date until the end of the Term, Developer shall: (1) provide to IFA an updated cash flow schedule showing annual cash inflows (revenues, interest and other income) and outflows (operating costs, capital costs, Project Debt Service, replenishment of reserves and other uses) with a narrative identifying any potential revenue or funding shortfall and discussing contingency measures that will or may be taken to address any shortfalls; (2) provide to IFA current and estimated amounts of revenues received and the amounts deposited into each fund and account held under this Agreement and the Funding Agreements and the amount disbursed from such funds and accounts and the balance in each of the funds and accounts; and (3) provide to IFA a written narrative report explaining any material variances in costs or revenues since Developer's previous submission to IFA and describing in reasonable detail any material matters that may affect the future performance of Developer's obligations under this Agreement and the causes thereof to include all operational contracts and third-party transactions.

3.4.2 Increased Oversight, Testing and Inspection

3.4.2.1 In addition to other remedies available under this Agreement, IFA shall be entitled to change the type and/or increase the level of its Oversight of the East End Crossing and Developer's compliance with its obligations under the PPA Documents, in such manner and to such level as IFA sees fit, if at any time:

a. The number of Uncured Noncompliance Points assessed against Developer equals or exceeds (i) seventy (70), for any date occurring prior to three (3) months after the Substantial Completion Date or (ii) fifty (50), for any date occurring on or after three (3) months after the Substantial Completion Date;

b. There exists a Persistent Developer Default; or

c. Developer receives one or more Warning Notices or Notices of Developer Default that may become a Default Termination Event as set forth in Section 20.3.1.

3.4.2.2 If IFA changes the type or increases the level of its Oversight pursuant to Section 3.4.2.1, then Developer shall pay and reimburse IFA within thirty (30) days after receipt of written demand and reasonable supporting documentation all reasonable increased costs and fees IFA incurs in connection with such action, including IFA's Recoverable Costs. Such obligation to pay and reimburse shall apply to all changes in the type or increases in the level of IFA's Oversight occurring until Developer has:

a. Reduced the number of Uncured Noncompliance Points below the threshold triggering such heightened scrutiny;

b. Reduced by fifty percent (50%) the number of Uncured Noncompliance Points outstanding on the date IFA delivers the Notice invoking such heightened scrutiny;

c. Fully and completely cured the breaches and failures that are the basis for a potential Default Termination Event and any other then-existing Developer Defaults; and

d. Completed delivery to IFA and performance of an approved remedial plan, if at any time during which IFA is so entitled IFA changes the type and/or increases the level of Oversight and IFA also requires Developer to prepare and implement a remedial plan pursuant to Section 19.2.6.

3.4.2.3 The foregoing does not preclude IFA, at its sole discretion and expense, from increasing its level of monitoring, inspection, sampling, measuring, testing, auditing and other Oversight at other times.

3.5 Rights of Cooperation and Access

3.5.1 Developer at all times shall coordinate and cooperate, and require its Contractors to coordinate and cooperate, with IFA, its Authorized Representative and the Department to facilitate IFA's and the Department's Oversight activities. Developer shall cause its representatives to be available at all reasonable times for consultation with IFA or its designee. Developer at all times shall coordinate and cooperate, and require its Contractors to coordinate and cooperate, with (i) IFA's and the Department's contractors performing work on or around the Project Right of Way relating to the portion of Project Section 6 that is not included in the East End Crossing scope of Work as described in the Technical Provisions, and (ii) the Tolling Systems Integrator in connection with its activities relating to the installation and testing of the TCS and the Tolling Equipment.

3.5.2 Without limiting the foregoing, IFA, its Authorized Representative and the Department shall have the right to, and Developer shall afford each of them, (a) safe and unrestricted access to the East End Crossing at all times, (b) safe access during normal business hours to Developer's East End Crossing offices and operations buildings, (c) safe access during normal business hours to the Project Specific Locations, and (d) unrestricted access to data respecting the East End Crossing design, construction, operations and maintenance, and the Utility Adjustment Work. While IFA, its Authorized Representative, the Department, and their respective contractors are present on the East End Crossing, they shall abide by the Design-Build Contractor's reasonable, non-discriminatory safety policies and practices.

3.5.3 Without limiting the foregoing in Sections 3.5.1 and 3.5.2, Developer shall deliver to IFA, upon request, accurate and complete Books and Records, data and other information regarding Work, the East End Crossing and the Utility Adjustment Work, in the format required by the Technical Provisions. The following provisions apply to the materials and information described in the preceding sentence:

3.5.3.1 Developer shall have the right to designate conspicuously any documents that it believes contain confidential financial information, trade secret, proprietary information or other information exempted from disclosure in response to a public records request by placing "CONFIDENTIAL" in the header or footer of such page or record affected. Blanket designations that do not identify the specific information shall not be acceptable and may be cause for IFA to treat the entire document or record as public information. Nothing contained in this Section 3.5.3.1 shall modify or amend requirements and obligations imposed on IFA by the Public Records Act or other applicable Law. The provisions of the Public Records Act or other laws shall control in the event of a conflict between the procedures described above and the applicable Law.

3.5.3.2 If a request is made for disclosure of Books and Records that have been designated by Developer as "CONFIDENTIAL", IFA will notify Developer and submit a request for advice from IFA's general counsel prior to disclosing any such documents in accordance with the Public Records Act and other applicable Law. Developer shall then have the opportunity to either consent to the disclosure or assert its basis for non-disclosure and claimed exception under the Public Records Act or other applicable Law to IFA's general counsel within the time period specified in the notice issued by IFA (if any) and prior to the deadlines for release set forth in the Public Records Act and other applicable Law. However, it is the responsibility of Developer to monitor such proceedings and make timely filings. IFA may, but is not obligated to, make filings of its own concerning possible disclosure; however, IFA is under no obligation to support the positions of Developer. By entering this Agreement, Developer consents to, and expressly waives any right to contest, the provision by IFA to IFA's general counsel of all, or representative samples of, the Books and Records in accordance with the Public Records Act. IFA shall have no responsibility or obligation for a failure of IFA's general counsel to respond or to respond timely to any IFA request for advice and IFA shall not be required to wait therefor if it is required to disclose or otherwise take action under the Public Records Act or other applicable Law. **Under no circumstances will IFA be responsible or liable to Developer or any other party as a result of disclosing any such materials, including materials marked "CONFIDENTIAL," whether the disclosure is deemed required by Law or by an order of court or IFA's general counsel or occurs through inadvertence, mistake or negligence on the part of IFA or its officers, employees, contractors or consultants.**

3.5.3.3 IFA will not advise a submitting party or Developer as to the nature or content of documents entitled to protection from disclosure under the Public Records Act or other applicable Laws, as to the interpretation of such Laws, or as to definition of trade secret. Developer shall be solely responsible for all determinations made by it under applicable Laws and for clearly and prominently marking each and every page or sheet of materials with "CONFIDENTIAL" as it determines to be appropriate. Developer is advised to contact its own legal counsel concerning the effect of applicable Laws to Developer's Books and Records.

3.5.3.4 In the event of any proceeding or litigation concerning the disclosure of any Books and Records to third parties, Developer shall be responsible for otherwise prosecuting or defending any action concerning the materials at its sole expense and risk; provided, however, that IFA reserves the right, in its sole discretion, to intervene or participate in the litigation in such manner as it deems necessary or desirable. All costs and fees (including attorneys' fees and costs) incurred by IFA in connection with any litigation, proceeding or request for disclosure of Books and Records shall be reimbursed and paid by Developer.

3.6 Testing and Test Results

Each of IFA and the Department shall have the right to attend and witness any tests and verifications to be conducted pursuant to the Technical Provisions and applicable Management Plans. Developer shall provide to IFA all test results and reports (which shall be provided in electronic format in accordance with the Technical Provisions) within ten (10) days after Developer or its Contractor receives them.

3.7 Interpretive Engineering Decisions

3.7.1 Developer may apply in writing to IFA for approvals of an interpretive engineering decision concerning the meaning, scope, interpretation and application of the Technical Provisions (an "Interpretive Engineering Decision"). IFA may issue a written approval of Developer's proposed Interpretive Engineering Decision (if any), may issue its own Interpretive Engineering Decision or may disapprove any Interpretive Engineering Decision Developer proposes.

3.7.2 Within fourteen (14) days after Developer applies for an Interpretive Engineering Decision, or such other time period as IFA and Developer may agree to at the time of such application, IFA shall provide its written determination including explanation of any disapproval of such application or any differing interpretation; provided that no presumption of approval or disapproval shall arise by reason of IFA's delay in issuing its written determination. If Developer disputes IFA's disposition of the application, such dispute shall be subject to resolution in accordance with the Dispute Resolution Procedures.

3.7.3 Accepted Interpretive Engineering Decisions shall constitute provisions of the Technical Provisions and shall not constitute an IFA Change or entitle Developer to any additional compensation, time or deadline extension or other Claim or relief. Subsequent IFA orders and directives that are contrary to the Interpretive Engineering Decision shall constitute an IFA Change.

3.8 Meetings

3.8.1 Developer shall conduct regular progress meetings with IFA at least once a month during the course of design and construction, including any design and construction occurring during the Operating Period. At IFA's request, Developer will require each Design-Build Contractor and engineer of record to attend the progress meetings.

3.8.2 At IFA's request, Developer shall conduct regular quarterly meetings with IFA during the Operating Period. At IFA's request, Developer will require each O&M Contractor to attend the quarterly meetings.

3.8.3 [reserved]

3.8.4 The Parties shall hold any other meetings, at such times, frequency and locations, as applicable, as set forth in the Technical Provisions.

3.8.5 IFA and Developer, through their respective Authorized Representatives, shall meet from time to time at the other Party's request to discuss and resolve matters relating to the Design Work, Construction Work, O&M Work or the East End Crossing.

3.8.6 Developer shall schedule all meetings with IFA at a date, time and place reasonably convenient to both Parties and, except in the case of urgency, shall provide IFA with Notice and a meeting agenda at least five (5) Business Days in advance of each meeting.

3.8.7 Developer shall schedule all progress and periodic meetings with its Design-Build Contractor and its O&M Contractor(s) at a date, time and place reasonably convenient for IFA to attend and, except in the case of urgency, shall provide IFA with Notice and an agenda for such meetings at least five (5) Business Days in advance of each meeting. IFA is authorized to

attend all such meetings and is permitted to raise any questions, concerns or opinions without restriction.

ARTICLE 4. EAST END CROSSING PLANNING, CONDITIONS AND APPROVALS; ENVIRONMENTAL COMPLIANCE; PUBLIC INFORMATION

4.1 Preliminary Planning and Engineering Activities

Developer, through the appropriately qualified and licensed design professionals identified in the Project Management Plan, shall perform or cause to be performed all engineering activities appropriate for development of the East End Crossing and the Utility Adjustments included in the Design Work and/or the Construction Work in accordance with the PPA Documents and Good Industry Practice, including (a) technical studies and analyses; (b) geotechnical, seismic, flooding and biological investigations; (c) right-of-way mapping, surveying and appraisals; (d) Utility subsurface investigations and mapping; (e) Hazardous Materials investigations; and (f) design and construction surveys.

4.2 Site Conditions

4.2.1 Subject to the specific relief available to Developer under Article 15 for Relief Events under clauses (m), (n), (o), (p), (q) (u) and (v) of the definition of Relief Event, Developer shall bear the risk of any incorrect or incomplete review, examination and investigation by it of the Site and surrounding locations (even if Developer conducted a Reasonable Investigation), and of any incorrect or incomplete information resulting from preliminary engineering activities conducted by Developer, IFA or any other Person. IFA makes no warranties or representations as to any surveys, data, reports or other information provided by IFA or other Persons concerning surface conditions and subsurface conditions, including information relating to Utilities, Hazardous Materials, contaminated groundwater, archeological, paleontological, cultural and historic resources, flooding conditions, seismic conditions, and Threatened or Endangered Species, affecting the Work, the Site or surrounding locations. Except for (i) the Utility Information for purposes of the Relief Event under clause (u) of the definition of Relief Event, (ii) the Geotechnical Baseline Report for purposes of the Relief Event under clause (p)(i) of the definition of Relief Event and (iii) the geotechnical data report included among the Reference Information Documents for the purposes of the Relief Event under clause (p)(ii) of the definition of Relief Event, Developer acknowledges that such information is for Developer's reference only and has not been verified.

4.2.2 Subject to the specific relief available to Developer under Article 15 for Relief Events under clauses (m), (n), (o), (p), (q) (u) and (v) of the definition of Relief Event, Developer shall bear the risk of all conditions occurring on, under or at the Site, including (a) physical conditions of an unusual nature, differing materially from those ordinarily encountered in the area, (b) changes in surface topography, (c) variations in subsurface moisture content, (d) variations in speeds and ranges; (e) Utility facilities, (f) the presence or discovery of Hazardous Materials, including contaminated groundwater, (g) the discovery at, under or on the Project Right of Way of any archeological, paleontological, cultural or historical resources, and (h) the discovery at, near or on the Project Right of Way of any Threatened or Endangered Species.

4.3 Governmental Approvals

4.3.1 IFA has obtained or is in the process of obtaining the IFA-Provided Approvals for the East End Crossing, based on the Reference Design contained in the Reference Information Documents. IFA has applied for, but has not obtained as of the Effective Date, the IFA-Initiated Approvals, based on the Reference Design. Developer acknowledges it has received and is familiar with the applications and supporting documentation for the Environmental Approvals as contained in the Reference Information Documents.

4.3.2 Developer hereby assumes responsibility for continuing application and processing for the Environmental Approvals other than the IFA-Provided Approvals but including IFA-Initiated Approvals, and shall obtain all other Governmental Approvals required in connection with the East End Crossing, the Project Right of Way or the Work. In addition, Developer hereby assumes responsibility for, and shall obtain, any modifications, renewals and extensions of the IFA-Provided Approvals required in connection with (a) Developer's Schematic Design or Final Design or (b) a Relief Event. Developer shall deliver to IFA true and complete copies of all new or amended Governmental Approvals.

4.3.3 Prior to submitting to a Governmental Entity any application for a Governmental Approval (or any proposed modification, renewal, extension or waiver of a Governmental Approval or provision thereof), Developer shall submit the same, together with any supporting environmental studies, analyses and data, to IFA (a) for approval or (b) for review and comment, as specified in the Technical Provisions, including as specified in Section 7.4 of the Technical Provisions.

4.3.4 As between IFA and Developer, Developer shall perform all necessary actions, and shall bear all risk of delay and all risk of increased cost, resulting from or arising out of (a) any differences between Developer's design for any portion of the East End Crossing and the Reference Design or Developer's Schematic Design, including differences due to any alternative technical concepts approved by IFA and included in Developer's Schematic Design, but excluding any differences due to an IFA Change, or (b) differences between the construction means and methods (including temporary works) Developer chooses for any portion of the East End Crossing and those set forth, referred to or contemplated in any IFA-Provided Approval or applications and submissions made by IFA for IFA-Initiated Approvals, excluding any differences due to an IFA Change, a Discriminatory O&M Change, a Non-Discriminatory O&M Change, a Change in Law or Change in Adjustment Standards. Such actions and risks shall include:

4.3.4.1 Any associated with change in the East End Crossing location;

4.3.4.2 Conducting all necessary environmental studies and preparing all necessary environmental documents in compliance with applicable Environmental Laws;

4.3.4.3 Obtaining and complying with all necessary new Governmental Approvals or amendments to existing Governmental Approvals;

4.3.4.4 Obtaining and complying with all necessary modifications, renewals and extensions of the existing IFA-Provided Approvals, other existing Governmental Approvals or of pending applications for IFA-Provided Approvals or other Governmental Approvals; and

4.3.4.5 All risk and cost of litigation.

4.3.5 If Developer is unable to obtain any of the items described in Sections 4.3.4.3 or 4.3.4.4, then Developer shall design and build the East End Crossing according to the requirements of the Technical Provisions and the construction means and methods (including temporary works) set forth, referred to or contemplated in any IFA-Provided Approval or applications and submissions made by IFA for IFA-Initiated Approvals, or such other design, means and methods for which Developer is able to obtain necessary Governmental Approvals and that comply with the PPA Documents; and no such circumstance shall (a) constitute an IFA-Caused Delay, IFA Change, Relief Event or other basis for any Claim, or (b) be, or be deemed to be, a representation or warranty by IFA as to the feasibility, accuracy or completeness of, or absence of errors in, the Reference Design.

4.3.6 If Developer pursues Additional Properties outside the Project Right of Way, or any other modification of or Deviation from any Governmental Approvals, including IFA-Provided Approvals, Developer shall first comply with, and obtain any consent or waiver required pursuant to, then-existing agreements between IFA and other Governmental Entities.

4.3.7 At Developer's request and subject to Sections 4.3.8, 4.3.9 and 4.3.10, IFA shall reasonably assist and cooperate with Developer in obtaining from Governmental Entities the Governmental Approvals (including any modifications, renewals and extensions of existing Governmental Approvals from Governmental Entities) required to be obtained by Developer under the PPA Documents. Such assistance and cooperation shall include:

4.3.7.1 Joining in conferences and meetings with such Governmental Entities;

4.3.7.2 Sharing data, information and documents available to IFA relevant to the application for the Governmental Approvals;

4.3.7.3 Coordinating and working with elected and other public officials as necessary and appropriate;

4.3.7.4 Assisting with evaluation and definition of solutions;

4.3.7.5 If necessary, acting as the lead agency and directly coordinating with such Governmental Entities; and

4.3.7.6 Otherwise partnering to facilitate issuance of such Governmental Approvals.

4.3.8 Except as set forth in Section 4.3.10, IFA and Developer shall work jointly to establish a scope of work and budget for IFA's Recoverable Costs related to the assistance and cooperation IFA will provide for Governmental Approvals. Except as set forth in Section 4.3.10, subject to any agreed scope of work and budget and to any rights of Developer in the case of a Relief Event, Developer shall fully reimburse IFA for all costs and expenses, including IFA's Recoverable Costs, it incurs in providing such cooperation and assistance, including those incurred to conduct further or supplemental environmental studies.

4.3.9 IFA's obligation to assist and cooperate pursuant to Section 4.3.7 shall not require IFA to:

4.3.9.1 Take a position which it believes to be inconsistent with the PPA Documents, the Project Management Plan (and component plans thereunder), applicable Law, Governmental Approval(s), the requirements of Good Industry Practice, or the Department policy (except policies that are incompatible with the East End Crossing's public-private contracting methodology);

4.3.9.2 Take a position that is not usual and customary for the Department to take in addressing similar circumstances affecting its own projects (except for usual and customary arrangements that are incompatible with the East End Crossing's public-private contracting methodology); or

4.3.9.3 Refrain from concurring with a position taken by a Governmental Entity if IFA believes that position to be correct.

4.3.10 Litigation involving Environmental Approvals is subject to the following provisions:

4.3.10.1 If any IFA-Initiated Approval is denied, (a) the Parties shall promptly confer to analyze the circumstances and determine what further action to take, and (b) either Party may elect to appeal such denial and to bring legal action challenging the denial. If either Party elects, or both Parties elect, to appeal and bring legal action, then the Parties shall reasonably assist and cooperate with one another, each at its own expense, in the conduct of such appeal and legal action. If both Parties elect to pursue appeal and legal action, then they shall enter into, or cause their respective legal counsel to enter into, a joint prosecution agreement setting forth terms for their joint cooperation and prosecution of the appeal and legal action; provided, however, that such agreement shall provide that IFA shall lead any joint cooperation arrangement at IFA's sole option. The Parties also may mutually choose, but are not obligated, to be jointly represented by legal counsel in such appeal and legal action.

4.3.10.2 If any administrative proceeding, litigation or other legal action is brought by a third party challenging the issuance of an Environmental Approval for the Project and/or the East End Crossing, the Parties shall actively assist and cooperate with one another, each at its own expense, to defend their interests and the subject Environmental Approval. Developer shall also cooperate with IFA in defending IFA's interests. At the request of either Party, both Parties may mutually choose, but are not obligated, to enter into, or cause their respective legal counsel to enter into, a joint defense agreement setting forth terms for their joint cooperation and defense. If the Parties enter into such a joint defense agreement, the Parties also may mutually choose, but are not obligated, to be jointly represented by legal counsel in such administrative proceeding, litigation or other legal action.

4.3.11 Certain Governmental Entities may require that Governmental Approvals from them be applied for or issued in IFA's or the Department's name and/or that IFA or the Department directly coordinates with such Governmental Entities in connection with obtaining Governmental Approvals. In such event, Sections 4.3.8 and 4.3.9 shall apply, and Developer at its expense shall provide all necessary support and efforts to apply for and obtain the Governmental Approval. Such support shall include conducting necessary field investigations, preparing mitigation analyses and studies and plans, preparing surveys, and preparing any required reports, applications and other documents in form approved by IFA. Such support also may include joint coordination and joint discussions and attendance at meetings with the

applicable Governmental Entity. Refer to Section 7.4 of the Technical Provisions for more specific provisions on applications in IFA's name for Environmental Approvals.

4.3.12 Developer shall be solely responsible for compliance with all applicable Laws in relation to Project Specific Locations and for obtaining any Environmental Approval or other Governmental Approval required in connection with Project Specific Locations.

4.4 Major Environmental Approvals

4.4.1 Attachment 7-1 of the Technical Provisions identifies those Governmental Approvals that are classified under the PPA Documents as Major Environmental Approvals to be obtained by Developer. If an environmental Governmental Approval is not listed as a Major Environmental Approval in Attachment 7-1 of the Technical Provisions, then it shall not constitute a Major Environmental Approval for purposes of the PPA Documents, regardless of the subject matter, scope, necessity or requirements of the Governmental Approval.

4.4.2 Attachment 7-1 of the Technical Provisions also identifies the Major Environmental Approval Deadline for each Major Environmental Approval. If a Major Environmental Approval Deadline is tied to submission to the Governmental Entity of a completed application that must be submitted by IFA pursuant to Section 4.3.11, then, subject to Sections 4.3.8 and 4.3.9, IFA shall submit it to the Governmental Entity within five (5) days after IFA receives the completed application from Developer.

4.5 Environmental Compliance

4.5.1 Except as provided otherwise in Section 4.5.2, IFA delegates to Developer, and Developer accepts, all IFA obligations, commitments and responsibilities under all Environmental Approvals (including, without limitation, the NEPA Documents). Except as provided otherwise in Section 4.5.2, throughout the Term and the course of the Work, Developer shall:

4.5.1.1 Comply with all Environmental Laws;

4.5.1.2 Comply with all conditions, and requirements imposed by all Environmental Approvals (including the NEPA Documents) to be obtained by Developer;

4.5.1.3 Comply with the conditions and requirements of the Environmental Approvals to be obtained by IFA as part of the IFA-Provided Approvals, to the extent identified in the Technical Provisions;

4.5.1.4 Perform all commitments and mitigation measures set forth in all Environmental Approvals which are expressly identified in the Technical Provisions as delegated to Developer;

4.5.1.5 Undertake all actions required by, or necessary to maintain in full force and effect, all Environmental Approvals to be obtained by Developer; and

4.5.1.6 Undertake all actions required by, or necessary to maintain in full force and effect, those Environmental Approvals to be obtained by IFA as part of the IFA-Provided Approvals, to the extent identified in the Technical Provisions and to the extent such actions are within the reasonable control of Developer.

4.5.2 IFA retains sole responsibility for payment and performance of the environmental obligations, commitments and responsibilities expressly identified as not delegated to Developer in the Technical Provisions.

4.5.3 Developer shall perform or cause to be performed all environmental mitigation measures required under the PPA Documents.

4.5.4 Developer shall comply with the provisions, requirements and obligations regarding environmental compliance set forth at Section 7.3 of the Technical Provisions.

4.6 Third-party Agreements

Developer shall not enter into any agreement with any Governmental Entity, Utility, property owner or other third party having regulatory jurisdiction over any aspect of the East End Crossing or Work or having any property interest affected by the East End Crossing or the Work that in any way purports to obligate IFA, or states or implies that IFA has an obligation, to the third party to carry out any installation, design, construction, maintenance, repair, operation, control, supervision, regulation or other activity after the end of the Term, unless IFA otherwise approves in writing in its sole discretion. Developer has no power or authority to enter into any such agreement with a third party in the name or on behalf of IFA.

4.7 Community Outreach and Public Information

Developer shall provide ongoing information to the public concerning the development, construction, operation and maintenance of the East End Crossing, in accordance with the Public Involvement Plan prepared by Developer pursuant to Section 6 of the Technical Provisions.

ARTICLE 5. DESIGN AND CONSTRUCTION

5.1 General Obligations of Developer; Scope of Initial Design and Construction

5.1.1 Developer, in addition to performing all other requirements of the PPA Documents, shall:

5.1.1.1 Furnish all design and other services, provide all materials, equipment and labor and undertake all efforts necessary or appropriate (excluding only those materials, services and efforts which the PPA Documents expressly specify will be undertaken by IFA or other Persons) to construct the East End Crossing and maintain it during construction, so as to achieve Substantial Completion and Final Acceptance by the applicable Project Schedule Deadlines;

5.1.1.2 At all times ensure that the Project Manager identified in Exhibit 2-H (Equity Members, Contractors and Key Personnel Commitments) or otherwise approved by IFA (a) will have full responsibility for the prosecution of the D&C Work, (b) will act as agent and be a single point of contact in all matters on behalf of Developer at least until Final Acceptance, (c) is present (or his or her approved designee is present) at the Site at all times that Design Work or Construction Work is performed, and (d) will be available to respond promptly to IFA or its Authorized Representative;

5.1.1.3 Comply with, and require that all Contractors comply with, all

requirements of all applicable Laws applicable to the D&C Work;

5.1.1.4 Cooperate with IFA and Governmental Entities with jurisdiction in all matters relating to the Work, including their review, inspection and oversight of D&C Work;

5.1.1.5 Use commercially reasonable efforts to mitigate delay to design and construction of the East End Crossing and mitigate damages due to delay in all circumstances, to the extent possible, including by re-sequencing, reallocating or redeploying Developer's and its Contractors' forces to other work, as appropriate; and

5.1.2 The scope of the initial D&C Work shall consist of all Work necessary to complete the East End Crossing as set forth in Section 1 of the Technical Provisions.

5.2 Performance, Design and Construction Standards; Deviations

5.2.1 Developer shall furnish all aspects of the Design Work and all Design Documents, including design required in connection with the operation and maintenance of the East End Crossing and Rehabilitation Work and shall construct the East End Crossing and/or Utility Adjustments included in the Construction Work as designed, free from Defects, and in accordance with

5.2.1.1 Good Industry Practice;

5.2.1.2 The requirements, terms and conditions set forth in the PPA Documents;

5.2.1.3 The Project Schedule;

5.2.1.4 All Laws;

5.2.1.5 The requirements, terms and conditions set forth in all Governmental Approvals; and

5.2.1.6 The approved Project Management Plan and all component plans prepared or to be prepared thereunder.

5.2.2 Developer also shall construct the East End Crossing and/or Utility Adjustments included in the Construction Work in accordance with (a) the Final Design Documents, and (b) the Construction Documents, in each case taking into account the Project Right of Way limits and other constraints affecting the East End Crossing.

5.2.3 The East End Crossing design and construction shall be subject to certification pursuant to the procedures contained in the approved Design QA/QC Plan and approved Construction QA/QC Plan.

5.2.4 Developer may apply for IFA approval of Deviations from applicable Technical Provisions regarding design or construction. The Deviation approval process shall be as follows.

5.2.4.1 All applications shall be in writing. Where Developer applies for a Deviation as part of the Submittal of a component plan of the Project Management Plan,

Developer shall specifically identify and label the proposed Deviation.

5.2.4.2 IFA shall consider in its sole discretion, but have no obligation to approve, any such application. Developer shall bear the burden of persuading IFA that the Deviation sought constitutes sound and safe design, engineering and or construction practices consistent with Good Industry Practice and achieves IFA's applicable Safety Standards and criteria and does not jeopardize the quality, integrity, life-cycle performance, service performance or extreme event performance of the East End Crossing.

5.2.4.3 No Deviation shall be deemed approved or be effective unless and until stated in writing signed by IFA's Authorized Representative. IFA's affirmative written approval of a component plan of the Project Management Plan shall constitute (a) approval of the Deviations expressly identified and labeled as Deviations therein, unless IFA takes exception to any such Deviation and (b) disapproval of any Deviations not expressly identified and labeled as Deviations therein.

5.2.4.4 IFA's lack of issuance of a written approval of a Deviation within fourteen (14) days after Developer applies therefor in writing shall be deemed a disapproval of such application.

5.2.4.5 IFA's denial or disapproval of a requested Deviation shall be final and not subject to the Dispute Resolution Procedures.

5.2.4.6 IFA may elect to process the application as a Change Request under Section 16.2 rather than as an application for a Deviation.

5.2.5 Developer shall use reasonable care to identify any provisions of the Technical Provisions that are erroneous, create a potentially unsafe condition (including with respect to extreme event performance of the East End Crossing), or are or become inconsistent with the PPA Documents, Good Industry Practice or applicable Law. Whenever Developer knows or, in the exercise of reasonable care, should have known that a provision of the Technical Provisions is erroneous, creates a potentially unsafe condition or is or becomes inconsistent with the PPA Documents, Good Industry Practice or applicable Law, Developer shall have the duty to provide Notice to IFA of such fact and of the changes to the provision that Developer believes are the minimum necessary to render it correct, safe and consistent with the PPA Documents, Good Industry Practice and applicable Law. If it is reasonable or necessary to adopt changes to rectify the Technical Provisions after the Effective Date, such changes shall not be grounds for a Relief Event or other Claim, unless (a) Developer neither knew nor, with the exercise of reasonable diligence and care, should have known of the need for the changes prior to commencing or continuing any D&C Work affected by the problematic provision, or (b) Developer knew of and reported to IFA the problematic provision prior to commencing or continuing any D&C Work affected by the problematic provision and IFA did not adopt reasonable and necessary changes. If Developer commences or continues any D&C Work affected by such a change after the need for the change was discovered or suspected, or should have been discovered or suspected through the exercise of reasonable care, Developer shall bear any additional costs and time associated with redoing the Work already performed. Inconsistent or conflicting provisions of the PPA Documents shall not be treated as erroneous provisions under this Section 5.2.5, but instead shall be reconciled under Section 1.2.

5.2.6 References in the Technical Provisions to manuals or other publications relating to the Design Work or Construction Work prior to the Substantial Completion Date shall mean the most recent editions in effect as of the Setting Date, unless expressly provided otherwise. Any changes to the Technical Provisions, including Safety Standards, respecting Design Work or Construction Work prior to the Substantial Completion Date shall be subject to the Change Order process for an IFA Change in accordance with Article 15. Safety Compliance changes shall be in accordance with Section 9.2.

5.2.7 The Parties anticipate that from time to time after the Setting Date IFA will adopt, including through revisions to existing manuals and publications or new manuals and publications, changed, added or replacement standards, criteria, requirements, conditions, procedures, specifications and other provisions, including Safety Standards, relating to D&C Work of general application to the Department transportation facilities. Pursuant to Section 16.1 and subject to Sections 9.2 and 5.2.6, IFA shall have the right in its sole discretion to add such changed, added or replacement standards, criteria, requirements, conditions, procedures, specifications and other provisions, including Safety Standards, to the Technical Provisions by Notice to Developer, whereupon they shall constitute amendments, and become part, of the Technical Provisions and replace and supersede inconsistent provisions of the Technical Provisions. IFA will identify superseded provisions in its Notice to Developer. For any D&C Work undertaken after the Substantial Completion Date (e.g. Rehabilitation Work), Developer shall comply with the changed, added or replacement standards, criteria, requirements, conditions, procedures, specifications and other provisions, including changed, added or replacement Safety Standards, and the same shall constitute an IFA Change or other Relief Event.

5.2.8 Developer shall implement Safety Compliance prior to Substantial Completion, at such time as is more fully set forth in Section 9.2.

5.2.9 The Tolling Systems Integrator shall be responsible for installing and testing all Tolling Equipment for the East End Crossing. Developer shall coordinate the scheduling and performance of the Work with IFA and the Tolling Systems Integrator in accordance with the PPA Documents and to minimize impacts and delays to the East End Crossing.

5.2.10 Developer shall not be entitled to submit a claim for Extra Work Costs, Delay Costs, time extensions or other relief that could have been avoided through proper sequencing, scheduling and coordination of the Work in accordance with the PPA Documents.

5.3 Conditions to Issuance of NTP1 and Commencement of Design; Design Implementation and Submittals

5.3.1 Conditions to Issuance of NTP1

5.3.1.1 Authorization allowing Developer to proceed with Work shall be provided by IFA's issuance of a Notice to Proceed. IFA anticipates issuing NTP1 concurrently with the execution and delivery of this Agreement.

5.3.1.2 Issuance of NTP1 shall entitle Developer to commence performance of the Work, excluding all Design Work, Construction Work, and Work for which achievement of Substantial Completion is required as a condition precedent. Work authorized by NTP1 shall include customary construction engineering activities, field staking, conduct of

surveys and geotechnical investigations, so long as Developer notifies IFA prior to commencement of such portions of the Work, describing Developer's intended activities and the dates, times and locations of such activities. As a condition to IFA issuing NTP1, Developer shall have obtained and delivered to IFA written binding verifications of coverage from the relevant issuers of all Insurance Policies required at or prior to issuance of NTP1 under Section 17.1 (excluding Professional Liability Insurance Policies with respect to Design Work) and Section 15 of Exhibit 19, and such Insurance Policies are then in full force and effect.

5.3.2 Conditions to Commencement of Design Work

Except to the extent expressly permitted in writing by IFA, Developer shall not commence or permit or suffer commencement of Design Work until satisfaction of the following conditions:

5.3.2.1 IFA has received and approved all the component parts, plans and documentation of the Project Management Plan that are labeled "A" in the column titled "Required By" in Attachment 01-1 to the Technical Provisions;

5.3.2.2 Professional Liability Insurance Policies with respect to Design Work then required at or prior to commencement of Design Work under Section 17.1 have been obtained and are in full force and effect, and Developer has delivered to IFA written binding verifications of coverage from the relevant issuers of such Insurance Policies;

5.3.2.3 IFA has received and approved any required revisions to Developer's Workforce Diversity and Small Business Performance Plan;

5.3.2.4 IFA has received, commented on and approved the design Submittal portion of the Project Baseline Schedule;

5.3.2.5 Developer has made all deposits to the Intellectual Property Escrow(s) and Financial Escrow required pursuant to Sections 23.5 and 23.6;

5.3.2.6 Developer has certified to IFA that Developer's relevant personnel, or Developer's Contractors' relevant personnel, hold all necessary or required registrations, permits or approvals and valid licenses to practice as are necessary for performance of relevant portions of the D&C Work and as are otherwise necessary to comply with the Technical Provisions;

5.3.2.7 Developer has satisfied any other requirements or conditions for commencing Design Work set forth in the Technical Provisions, including participation in an environmental orientation workshop and training as is obligated under the Environmental Compliance and Mitigation Training Program as set forth in Section 7.3 of the Technical Provisions;

5.3.2.8 IFA has approved Developer's proposed final DBE Performance Plan pursuant to Section 7.10.3.1; and

5.3.2.9 IFA has delivered NTP1 to Developer.

5.3.3 Design Implementation

Developer, through the appropriately qualified and Registered Professional Engineers identified in Developer's Project Management Plan in accordance with Section 3.2.5 of the Technical Provisions, shall furnish designs, plans and specifications in accordance with the PPA Documents. Developer shall cause the engineer of record for the East End Crossing to sign and seal all Final Design Documents.

5.3.4 Design Submittals

Developer shall deliver to IFA accurate and complete duplicates of all interim, revised and final Design Documents (including Final Design Documents), Plans and Construction Documents within seven (7) days after Developer completes preparation thereof, in form as provided in the Technical Provisions.

5.4 Project Right of Way Acquisition

5.4.1 All Project Right of Way, including Additional Properties other than temporary interests in property for Project Specific Locations, shall be held or acquired, as applicable, in the name of IFA, as joint tenant with KPTIA.

5.4.2 IFA or KPTIA, as applicable, has completed, or shall undertake and complete at its own cost and expense, in accordance with Section 21 and Attachment 21-1 of the Technical Provisions, the acquisition of Project Right of Way, except that (a) acquisition of Additional Properties, except those required solely due to an IFA Change, shall be solely at Developer's expense as more particularly provided in Section 5.4.5 and (b) Developer shall be solely responsible for acquisition of rights in Project Specific Locations, as more particularly provided in Section 5.4.9.

5.4.3 If Developer identifies Additional Properties as permanently needed to construct or maintain the East End Crossing, Developer shall submit to IFA in writing a request to acquire the Additional Properties. The request shall include a drawing of the limits necessary for each parcel of Additional Property and the information required under Section 21.1 of the Technical Provisions. The request, drawing and information are subject to IFA's approval. IFA shall undertake and complete acquisition of Additional Properties, including undertaking eminent domain proceedings, if necessary, after IFA approves Developer's written request, drawing and information for the requested Additional Properties.

5.4.4 IFA shall not be obligated to approve a request for acquisition of any other Additional Property where, in IFA's good faith judgment, (a) to do so would materially adversely affect political, community or public relations, or (b) successful timely completion of the acquisition is not likely. Within fourteen (14) days after receipt of a written request from Developer identifying an Additional Property for acquisition, IFA will state in writing to Developer whether IFA regards acquisition (whether by negotiation or condemnation) of the Additional Property as potentially materially adversely affecting political, community or public relations, or regards successful timely acquisition as not likely. No such statement, or lack thereof, shall preclude IFA from later changing its determination based on changed political, community or public relations events or circumstances.

5.4.5 Developer shall be responsible for all costs and expenses associated with IFA's acquisition of Additional Properties, except those costs and expenses actually and properly incurred solely due to an IFA Change. In paying all such costs and expenses, Developer is not acquiring, and shall not be deemed to be acquiring, any interest in real property for Developer. Such costs and expenses include:

5.4.5.1 The cost of acquisition services and document preparation;

5.4.5.2 The cost of negotiations;

5.4.5.3 The cost of condemnation proceedings handled by the Attorney General of the State of Indiana or KYTC, as applicable, through master proceedings, jury trials and appeals, including attorneys' and expert witness fees, and all fees and expenses for exhibits, transcripts, photos and other documents and materials production;

5.4.5.4 The purchase prices, master awards, settlements, offers of judgment, court awards or judgments, including pre-judgment and post-judgment interest, costs, and attorney's fees, or other consideration for interests in real property for all parcels required for the East End Crossing or the Work, whether within or outside of the Project Right of Way;

5.4.5.5 The cost of permanent or temporary acquisition of leases, easements, rights of entry, licenses and other interests in real property, including for drainage, temporary work space, Project Specific Locations, and any other convenience of Developer;

5.4.5.6 The cost of permitting;

5.4.5.7 Closing costs associated with parcel acquisitions in accordance with the Uniform Act, IC 32-24-1 *et seq.* and IFA policies;

5.4.5.8 Relocation assistance payments and costs, in accordance with the Uniform Act and IC 8-23-17-1 *et seq.*

5.4.6 If IFA incurs any such reasonable costs and expenses on Developer's behalf, including any related IFA Recoverable Costs, IFA may submit to Developer, not more often than monthly, invoices for such costs and expenses. Developer shall reimburse IFA within thirty (30) days of IFA's submittal to Developer of each such invoice. In addition to any other remedy, IFA shall have the right to curtail or suspend acquisition activities if Developer for any reason fails to pay any such invoice in full when due. IFA will resume acquisition activities promptly after delinquent amounts are paid in full with interest.

5.4.7 Except for an IFA-Caused Delay under clause (c)(ii) of the definition thereof, Developer shall solely bear the risk of any time and cost impacts to the Work related to IFA's acquisition of Additional Properties.

5.4.8 Developer shall not negotiate with any owners or occupants of any property, including Additional Properties, with respect to activities under the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, P.L. 91-646, as amended.

5.4.9 Neither IFA nor the Department shall be obligated to acquire or exercise its power of eminent domain in connection with Developer's acquisition of any temporary right or interest for Project Specific Locations. Neither IFA nor the Department shall have any

obligations or responsibilities with respect to the acquisition, maintenance or disposition of such temporary rights or interests; and Developer shall have no obligation to submit acquisition packages to IFA for, or obtain IFA's approval of Developer's acquisition of, any such temporary right or interest.

5.5 Utility Adjustments

5.5.1 Developer's Responsibility

Except for Type 1 Utility Adjustments as described in Section 18.1.2 of the Technical Provisions, Developer is responsible for causing, in accordance with the Project Schedule, all Utility Adjustments necessary to accommodate construction, operation, maintenance and/or use of the East End Crossing as located under the Final Design. All Utility Adjustment Work performed by Developer shall comply with the PPA Documents. Except for Type 1 Utility Adjustments, Developer shall coordinate, monitor and otherwise undertake the necessary efforts to cause Utility Owners performing Utility Adjustment Work to perform such work timely, in coordination with the Work, and in compliance with the standards of design and construction and other applicable requirements specified in the PPA Documents. However, regardless of the arrangements made with the Utility Owners and except as otherwise provided in Article 15, and except for Type 1 Utility Adjustments, Developer shall continue to be the responsible party to IFA for timely performance of all Utility Adjustment Work so that upon completion of the Construction Work, all Utilities that might impact the East End Crossing (whether located within or outside the Project Right of Way) are compatible with the East End Crossing.

5.5.2 Utility Agreements

5.5.2.1 Prior to the Effective Date IFA entered into the IFA Utility Agreements described in Section 18 to the Technical Provisions. Each IFA Utility Agreement identifies, in concept, the portion of the Utility Adjustment Work for which Developer and the Utility Owner, respectively, will be responsible. Each IFA Utility Agreement also identifies the basis for compensation, preliminary engineering agreements, extent of design reviews, allowable Utility Adjustment Work by Developer or its utility Contractor, and other basic information. Developer is hereby delegated, and hereby accepts, the responsibilities and obligations of IFA under the IFA Utility Agreements. Developer shall comply with, be bound by and timely perform all such responsibilities and obligations except to the extent specifically subsequently changed by a Developer Utility Agreement between Developer and the applicable Utility Owner, only if such Developer Utility Agreement expressly relieves IFA for default or other liability under the IFA Utility Agreement with such applicable Utility Owner with respect to the changed responsibility or obligation, and so long as Developer provides Notice to IFA of such change in the delegated IFA responsibilities and obligations under the IFA Utility Agreement (with an executed copy of such subsequent Developer Utility Agreement attached to such Notice, certified as true and correct by such Utility Owner) no later than ten (10) days after the effective date of such Developer Utility Agreement.

5.5.2.2 Except for Type 1 Utility Adjustments, Developer is responsible for preparing, negotiating and entering into instruction-specific, construction-detailed Developer Utility Agreements with all Utility Owners, regardless of whether the Utility Owners are identified in the Reference Information Documents and regardless of whether IFA has secured an IFA Utility Agreement with that Utility Owner, in each case prior to commencement of any Utility Adjustment Work for each such Utility Owner. Developer will use the terms and information in

each applicable IFA Utility Agreement, if any, as a basis for negotiating a Developer Utility Agreement with each Utility Owner affected by the East End Crossing. The general procedures and framework for preparing Developer Utility Agreements and processing utility issues within the East End Crossing area shall comply with Section 18 of the Technical Provisions and shall follow the standard practices of the respective Utility Owners for such Developer Utility Agreements, which in each case shall not be less than Good Industry Practice. Developer shall cause each Developer Utility Agreement it negotiates and executes to name IFA as an intended third-party beneficiary thereof and to permit assignment of Developer's right, title and interest thereunder to IFA without necessity for Utility Owner consent.

5.5.2.3 Each Developer Utility Agreement shall clearly specify and distinguish the scope of Utility Adjustment Work Developer is to perform, and the scope the Utility Owner is to perform. Each Developer Utility Agreement shall contain provisions for payments, payment terms, controlling specifications, and work description. Each Developer Utility Agreement shall also include specific procedures for resolving scheduling, design, construction and payment issues arising due to errors or omissions in information the Utility Owner provides to Developer.

5.5.2.4 IFA agrees to cooperate as reasonably requested by Developer in pursuing Developer Utility Agreements, including attendance at negotiation sessions and review of Developer Utility Agreements. Developer shall keep IFA informed of the status of any such negotiations. Developer shall submit each such Developer Utility Agreement and supplements and amendments thereto to IFA for approval in its reasonable discretion, in accordance with the procedures described in Section 3.1. Developer shall deliver to IFA, within ten (10) days after execution, a true and complete copy of each such Developer Utility Agreement entered into by Developer. IFA will not be a party to Developer Utility Agreements, and Developer shall cause each Developer Utility Agreement to expressly provide that IFA shall have no liability under the Developer Utility Agreement unless and until IFA receives a written assignment of Developer's interests in the Developer Utility Agreement and assumes in writing Developer's obligations thereunder. Developer shall not enter into any agreement with a Utility Owner that purports to bind IFA in any way, unless IFA has executed such agreement as a party thereto (IFA's signature indicating approval or review of an agreement between Developer and a Utility Owner, or its status as a third-party beneficiary, shall not satisfy this requirement).

5.5.2.5 Developer is solely responsible for the terms and conditions of all Developer Utility Agreements into which it enters (subject to the requirements of the PPA Documents, including Section 18 of the Technical Provisions). Developer is responsible for proper completion of the Utility Adjustment Work required for the East End Crossing, in accordance with the PPA Documents, regardless of the nature or provisions of the Developer Utility Agreements and regardless of whether Developer or its Contractors, or the Utility Owner or its contractors, is performing the Utility Adjustment Work; provided, however, that notwithstanding anything in the PPA Documents to the contrary, Developer has no such responsibility with respect to Type 1 Utility Adjustments.

5.5.2.6 If a conflict occurs between the terms of an agreement between Developer and a Utility Owner and those of the PPA Documents, the terms that establish the higher quality, manner or method of performing Utility Adjustment Work, establish better Good Industry Practice, or use more stringent standards shall prevail between Developer and IFA; if the foregoing criteria are not relevant to the terms at issue, then the PPA Documents shall prevail, unless expressly provided otherwise in the PPA Documents.

5.5.2.7 Developer shall comply with and timely perform all obligations imposed on Developer by any Developer Utility Agreement.

5.5.3 Requirements

Each Utility Adjustment (whether performed by Developer or by the Utility Owner) shall comply with the Adjustment Standards in effect as to each Utility as of the Setting Date, together with any subsequent amendments and additions to those standards that (a) are necessary to conform to applicable Law, or (b) are adopted by the Utility Owner and affect the Utility Adjustment pursuant to the applicable IFA Utility Agreements or Developer Utility Agreement(s). Developer is solely responsible for negotiating any terms and conditions of Developer Utility Agreements that might limit a Utility Owner's amendments and additions to its Adjustment Standards after the Proposal Due Date. In addition, all Utility Adjustment Work shall comply with all applicable Laws, the applicable IFA Utility Agreement(s) and Developer Utility Agreements, and all other requirements specified in Section 18 of the Technical Provisions.

5.5.4 Utility Adjustment Costs

5.5.4.1 Subject to Section 5.5.4.2 and except for (a) costs under Type 1 Utility Adjustments, (b) costs for acquisition of any other real property interests shown on the ROW Maps (for which IFA is responsible to acquire) and (c) as otherwise provided in Section 18.1 of the Technical Provisions, Developer is responsible for all costs of the Utility Adjustment Work, including costs of acquiring Replacement Utility Property Interests and costs with respect to relinquishment or acquisition of Existing Utility Property Interests, but excluding costs attributable to Betterment and any other costs for which the Utility Owner is responsible under applicable Law. Developer shall fulfill this responsibility either by performing at its own cost the Utility Adjustment Work itself if permitted by the Utility Owner (except that any assistance provided by any Developer-Related Entity to the Utility Owner in acquiring Replacement Utility Property Interests shall be provided outside of the Work), or by reimbursing the Utility Owner for its Utility Adjustment Work (however, Developer has no obligation to reimburse Utility Adjustment costs for any Service Line Adjustment for which the affected property owner has been compensated in connection with Project Right of Way acquisition). Developer is solely responsible for collecting directly from the Utility Owner any reimbursement due to Developer for Betterment costs or other costs incurred by Developer for which the Utility Owner is responsible under applicable Law.

5.5.4.2 For each Utility Adjustment under Developer Utility Agreements, the eligibility of Utility Owner costs (both indirect and direct) for reimbursement by Developer, as well as the determination of any Betterment or other costs due to Developer, shall be established in accordance with applicable Law and the applicable IFA Utility Agreement(s) and Developer Utility Agreement(s).

5.5.4.3 Except for (a) costs under Type 1 Utility Adjustments, (b) costs for acquisition of any other real property interests shown on the ROW Maps (for which IFA is responsible to acquire) and (c) as otherwise provided in Section 18.1 of the Technical Provisions, Developer shall pay any compensation due to the Utility Owner and all costs and expenses associated therewith, and shall reimburse IFA for any such compensation and costs IFA pays to Utility Owners.

5.5.4.4 If for any reason Developer is unable to collect any amounts

due to Developer from any Utility Owner, then (a) IFA shall have no liability for such amounts, (b) Developer shall have no right to collect such amounts from IFA or to offset such amounts against amounts otherwise owing from Developer to IFA, and (c) Developer shall have no right to stop Work or to exercise any other remedies against IFA on account of such failure to pay.

5.5.4.5 If any local Governmental Entity is participating in any portion of Utility Adjustment costs, Developer shall coordinate with IFA and such local Governmental Entity regarding accounting for and approval of those costs.

5.5.4.6 Developer shall maintain a complete set of records for the costs of each Utility Adjustment under each Developer Utility Agreement (whether incurred by Developer or by the Utility Owner), in a format compatible with the estimate attached to the applicable Utility Agreement and in sufficient detail for analysis. For both Utility Owner costs and Developer costs, the totals for each cost category shall be shown in such manner as to permit comparison with the categories stated on the estimate. Developer also shall indicate in these records the source of funds used for each such Utility Adjustment under each Developer Utility Agreement. All records with respect to Utility Adjustment Work shall comply with the record keeping and audit requirements of the PPA Documents.

5.5.5 FHWA Utility Requirements

Unless IFA advises Developer otherwise, the East End Crossing will be subject to, and Developer shall comply with, 23 CFR Part 645 Subpart A (including its requirements as to plans, specifications, estimates, charges, tracking of costs, credits, billings, records retention, and audit) and FHWA's associated policies. Developer Utility Agreements for Utilities in the East End Crossing shall incorporate by reference 23 CFR Part 645 Subparts A and B, and assign the obligations arising pertaining thereto. Developer shall comply (and shall require the Utility Owners to comply) with 23 CFR Part 645 Subparts A and B as necessary for any Utility Adjustment costs to be eligible for reimbursement from the Federal-Aid Amount (or from any other federal financing or funding). Developer acknowledges, however, that without regard to whether such compliance is required, (a) it is not anticipated that Developer will be eligible for FHWA reimbursement of any Utility Adjustment outlays other than from the Federal-Aid Amount and/or TIFIA financing, if any, and (b) Developer will not have any share in any reimbursement from FHWA or other federal financing or funding that IFA may receive on account of Utility Adjustments (other than the Federal-Aid Amount).

5.5.6 Utility Enhancements

Developer shall be responsible for addressing any requests by Utility Owners that Developer design and/or construct a Betterment or Utility Owner Project (collectively, "Utility Enhancement"). Any Betterment performed as part of a Utility Adjustment, whether by Developer or by the Utility Owner, shall be subject to the same standards and requirements as if it were a necessary Utility Adjustment, and shall be addressed in the appropriate Developer Utility Agreement. Developer shall perform any work on a Utility Owner Project only by separate contract outside of the Work, and such work shall be subject to Section 5.5.8. Under no circumstances shall Developer proceed with any Utility Enhancement that is incompatible with the East End Crossing or is not in compliance with applicable Law, the Governmental Approvals or the PPA Documents, including the Project Schedule Deadlines. Under no circumstances will Developer be entitled to any additional compensation or time extension hereunder as the result

of any Utility Enhancement, whether performed by Developer or by the Utility Owner. Developer may, but is not obligated to, design and construct Utility Enhancements.

5.5.7 Failure of Utility Owners to Cooperate

5.5.7.1 Developer shall use diligent efforts to obtain the cooperation of each Utility Owner as necessary for Utility Adjustments to be performed pursuant to a Developer Utility Agreement. Developer shall notify IFA immediately if (a) Developer is unable (or anticipates that it will be unable), after diligent efforts, to reach agreement with a Utility Owner on a necessary Developer Utility Agreement within a reasonable time, (b) Developer reasonably believes for any other reason that any Utility Owner would not undertake or permit a Utility Adjustment in a manner consistent with the timely completion of the East End Crossing or in accordance with Law, the Governmental Approvals or the PPA Documents, (c) Developer becomes aware that any Utility Owner is not cooperating in a timely manner to provide agreed-upon work or approvals, or (d) any other dispute arises between Developer and a Utility Owner with respect to the East End Crossing, despite Developer's diligent efforts to obtain such Utility Owner's cooperation or otherwise resolve such dispute. Such Notice may include a request that IFA assist in resolving the dispute or in otherwise obtaining the Utility Owner's timely cooperation. Developer shall provide IFA with such information as IFA requests regarding the Utility Owner's failure to cooperate and the effect of any resulting delay on the Project Schedule. After delivering to IFA any Notice or request for assistance, Developer shall continue to use diligent efforts to pursue the Utility Owner's cooperation.

5.5.7.2 If Developer requests IFA's assistance pursuant to Section 5.5.7.1, then, subject to Section 5.5.7.3, the following provisions shall apply:

a. Developer shall provide evidence reasonably satisfactory to IFA that (i) the subject Utility Adjustment is necessary, (ii) the time for completion of the Utility Adjustment in the Project Schedule was, in its inception, a reasonable amount of time for completion of such work, (iii) Developer has made diligent efforts to obtain the Utility Owner's cooperation, and (iv) the Utility Owner is not cooperating (the foregoing clauses (a)(i) through (iv) are referred to herein as the "conditions to assistance").

b. Following IFA's receipt of satisfactory evidence, IFA shall take such reasonable steps as Developer may request to obtain the cooperation of the Utility Owner or resolve the dispute; however, IFA shall have no obligation to prosecute eminent domain or other legal proceedings, or to exercise any other remedy available to it under applicable Law or existing contract, unless IFA elects to do so in its sole discretion.

c. If IFA holds contractual rights that might be used to enforce the Utility Owner's obligation to cooperate and IFA elects in its sole discretion not to exercise those rights, then IFA shall assign those rights to Developer upon Developer's request, provided, that if such rights are not assignable IFA's decision not to exercise those rights shall be in its good faith discretion; however, such assignment shall be without any representation or warranty as to either the assignability or the enforceability of such rights.

d. At Developer's request, IFA and Developer shall work jointly to establish a scope of work and budget for IFA's Recoverable Costs in connection with providing such assistance to Developer; provided, that IFA shall not be entitled to receive any Recoverable Costs incurred in connection with such assistance if Developer has established that the action

or inaction on the part of the Utility constitutes a Relief Event under clause (l) of the definition of "Relief Event". Subject to any agreed scope of work and budget, Developer shall reimburse IFA for IFA's Recoverable Costs in connection with providing such assistance to Developer (including all reasonable costs of litigation if IFA agrees to pursue litigation against a Utility Owner).

e. Any assistance IFA provides shall not relieve Developer of its sole responsibility for satisfactory compliance with its obligations and timely completion of all Utility Adjustment Work, except as otherwise expressly set forth herein.

5.5.7.3 If IFA objects in writing to a request for assistance pursuant to Section 5.5.7.1, based on Developer's failure to satisfy one or both of the conditions to assistance described in Sections 5.5.7.2(a)(i) and (ii), then Developer shall take such action as is appropriate to satisfy the condition(s) and shall then have the right to submit another request for assistance on the same subject matter. If IFA objects in writing to a request for assistance pursuant to Section 5.5.7.1 based on Developer's failure to satisfy one or both of the conditions to assistance described in Sections 5.5.7.2(a)(iii) and (iv), then Developer shall take such action as Developer deems advisable during the next ten (10) days to obtain the Utility Owner's cooperation and shall then have the right to submit another request for assistance on the same subject matter. Notwithstanding the foregoing, no resubmittal will be accepted unless all IFA objections have been addressed in accordance with the preceding two sentences. This process shall be followed until Developer succeeds in obtaining the Utility Owner's cooperation or in otherwise resolving the dispute or until IFA determines, based on evidence Developer presents, that the conditions to assistance have been satisfied. Developer shall have the right to submit the question of the reasonableness of IFA's determination for resolution according to the Dispute Resolution Procedures.

5.5.7.4 [reserved]

5.5.8 Applications for Utility Permits

5.5.8.1 It is anticipated that during the design and construction phases of the Work, from time to time Utility Owners may apply to IFA for utility permits to install new Utilities that would cross or longitudinally occupy the Project Right of Way, or to modify, upgrade, relocate or expand existing Utilities within the Project Right of Way for reasons other than accommodation of the East End Crossing. The provisions of Sections 5.5.8.2 through 5.5.8.4 shall apply to all such permit applications, except as otherwise provided in Section 5.5.8.5. Except as otherwise provided in Section 5.5.8.4(b) or in Article 15 with respect to a Relief Event under clause (h) of the definition of Relief Event (development or operation of a Business Opportunity), no accommodation of new Utilities or of modifications, upgrades, relocations or expansions of existing Utilities pursuant hereto shall entitle Developer to additional compensation, time extension or other Claim hereunder.

5.5.8.2 For all such utility permit applications pending as of or submitted after the Effective Date, Developer shall furnish the most recent East End Crossing design information and/or as-built plans, as applicable, to the applicants, and shall assist each applicant with information regarding the location of other proposed and existing Utilities. Developer shall keep records of its costs related to new Utilities separate from other costs.

5.5.8.3 Developer, at its cost, shall assist IFA in deciding whether to

approve a permit described in Section 5.5.8.2. Within fourteen (14) days after receiving an application for a utility permit, Developer shall analyze the application and provide to IFA a recommendation (together with supporting analysis) as to whether the permit should be approved, denied, or approved subject to conditions. Developer shall limit the grounds for its recommendation to the grounds (as IFA communicates to Developer from time to time) on which IFA is legally entitled to approve or deny the application or to impose conditions on its approval.

5.5.8.4 If Developer and IFA disagree on the response to a permit application described in Section 5.5.8.2, such disagreement shall be resolved according to the Dispute Resolution Procedures; provided that if Developer recommends against issuance of the permit and IFA determines issuance is appropriate or required, then:

a. IFA's determination shall control unless it is arbitrary and capricious;

b. IFA may elect to issue the utility permit in advance of resolution of the Dispute, but if it is finally determined that issuance of the permit was arbitrary and capricious, its issuance shall be deemed an IFA Change (and therefore a potential Relief Event); and

c. If IFA elects to delay issuance of a utility permit pending final resolution of the Dispute, Developer's indemnity under Sections 17.5.1.10 shall be deemed to apply with respect to any applicant claim of wrongful delay or denial.

5.5.8.5 Where IFA is pursuing a Business Opportunity involving a Utility in the Project Right of Way, (a) IFA shall have the right to issue utility permits in its sole discretion, (b) any decision by IFA to issue utility permits shall be final, binding and not subject to the Dispute Resolution Procedures, (c) Sections 5.5.8.2 through 5.5.8.4 shall not apply, and (d) instead, Section 8.2 shall apply.

5.5.9 Security for Utility Adjustment Costs; Insurance

5.5.9.1 Developer shall satisfy all requirements in IFA Utility Agreements and Developer Utility Agreements to provide security for reimbursement of Utility Adjustment costs to which the Utility Owner is entitled and that are the responsibility of Developer hereunder, in form, type and amount and on terms provided by the IFA Utility Agreements and Developer Utility Agreements.

5.5.9.2 Developer shall satisfy all requirements in IFA Utility Agreements and Developer Utility Agreements for all Type 2 Utility Adjustments to provide liability insurance for the protection of the Utility Owner.

5.5.10 Utility-Related Claims

Developer shall have no Claim to a Relief Event or Change Order on account of:

5.5.10.1 Any difference in the cost or time to complete Utility Adjustment Work from that anticipated by Developer, except to the extent set forth in Article 15 with respect to a Utility Owner delay under clause (l) of the definition of Relief Event;

5.5.10.2 Any inaccuracies in the Utility Information (including information as to the existence or nature of any rights or interests relating to the occupancy of any real

property by any Utility), in any other Reference Information Documents or in public and private records with respect to any Utilities, whether the inaccuracies are as to the existence, location (horizontal or vertical), length, activity or inactivity, ownership, type, and/or any other characteristic of Utilities, except to the extent set forth in Article 15 with respect to clause (u) of the definition of Relief Event;

5.5.10.3 Any change in the proposed type or method of Utility Adjustment or any other change in the Utility Adjustment work from that described in the Utility Information or otherwise anticipated by Developer;

5.5.10.4 Any inaccuracy in any information included in the Reference Information Documents as to the existence or nature of any rights or interests relating to the occupancy of any real property by any Utility; and

5.5.10.5 Costs incurred or paid by Developer for the Adjustment of any Service Line or any Utility on or above the surface of the ground.

5.6 Conditions to Issuance of NTP2 and Commencement of Construction

5.6.1 Construction Work Generally

Authorization allowing Developer to proceed with Work excluded from the scope of Work in respect of NTP1, but exclusive of the O&M Work, shall be provided by IFA's issuance of a second Notice to Proceed. Issuance of NTP2 and, in respect of Construction Work, satisfaction of conditions precedent set forth in Section 5.6.1.2, shall entitle Developer to commence performance of such remaining Work, exclusive of the O&M Work.

5.6.1.1 Conditions Precedent to issuance of NTP2. IFA will issue NTP2 upon Developer's satisfaction of the following conditions:

a. Developer has achieved Financial Close in accordance with Section 13.7.5;

b. Each Payment Bond and instrument of Performance Security, in form and from a Surety or issuer approved by IFA, required under Section 17.2.1 has been obtained, meets the prescriptions under Section 17.2.1 and is in full force and effect, and Developer has delivered to IFA either the originals of each Payment Bond and instrument of Performance Security or, if the originals are to be held by the Collateral Agent for the Initial Senior Project Debt, certified and conformed copies of the originals;

c. Insurance Policies then required under Section 17.1 have been obtained and are in full force and effect, and Developer has delivered to IFA written binding verifications of coverage, as prescribed thereunder, from the relevant issuers of such Insurance Policies;

d. All representations and warranties of Developer set forth in Section 18.1 shall be and remain true and correct in all material respects, and Developer has delivered to IFA a certificate certifying to the same;

e. The guarantees in favor of IFA, if any, required under Section 17.4 have been executed, obtained and delivered to, and received by, IFA and are in full force and effect;

f. There exists no uncured Developer Default for which Developer has received Notice from IFA, unless (a) with respect to a monetary default that Developer has disputed in writing, Developer is current in its deposit of funds into the MP Disputed Amounts Fund, in accordance with the Project Trust Agreement regarding the amount in dispute, or (b) with respect to a non-monetary default, Developer has a right to cure and is diligently pursuing cure within the applicable cure period; and

g. IFA has approved Developer's proposed-final Workforce Diversity and Small Business Performance Plan pursuant to Section 7.11.1.

5.6.1.2 Conditions Precedent to commencement of Construction Work. Except to the extent authorized under Section 2.1.2 or otherwise expressly permitted in writing by IFA, Developer shall not commence or permit or suffer commencement of Construction Work for the East End Crossing until IFA issues NTP2 and Developer satisfies the following conditions to commencement of Construction Work:

a. All Governmental Approvals necessary to begin Construction Work in the applicable portion of the East End Crossing have been obtained, and Developer has furnished to IFA fully executed copies of any such Governmental Approval that Developer is responsible for obtaining pursuant to Section 4.3;

b. All rights of access acceptable to IFA in its good faith discretion for such portion of the Project Right of Way necessary for commencement of construction of the applicable portion of the East End Crossing shall have been identified, conveyed and recorded to IFA, IFA has obtained possession thereof through eminent domain, or all necessary parties have validly executed and delivered a possession and use agreement therefor on terms acceptable to IFA;

c. Developer has satisfied, for the applicable portion of the East End Crossing, all applicable pre-construction requirements contained in the NEPA Approval and other Governmental Approvals;

d. Developer has caused to be developed and delivered to IFA and IFA has approved, in accordance with Section 10.1 of this Agreement and Section 1.5.2.5 of the Technical Provisions, the component parts, plans and documentation of the Project Management Plan that are labeled "B" in the column titled "Required By" in Attachment 01-1 to the Technical Provisions;

e. Developer has developed and delivered to IFA, and IFA has approved, a Temporary Traffic Control Plan for the applicable portion of the East End Crossing, as required under Section 12.3 of the Technical Provisions, and the Submittal review period for such Temporary Traffic Control Plan set forth in Section 12.1 of the Technical Provisions has run without comment from IFA or with all comments addressed in accordance with Section 3.1.7;

f. Developer has delivered to IFA, and IFA has accepted and approved, as applicable, all other Submittals relating to the Construction Work required by the Project Management Plan and PPA Documents, in the form and content required by the Project Management Plan or PPA Documents;

g. Developer has satisfied any other requirements or conditions for

commencing Construction Work set forth in the Technical Provisions, including in Section 7.4 of the Technical Provisions; and

h. Developer has adopted written policies, approved by IFA, establishing ethical standards of conduct for all Developer-Related Entities, including Developer's supervisory and management personnel in dealing with (i) IFA and the Department and (ii) employment relations, in accordance with Section 7.8.1.

5.6.2 Utility Adjustments

5.6.2.1 Developer shall not commence or permit or suffer commencement of construction of a Utility Adjustment included in the Construction Work until IFA issues NTP2, all of the conditions set forth in Section 5.6.1 that are applicable to the Utility Adjustment (reading such provisions as if they referred to the Utility Adjustment) have been satisfied, and the following additional requirements have been satisfied:

5.6.2.2 The Utility Adjustment is covered by an executed Developer Utility Agreement;

5.6.2.3 All rights of access acceptable to IFA in its good faith discretion for such Utility Adjustment have been obtained; and

5.6.2.4 Developer has obtained any IFA review and approval of a Utility Adjustment Plan or other matters respecting the Utility Adjustment that are required under any applicable federal requirements.

5.7 Schedule, Project Schedule Deadlines and Notices to Proceed

5.7.1 As a material consideration for entering into this Agreement, Developer hereby commits, and IFA is relying upon Developer's commitment, to develop the East End Crossing in accordance with the Project Schedule Deadlines and time periods set forth in this Agreement, Section 1.5.2 of the Technical Provisions, subject only to delays caused by Relief Events specifically provided hereunder. Except where this Agreement expressly provides for extension of time due to a Relief Event or allows delay subject to remedies in favor of IFA other than termination of this Agreement, the time limitations set forth in the PPA Documents, including the dates by which Project Schedule Deadlines are to be achieved as set forth in the Project Schedule, for Developer's performance of its covenants, conditions and obligations are of the essence.

5.7.2 Subject to Section 5.3.2, authorization allowing Developer to proceed with certain portions of the Work hereunder shall be provided through IFA's issuance of NTP1 and NTP2, as applicable.

5.7.2.1 Developer shall satisfy all conditions to issuance of NTP1 by the NTP1 Conditions Deadline. Issuance of NTP1 authorizes:

a. Developer to perform (or continue performance of) the portion of the Work necessary to obtain IFA's approval of the component parts, plans and documentation of the Project Management Plan that are labeled "A" in the column titled "Required By" in Attachment 01-1 to the Technical Provisions;

b. Developer to make any required revisions to the DBE Performance Plan;

c. Developer to enter the Project Right of Way IFA owns or holds a valid right of entry in order to conduct surveys and site investigations, including geotechnical, Hazardous Materials and Utilities investigations, and to engage in the other activities referenced in the Technical Provisions as permitted following issuance of NTP1;

d. Developer to prepare and submit to IFA for its review, comment and approval the Project Baseline Schedule, as provided in Section 5.7.5 and Section 1.5.2.1 of the Technical Provisions;

e. Developer to identify and acquire Project Specific Locations, but not the set up, mobilization or opening of any pit, borrow area, laydown area, equipment location or fabrication yard or plant;

f. Developer to commence equipment purchase or rental, and to place orders for the purchase of materials and components with long lead times for fabrication and delivery, subject to IFA's prior written approval in its good faith discretion; and

g. Subject to Section 5.3.2, Developer to negotiate Developer Utility Agreements; and

h. Developer to carry out mobilization and management reasonably necessary for the foregoing activities, and, subject to IFA's prior written approval in its good faith discretion, to carry out other mobilization for the D&C Work.

5.7.3 Developer shall commence bona fide and continuous Construction Work within thirty (30) days following issuance of NTP2 and satisfaction of the conditions precedent to commencement of Construction Work set forth at Section 5.6.1.2. Issuance of NTP2 authorizes Developer to perform all other Work and activities pertaining to the East End Crossing, subject to satisfaction of conditions precedent to commencement of the Construction Work set forth in the PPA Documents.

5.7.4 Developer shall achieve Substantial Completion and Final Acceptance in accordance with the procedures, requirements and conditions set forth in Section 5.8, and shall achieve Substantial Completion by the Baseline Substantial Completion Date and Final Acceptance by the Final Acceptance Deadline.

5.7.5 Developer hereby represents and warrants that the Preliminary Project Baseline Schedule attached to this Agreement as Exhibit 2-B (Preliminary Project Baseline Schedule) (i) is in the form described in the Technical Provisions, (ii) as of the Proposal Due Date and the Effective Date represents a practical schedule for Developer to complete performance of the Work through Final Acceptance (absent Relief Events that delay performance), and (iii) is consistent with the Project Schedule Deadlines. Developer shall use the Preliminary Project Baseline Schedule as a foundation to prepare a Project Baseline Schedule for IFA's review, comment and approval prior to issuance of NTP2, as set forth in Section 1.5.2.1 of the Technical Provisions. The Parties shall use the Project Baseline Schedule for planning and monitoring the progress of the Design Work and Construction Work. The Project Baseline Schedule shall include the Baseline Substantial Completion Date set forth in the Preliminary Project Baseline Schedule.

5.7.6 Total Float shall be considered as a jointly owned, expiring resource available to the East End Crossing and shall not be considered as time for the exclusive use or benefit of either IFA or Developer. All Total Float contained in the Project Schedule, as shown in the initial Project Baseline Schedule or as generated thereafter, shall be considered a shared, jointly owned, resource among IFA, Developer and each Design-Build Contractor available to any or all such parties as needed to absorb delay caused by Relief Events or other events, achieve interim completion dates and achieve Project Schedule Deadlines, except that Float shall not be available to IFA to absorb delays caused by the Relief Events set forth in clauses (a) and (h) of the definition of "Relief Event". All Total Float and the Controlling Work Item shall be shown as such in the Project Schedule on each affected schedule path. IFA shall have the right to examine the identification of (or failure to identify) Total Float and Controlling Work Items on the Project Schedule in determining whether to approve the Project Schedule. Once identified, Developer shall monitor, account for and maintain Total Float in accordance with critical path methodology.

5.8 Substantial Completion, Punch List, Final Acceptance

5.8.1 Substantial Completion

IFA shall issue a written certificate of Substantial Completion on the date that all conditions to DB Substantial Completion have been met as provided in Section 5.8.2 and that all O&M Conditions Precedent have been met as provided in Section 5.8.4.

5.8.2 Conditions to IFA Issuing Certificate Evidencing DB Substantial Completion

5.8.2.1 IFA will issue a written certificate of DB Substantial Completion upon satisfaction of all the following conditions for all Project Sections:

a. Developer has completed the design and construction of all Project Sections in accordance with the PPA Documents, including all traffic ramps, entry and exit points, noise/sound walls (if any), lanes, shoulders, guard rails, striping and delineations, concrete traffic barriers, bridge railings, fire safety systems, cable safety systems, metal beam guard fences, safety end treatments, terminal anchor sections, crash attenuators, illumination, signals and other major safety features, and including all East End Crossing equipment (including the electronic vehicle detection required under Section 19 of the Technical Provisions), such that all of the Project Sections are in a condition that can be opened for normal and safe vehicular travel in all lanes and at all points of entry and exit, as determined in IFA's reasonable discretion, subject only to Punch List items;

b. The need for temporary traffic controls or for Closures at any time, including due to the existence of or need to complete Punch List items, has ceased (except for any then required for Planned Maintenance), and otherwise set forth in Section 5.8.2.2;

c. The systems and equipment installed by Developer comply, in all respects, with applicable Laws, are operational and functional, and have passed the fire marshal and any other inspections and tests required under the PPA Documents, and Developer has delivered to IFA all reports, data and documentation relating to such tests;

d. The Parties have completed preparation of the Punch Lists for the entire East End Crossing (other than resolution of items included under protest);

e. The ITS (i) is completed, (ii) complies with applicable Laws, (iii) has passed the fire marshal inspections and tests required under the PPA Documents and Law, (iv) has passed all demonstration, performance and acceptance testing in accordance with the Technical Provisions and Project Management Plan, including interconnections, TRIMARC, and the Traffic Operations Center (TOC) as required in the Technical Provisions, and (v) is ready for normal operation;

f. All Submittals required by the Project Management Plan or PPA Documents to be submitted to IFA prior to Substantial Completion have been submitted to and approved by IFA, in the form and content required by the Project Management Plan or PPA Documents;

g. Developer has satisfied any other requirements or conditions for Substantial Completion set forth in the Technical Provisions, including Sections 17.5 and 19 (completion, testing and commissioning of IFA work stations);

h. Developer has made all deposits to the Intellectual Property Escrow(s) and the Financial Escrow required at or prior to Substantial Completion pursuant to Sections 23.5 and 23.6;

i. There exists no uncured Developer Default that is the subject of a Notice, unless (i) Substantial Completion will effect its full and complete cure, (ii) with respect to a monetary default that Developer has disputed in writing, Developer is current in its deposit of funds into the MP Disputed Amounts Fund in accordance with the Project Trust Agreement regarding the amount in dispute, or (iii) with respect to a non-monetary default, Developer has a right to cure and is diligently pursuing cure within the applicable cure period;

j. Developer has delivered to IFA all manufacturer warranties required under, and in the form and content specified by the Technical Provisions; and

k. The date specified under Section 5.8.2.4 has passed.

5.8.2.2 In determining whether DB Substantial Completion has occurred, the Parties shall disregard (i) the status of Landscaping Work and non-structural aesthetic features included in the Final Design Documents in determining whether DB Substantial Completion has occurred, except to the extent that its later completion will affect public safety or satisfaction of the criterion in Section 5.8.2.1(b), which determination shall be made by IFA in its reasonable discretion, and (ii) except to the extent provided in Section 5.8.2.4, disregard whether the Tolling Systems Integrator's work has been completed and accepted by IFA.

5.8.2.3 No later than one hundred twenty (120) Days prior to the date of expected DB Substantial Completion, Developer shall complete all Work required to achieve Tolling Infrastructure Turnover as determined by IFA in its reasonable discretion and shall provide access to the Site for the Toll Systems Integrator to commence installation and testing of the Toll Collection System.

5.8.2.4 Notwithstanding the foregoing and the satisfaction by

Developer of all other conditions to DB Substantial Completion, DB Substantial Completion shall not be deemed to have occurred until the earlier of (i) the passage of one hundred twenty (120)days after IFA's reasonable determination that Developer has achieved the Tolling Infrastructure Turnover Date or (ii) the Tolling Systems Integrator's completion of its work and acceptance thereof by IFA.

5.8.2.5 Developer shall provide IFA with Notice in respect of the date Developer determines that it will satisfy all of the conditions in Sections 5.8.2.1 and the Parties shall undertake such actions, as follows:

a. Developer shall provide IFA with two hundred seventy (270), one hundred eighty (180), one hundred twenty (120) and twenty (20) Days' advanced Notice of the date of expected DB Substantial Completion, in each case to afford the Toll Systems Integrator the opportunity to plan, mobilize and test the Toll Collection System.

b. During the twenty- (20)-day period following receipt of the twenty (20) days' Notice, Developer and IFA shall meet, confer and exchange information on a regular cooperative basis, and IFA shall conduct an inspection of the entire East End Crossing and its components, a review of the Final Design Documents and Construction Documents and such other investigation and review of reports, data and documentation as may be necessary to evaluate whether all of the conditions to DB Substantial Completion have been satisfied.

c. After Developer has given the twenty (20) Days' Notice, Developer shall provide IFA a final Notice when Developer determines it has achieved DB Substantial Completion. The Notice shall include a written certification, in form reasonably acceptable to IFA, that Developer has met all the conditions set forth in Sections 5.8.2.1.

5.8.2.6 Within five (5) days after receipt of the Notice and certification given by Developer to IFA pursuant to Section 5.8.2.5(c), IFA shall either (a) issue a certificate authorizing DB Substantial Completion and setting forth the date of DB Substantial Completion or (b) provide Notice to Developer setting forth, as applicable, why the conditions to Substantial Completion have not been satisfied. If IFA provides Notice under subsection (b) of this Section 5.8.2.6, and Developer does not Dispute IFA's assessment, then the processes set forth in Sections 5.8.2.5(b), (c) and this Section 5.8.2.6 shall be repeated until (i) IFA issues a certificate authorizing Substantial Completion or (ii) IFA and Developer refer the Parties' disagreement either as to whether one or more criteria for DB Substantial Completion have been met or the date of DB Substantial Completion is referred to, and resolved according to, the Dispute Resolution Procedures.

5.8.3 Punch List

5.8.3.1 The Project Management Plan shall establish procedures and schedules for preparing a Punch List, for each of (a) Project Section 4, (b) Project Section 5, and (c) Project Section 6, and for completing Punch List work. Such procedures and schedules shall conform to the following provisions.

5.8.3.2 The schedule for preparation of the Punch List shall be consistent and coordinated with the inspections regarding DB Substantial Completion.

5.8.3.3 Developer shall prepare and maintain the Punch List.

Developer shall deliver to IFA not less than five (5) days' prior Notice stating the date when Developer will commence Punch List field inspections and Punch List preparation. The Design-Build Contractor shall, and IFA may, but is not obligated to, participate in the development of the Punch List. Each participant shall have the right to add items to the Punch List and none shall remove any item added by any other without such other's express permission. If Developer objects to the addition of an item by IFA, the item shall be noted as included under protest, and if the Parties thereafter are unable to resolve the protest, the Dispute shall be resolved according to the Dispute Resolution Procedures. Developer shall deliver to IFA a true and complete copy of the Punch List, and each modification thereto, as soon as it is prepared.

5.8.3.4 Developer shall immediately commence work on the Punch List items and diligently prosecute such work to completion, consistent with the PPA Documents, the Final Design Documents and the Construction Documents within the time period to be set forth in the Project Management Plan and in any case by the Final Acceptance Deadline.

5.8.4 Conditions to issuance by IFA of Certificate Evidencing Satisfaction of O&M Conditions Precedent

5.8.4.1 IFA will issue a written certificate evidencing satisfaction of O&M Conditions Precedent upon satisfaction of all the following:

a. Developer demonstrates to IFA's reasonable satisfaction that Developer has completed training of operations and maintenance personnel, which demonstration shall consist of (i) delivery to IFA of a written certificate, in form acceptable to IFA, executed by Developer that it and its Contractors are fully staffed with such trained personnel and are ready, willing and able to operate and maintain the O&M Limits in accordance with the terms and conditions of the PPA Documents and Project Management Plan pertaining to the Operating Period, (ii) delivery to IFA of training records and course completion certificates issued to each of the subject personnel and (iii) IFA's verification that the training program and number of trained personnel meet the standards in the Hazardous Material Management Plan and Section 22.1 of the Technical Provisions;

b. IFA has received and approved, in its reasonable discretion, the Maintenance Plan (MP) that Developer prepares pursuant to Section 22.4 of the Technical Provisions and the Operations and Maintenance Plan (OMP) that Developer prepares pursuant to Section 22.1 of the Technical Provisions;

c. Developer has received, and paid all associated fees for, all applicable Governmental Approvals and other third-party approvals required for use and operation of the O&M Limits, such Governmental Approvals and other third-party approvals are in full force and effect, and there exists no uncured material violation of the terms and conditions of any such Governmental Approval or other third-party approvals;

d. All Insurance Policies required under this Agreement during the Operating Period for the O&M Limits have been obtained and are in full force and effect and Developer has delivered to IFA verification thereof as required under Section 17.1.2.4;

e. Any security for payment and for performance, including bonds and multiple obligee riders in favor of IFA, required under Section 17.2.3 for the Operating Period has been obtained and is in full force and effect and Developer has delivered the same to IFA;

f. Any other guaranty of payment or performance required pursuant to Section 17.4 for the Operating Period has been delivered to IFA and is in full force and effect; and

g. Developer has satisfied any other requirements or conditions for commencement of O&M Work set forth in the Technical Provisions, including Sections 22.6.1.4 (preliminary Rehabilitation Work Schedule), 22.3 (annual Performance and Measurement Table) and 22.5.5 (IFA approval of Developer's plans identifying Performance Sections).

5.8.4.2 Developer shall provide IFA with Notice in respect of the date Developer determines that it will satisfy all of the conditions in Section 5.8.4.1, and the Parties shall undertake such actions, as follows:

a. Developer shall provide IFA with thirty (30) Days' advanced Notice of the date of expected satisfaction of the O&M Conditions Precedent.

b. During the thirty- (30)-Day period following receipt of the thirty (30) Days' Notice, Developer and IFA shall meet, confer and exchange information on a regular cooperative basis, and IFA shall conduct such investigation and review of reports, data and documentation as may be necessary to evaluate whether all of the O&M Conditions Precedent have been satisfied.

c. After Developer has given the thirty (30) Days' Notice, Developer shall provide IFA a final Notice when Developer determines it has satisfied the O&M Conditions Precedent. The Notice shall include a written certification, in form reasonably acceptable to IFA, that Developer has satisfied all the criteria set forth in Sections 5.8.4.2.

5.8.4.3 Within five (5) days after receipt of the Notice and certification given by Developer to IFA pursuant to Section 5.8.4.2(c), IFA shall either (a) issue a certificate of satisfaction of O&M Conditions Precedent or (b) provide Notice to Developer setting forth, as applicable, why the O&M Conditions Precedent have not been satisfied. If IFA provides Notice under subsection (b) of this Section 5.8.4.3, and Developer does not Dispute IFA's assessment, then the processes set forth in Sections 5.8.4.2(b), (c) and this 5.8.4.3 shall be repeated until (i) IFA issues a certificate that the O&M Conditions Precedent have been satisfied, or (ii) IFA and Developer refer the Parties' disagreement either as to whether one or more O&M Conditions Precedent have been met or the date of satisfaction of O&M Conditions Precedent is referred to, and resolved according to, the Dispute Resolution Procedures.

5.8.5 Final Acceptance

5.8.5.1 Promptly after achieving Substantial Completion for all Project Sections, Developer shall perform all remaining Construction Work, including completion of all Punch List items, all Landscaping Work, and non-structural aesthetic features. Developer shall prepare and adhere to a timetable for planting and establishing the landscaping for the East End Crossing, if any, taking into account weather conditions necessary for successful planting and growth, which timetable shall in any event provide for landscaping to be planted and established by twelve (12) months after Substantial Completion for the applicable Project Section(s).

5.8.5.2 IFA will issue a written certificate of Final Acceptance for all Project Sections at such time as all of the following have occurred for all Project Section(s):

a. The Substantial Completion Date has occurred, all requirements for Substantial Completion remain satisfied, and IFA has issued a certificate of Substantial Completion encompassing all Project Sections;

b. All Punch List items have been completed and delivered to the reasonable satisfaction of IFA;

c. All Landscaping Work and non-structural aesthetic features have been completed in accordance with Section 5 of the Technical Provisions and the plans and designs prepared in accordance therewith;

d. Developer demonstrates to IFA's reasonable satisfaction that Developer has acquired and properly stored, or arranged for immediate availability, a reasonable inventory of all spare parts, spare components, spare equipment, special tools, materials, expendables and consumables necessary for operation and maintenance of the East End Crossing during the Operating Period as identified in the Operations and Maintenance Plan and Maintenance Plan;

e. IFA has received a complete set of the Record Drawings in form and content required by Section 3.12.2.2 of the Technical Provisions;

f. IFA has received as-built survey sheets for the East End Crossing;

g. If any Governmental Entity with jurisdiction requires any form of certification of design, engineering or construction with respect to the East End Crossing or any portion thereof, including any certifications from the engineer of record and architect of record for the East End Crossing, Developer has caused such certificates to be executed and delivered and has concurrently issued identical certificates to IFA;

h. All Utility Adjustment Work and other work that Developer is obligated to perform for or on behalf of third parties has been accepted by such third parties, and Developer has paid for all work by third parties that Developer is obligated to pay for, other than disputed amounts;

i. Developer has made all deposits to the Intellectual Property Escrow(s) and Financial Escrow required at or prior to Final Acceptance pursuant to Sections 23.5 and 23.6;

j. IFA has received the final certifications regarding suspension or debarment as set forth in Section 7.16

k. There exist no uncured Developer Defaults that are the subject of a Notice, or with the giving of Notice or passage of time, or both, could become the subject of a Warning Notice (except any Developer Default for which Final Acceptance will affect its full and complete cure); and

l. Developer has submitted to IFA (i) documentation of DBE utilization and (ii) if the DBE Goal is not met, documentation supporting good faith efforts, as required under Exhibit 7 (DBE Special Provisions).

5.8.5.3 Developer shall provide IFA with Notice of the date Developer

determines that it will satisfy all of the conditions in Section 5.8.5.2. During the twenty- (20)-day period following receipt of such Notice, Developer and IFA shall meet, confer and exchange information on a regular cooperative basis, and IFA shall conduct an inspection of the Punch List items and the East End Crossing, a review of the Record Drawings, and such other investigation as may be necessary to evaluate whether the conditions to Final Acceptance are satisfied.

5.8.5.4 Developer shall provide IFA a second Notice when Developer determines it has achieved Final Acceptance for all Project Sections. The Notice shall include a written certification, in form reasonably acceptable to IFA, that Developer has satisfied all the criteria set forth in Section 5.8.5.2. Within five (5) days after expiration of the period specified in Section 5.8.5.3 and IFA's receipt of the second Notice and Developer certification, and provided the condition precedent set forth in Section 5.8.5.2(a) is satisfied, IFA shall either (a) issue a certificate of Final Acceptance for all Project Sections or (b) provide Notice to Developer setting forth, as applicable, why Final Acceptance has not been achieved. If IFA and Developer cannot agree as to the date of Final Acceptance, such Dispute shall be resolved according to the Dispute Resolution Procedures. The Notice of Final Acceptance will indicate the actual date on which Developer achieved Final Acceptance.

5.9 Hazardous Materials Management

5.9.1 Without limiting IFA's role or responsibilities set forth in Section 5.9.6 and Exhibit 5, and except as provided otherwise below, Developer shall undertake Hazardous Materials Management of all Hazardous Materials and Recognized Environmental Conditions, including contaminated groundwater, in accordance with applicable Law, Governmental Approvals, the Hazardous Materials Management Plan, and all applicable provisions of the PPA Documents.

5.9.2 Developer shall have the following duties to avoid or mitigate adverse financial and schedule impacts of Hazardous Materials and Recognized Environmental Conditions in respect of the East End Crossing and otherwise arising under or relating to the Work.

5.9.2.1 Without cost to IFA, Developer shall adopt a design and construction techniques for the East End Crossing that, to the maximum extent possible using Good Industry Practice, avoid the need for Hazardous Materials Management, which practices shall be in no case less than Good Industry Practice.

5.9.2.2 If, having met its obligation under Section 5.9.2.1, Developer is unable to avoid Hazardous Materials or a Recognized Environmental Condition, Developer shall use Good Industry Practice, including design modifications and construction techniques, to minimize costs of Hazardous Materials Management, including minimization of IFA's long-term costs for Hazardous Materials Management, which practices shall be in no case less than Good Industry Practice.

5.9.2.3 Where Hazardous Materials Management is unavoidable or is required by applicable Law, Developer shall utilize appropriately trained Contractors or personnel to conduct the Hazardous Materials Management activities.

5.9.3 If during the course of the Work, Developer encounters Hazardous Materials or a Recognized Environmental Condition in connection with the East End Crossing, the Site or Work, in an amount, type, quality or location that would require reporting or notice to any

Governmental Entity or other Person or taking any preventive or remedial action, in each case under applicable Law, Governmental Approvals, the Hazardous Materials Management Plan or any applicable provision of the PPA Documents, Developer shall promptly provide Notice to IFA and advise IFA of any obligation to notify State or federal agencies under applicable Law. If during the Term IFA discovers Hazardous Materials or a Recognized Environmental Condition in connection with the East End Crossing, the Site or Work, IFA shall promptly provide Notice to Developer of such fact.

5.9.4 The right of IFA to step in to carry out the Hazardous Materials Management obligations of Developer are as follows:

5.9.4.1 If, within a reasonable time after discovery of Hazardous Materials or a Recognized Environmental Condition, taking into consideration the nature and extent of the contamination, the type and extent of action required and the potential impact upon Developer's schedule for use of and operations on the Project Right of Way, Developer has not undertaken the Hazardous Materials Management required of it under Section 5.9.1, IFA may provide Developer with Notice that it will undertake the Hazardous Materials Management itself. IFA thereafter may undertake the Hazardous Materials Management actions in compliance with a remediation plan approved by applicable Governmental Entities, if applicable, and in compliance with applicable Laws. Without limiting IFA's role or responsibilities set forth in Section 5.9.6, Developer shall reimburse to IFA on a current basis within ten (10) days of request therefor, the reasonable costs, including IFA's Recoverable Costs, that IFA incurs in carrying out such Hazardous Materials Management actions. IFA shall have no liability or responsibility to Developer arising out of IFA's Hazardous Materials Management actions and such actions shall in no event constitute the basis of a Relief Event or other Claim.

5.9.4.2 Notwithstanding the foregoing, if Developer notifies IFA that Developer desires to preserve claims against other potentially responsible parties, then IFA shall take all commercially reasonable efforts to preserve such claims consistently with either the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR § 300, or comparable State (or, in respect of Project Section 4, Commonwealth of Kentucky) regulations and standards; and a reasonable period of time for Developer to perform the Hazardous Materials Management actions shall include a sufficient period for Developer to comply with the National Oil and Hazardous Substances Pollution Contingency Plan or such comparable State (or, as applicable, Commonwealth of Kentucky) regulations and standards.

5.9.5 Refer to Section 15.7.7 regarding Developer's rights to compensation and schedule relief with respect to Hazardous Materials.

5.9.6 Off-site disposal of Hazardous Materials is subject to the following provisions.

5.9.6.1 Except as provided otherwise in Section 5.9.7, as between Developer, its Contractors and IFA, IFA shall be considered the sole generator and arranger under 40 CFR, Part 262 and shall sign all undisputed manifests using its generator identification number for the off-site disposal of Hazardous Materials other than (a) Developer Release(s) of Hazardous Material and (b) Hazardous Materials that migrate into, onto or under the Project Right of Way from points of origin located outside the boundaries of such Project Right of Way where the source of such Hazardous Materials is a Developer-Related Entity in the course of performing Work.

5.9.6.2 Notwithstanding any contrary provision of the PPA Documents, under no circumstances whatsoever shall any IFA-Caused Delay arising out of or relating to (a) its review and approval or disapproval of aspects of remediation plans as set forth in Section 7.9 of the Technical Provisions, (b) any act or failure to act by IFA in its capacity as generator or arranger for off-Site disposal of Hazardous Materials (except IFA's failure to sign all undisputed manifests pursuant to its obligation under Section 5.9.6.1), or (c) any Dispute over whether Hazardous Materials are Known or Suspected Hazardous Materials entitle Developer to any compensation from IFA.

5.9.6.3 To the extent permitted by applicable Law, as between IFA, Developer and its Contractors, IFA shall take and assume sole responsibility and liability for third-party claims, causes of action and Losses arising out of or resulting from the off-site disposal of Hazardous Materials for which IFA is the generator or arranger pursuant to this Section 5.9.6, specifically excluding liability for actual and threatened Developer Releases of Hazardous Materials and liability for off-site disposal that IFA elects to have a responsible party assume as provided in Section 5.9.6.1. It is the intent of the Parties that Developer has no exposure to any such third-party claims, causes of action and Losses.

5.9.7 Whenever after issuance of NTP2 there occurs a Release of Hazardous Materials onto the East End Crossing or Project Right of Way by a Person other than IFA and a Developer-Related Entity in the course of performing Work (a "third party") and is from a vehicle operating or located within the Project Right of Way or from such vehicle's cargo, Developer shall use diligent efforts to handle disposal of the Hazardous Materials in a manner that does not place either a Developer-Related Entity or IFA in the position of assuming generator or arranger liability. Measures to accomplish this objective include the following:

5.9.7.1 Obtaining from the vehicle operator a "transportation manifest" or "bill of lading" and a Material Safety Data Sheet (MSDS) and contacting the owner of the cargo, so that such owner assumes responsibility as generator and arranger for disposal of the Hazardous Materials;

5.9.7.2 If a transportation manifest or bill of lading and MSDS are incomplete and the owner of the cargo is not immediately available, causing the removal of the Hazardous Materials to protect human health and the environment and storing the Hazardous Materials in the vehicle responding to the incident pending contact with and further guidance from the owner of the cargo; and

5.9.7.3 If no third party assumes generator and arranger responsibility for the Release of Hazardous Materials, immediately reporting the Release to the Indiana Department of Environmental Management (or, in respect of Project Section 4, the Kentucky Department of Environmental Protection) and/or the local health department and having such agency handle the Release, so that the State is aware that the Release is from a fugitive disposer.

5.9.8 If despite such diligent efforts Developer or a Developer-Related Entity is unable to avoid generator and arranger liability for the Parties with respect to the third-party Release of Hazardous Materials onto the East End Crossing or Project Right of Way and such Release is not governed by Section 5.9.10, then IFA will undertake arranger (and, if necessary, generator) liability under 40 CFR, Part 262 for such third-party spills.

5.9.9 IFA has exclusive decision-making authority regarding selection of the destination facility to which Hazardous Materials will be transported whenever it acts as generator or arranger. The foregoing shall not preclude or limit any rights or remedies that IFA may have against Developer-Related Entities (other than Developer), Governmental Entities or other third parties, including prior owners, lessees, licensees and occupants of any parcel of land that is or becomes part of the Project Right of Way.

5.9.10 As between Developer and IFA, Developer shall be considered the sole generator and arranger for (a) Developer Releases of Hazardous Materials and (b) Hazardous Materials that migrate into, onto or under the Project Right of Way from points of origin located outside the boundaries of such Project Right of Way where the source of such Hazardous Materials is a Developer-Related Entity in the course of performing Work. The foregoing shall not preclude or limit any rights or remedies that Developer may have against any Governmental Entity or any other third parties, including existing or prior owners, lessees, licensees and occupants of any parcel of land that is or becomes part of the Project Right of Way, excluding, however, the State, IFA, the Department and their respective agents. To the extent permitted by applicable Law, Developer shall indemnify, save, protect and defend IFA from claims, causes of action and Losses arising out of or resulting from the off-site disposal of such Hazardous Materials for which Developer is considered the generator or arranger pursuant to this Section which claims, causes of action and Losses are asserted by or awarded to third parties. The foregoing indemnity shall survive the expiration or termination of this Agreement.

5.10 Landscaping

5.10.1 Except as provided in Section 5.10.3, Developer shall be solely responsible for all costs, including all Extra Work Costs and Delay Costs, relating to the design and other services, procurement of all materials, equipment and labor, and performance of all services necessary or appropriate (excluding only those materials, services and efforts which the PPA Documents expressly specify will be undertaken by IFA or other Persons) relating to landscaping for the East End Crossing, including the design, procurement (including transportation and handling), construction, installation, establishment, maintenance, protection, preservation and replacement of landscaping for the East End Crossing (collectively, the "Landscaping Work").

5.10.2 Due to the presence of a number of historic resources and historic districts on or near the Site, the landscaping design and materials for Project Section 4 must be designed and constructed with sensitivity to aesthetic values, historic cultural landscapes, and the historic context of the setting. As part of the Work and the Rehabilitation Work, Developer shall implement elements of the Historic Preservation Plans and Aesthetics and Enhancement Implementation Plan, incorporate the Aesthetic Design Guidelines and continue consultations, and cooperate, with the Bi-State Historic Consultation Team (BSHCT), the Kentucky Historic Preservation Advisory Team (KY HPAT) and the public in development of the design and construction of Project Section 4, all as more fully set forth in Section 7 of the Technical Provisions.

5.10.3 The "Landscaping Work Allowance" is $10,000,000. Landscaping Work in respect of Project Section 4 includes Landscaping Work prescribed under this Agreement and additional Landscaping Work prescribed by, or on behalf of, the Commonwealth of Kentucky, as more specifically set forth in Section 5.1.1 of the Technical Provisions. The Landscaping Work Allowance pertains to the costs relating to such additional Landscaping Work. References to

Landscaping Work in this Section 5.10.3 and in Sections 5.10.6 to 5.10.11 are to such additional Landscaping Work. Developer and IFA, by and through the Department as IFA's designee, shall allocate, in respect of such additional Landscaping Work, the remaining amounts of the Landscaping Work Allowance that are less than $10,000,000 and additional Landscaping Work costs in excess of $10,000,000 as follows:

5.10.3.1 If, at Final Acceptance, the aggregate total of actual and documented costs for the Landscaping Work is less than $10,000,000, then IFA shall be entitled to eighty-five percent (85%) of the positive difference between such total and $10,000,000. IFA shall receive such positive difference as a deduction from the Milestone Payment (subject to the Milestone Payment Adjustment Cap set forth in Exhibit 10);

5.10.3.2 If, at Final Acceptance, the aggregate total of actual and documented costs for the Landscaping Work is equal to or exceeds $10,000,000 but is less than or equal to $20,000,000, then IFA and Developer shall each bear fifty percent (50%) of any such excess costs and IFA shall pay to Developer fifty percent (50%) of any such excess costs either as a lump sum payment or as an adjustment to the Maximum Availability Payment. If IFA elects to compensate Developer through an adjustment to the Maximum Availability Payment, then Developer shall use diligent efforts to obtain (a) funding from the Lenders, or other lenders if permitted by the Funding Agreements, and/or (b) equity support from existing and potentially new Equity Members of Developer, in either case, to finance such adjustment in advance of receiving the required compensation payments from IFA. If despite such diligent efforts and the additional compensation that would be paid pursuant to this Section 5.10.3.2 Developer is unable to obtain such funding and equity support (or IFA does not accept the terms under which Developer is able to obtain additional financing), then IFA shall pay the entire sum as a lump sum payment.; and

5.10.3.3 If, at Final Acceptance, the aggregate total of actual and documented costs for the Landscaping Work exceeds $20,000,000, then IFA shall bear (a) $5,000,000 (i.e., fifty percent (50%) of the costs incurred above $10,000,000 up to $20,000,000) and (b) one hundred percent (100%) of the costs in excess of $20,000,000, and IFA shall pay to Developer the entire sum either as a lump sum payment or as an adjustment to the Maximum Availability Payment. If IFA elects to compensate Developer through an adjustment to the Maximum Availability Payment, then Developer shall use diligent efforts to obtain (a) funding from the Lenders, or other lenders if permitted by the Funding Agreements, and/or (b) equity support from existing and potentially new Equity Members of Developer, in either case, to finance such adjustment in advance of receiving the required compensation payments from IFA. If despite such diligent efforts and the additional compensation that would be paid pursuant to this Section 5.10.3.3 Developer is unable to obtain such funding and equity support (or IFA does not accept the terms under which Developer is able to obtain additional financing), then IFA shall pay the entire sum as a lump sum payment.

5.10.3.4 The following examples are provided to aid in application of the provisions in the foregoing Sections 5.10.1, 5.10.2 and this Section 5.10.3:

Aggregate total of actual and documented costs for Landscaping Work	***Result***
$8,000,000	*IFA* is entitled to deduction from the Milestone Payment of: $1,700,000 (i.e., 85% of $2,000,000, which is the positive difference between the Landscaping Work Allowance and $8,000,000)
$10,000,000	*No adjustment* (i.e., no positive difference between the Landscaping Work Allowance and $10,000,000)
$15,000,000	*Developer* is entitled to payment from IFA, or adjustment to the Maximum Availability Payment, in either case equal to: $2,500,000 (i.e. 50% of $5,000,000, which is the positive difference between the Landscaping Work Allowance and $15,000,000)
$25,000,000	*Developer* is entitled to payment from IFA, or adjustment to the Maximum Availability Payment, in either case equal to: $10,000,000 (i.e. 50% of costs between $10,000,000 and $20,000,000 ($5,000,000) plus 100% of costs in excess of $20,000,000 ($5,000,000)).

5.10.4 For the purpose of this Section 5.10, (a) the costs for Landscaping Work and (b) the assessments in respect of the Landscaping Work Allowance in Section 5.10.3 shall, in each case, be limited to only those costs that are incurred between the date of issuance of NTP1 and the Final Acceptance Date.

5.10.5 Developer shall, or cause the Design-Build Contractor to, competitively bid Contracts for the Landscaping Work after Developer both completes, and IFA accepts, final design for the Landscaping Work under competitive bidding procedures previously approved in writing by IFA, by and through the Department as IFA's designee.

5.10.6 Accounting for Landscaping Work pertaining to the Landscaping Work Allowance.

5.10.6.1 Developer shall submit to IFA a statement, in a format acceptable to IFA in its good faith discretion, meeting the requirements of Section 5.10.6.2 (each, a "Landscaping Statement"), setting forth amounts paid by Developer for eligible

Landscaping Work performed, and costs actually incurred in respect of the same, since the date of the preceding statement (or, in respect of the first statement, since the commencement date of such eligible Landscaping Work).

5.10.6.2 The Landscaping Statement shall, at a minimum, itemize, and set forth the amount for each such itemized portion of, eligible Landscaping Work. The statement must be accompanied by information sufficient, in IFA's sole determination, for IFA to verify that such amounts were for costs and expenses incurred in the performance of eligible Landscaping Work. Such attached report shall include:

a. A description of the Landscaping Work;

b. invoices from Contractors substantiating or supporting some or all of those costs and expenses, if any;

c. the sum of all prior amounts paid by Developer through the last day of the prior statement;

d. any amounts, if any, Developer claims exceeds the Landscaping Work Allowance for which IFA is partially or wholly responsible to pay pursuant to Section 5.10.3; and

e. a certification by Developer's Authorized Representative that:

i. Developer has fully and completely cured all Developer Defaults for which Developer received Notice from IFA prior to IFA's receipt of the Landscaping Statement;

ii. the subject Landscaping Work is free and clear of all pledges, liens, hypothecations or other charges, offsets or encumbrances of any kind, except those pledges, liens, hypothecations or other charges, offsets or encumbrances agreed to by IFA or otherwise pursuant to an approved Financing Plan and given to any Lender as security for Project Debt or Developer's obligations pertaining to Project Debt and encumbering the Developer's Interest;

iii. Developer has met all the conditions set forth in Section 3.4.2.2, if there exist any of the circumstances described in Section 3.4.2.1 prior to IFA's receipt of the Landscaping Statement; and

iv. the Landscaping Statement and all supporting documentation are each, and is collectively, true, correct and complete.

5.10.6.3 IFA shall return to Developer any Landscaping Statement that is incomplete and/or incorrect in any material respect for correction and resubmission. Developer shall correct or complete, as applicable, such returned Landscaping Statement, which shall include a recertification by Developer as to all items, up to the subsequent date of submission, listed in Section 5.10.6.2. IFA's obligation to fund amounts in excess of the Landscaping Work Allowance shall also be suspended during such period.

5.10.6.4 IFA will examine submitted Landscaping Statements, including through IFA's independent oversight and auditing process, and reconcile the total amount drawn against the Landscaping Work Allowance, as detailed in such Landscaping Statements, against

IFA's independent assessment of the proper amount to which Developer is entitled (the "IFA Landscaping Work Accounting"). If IFA disagrees with, or is unable to verify, the accuracy of any amount drawn by Developer against the Landscaping Work Allowance, then IFA shall promptly, but in no case later than ten (10) Business Days following receipt of the subject Landscaping Statement, provide Notice to Developer of such disagreement or inability to verify. Any draw by Developer upon the Landscaping Work Allowance during the period commencing upon receipt by IFA of such Notice until IFA is able, in its sole determination, to agree with Developer's statement, shall be a Developer Default. IFA's obligation to fund amounts in excess of the Landscaping Work Allowance shall also be suspended during such period.

5.10.6.5 IFA shall have the right to dispute, in good faith, any amount specified in any Landscaping Statement, whether incurred by Developer, drawn by Developer against the Landscaping Work Allowance, or to be paid by IFA. If applicable, IFA shall pay the amount identified in the Landscaping Statement that is not in Dispute. Developer and IFA shall use their reasonable efforts to resolve any such Dispute within thirty (30) days after the Dispute arises. If the Parties fail to resolve the Dispute within that period, then the Dispute shall be resolved according to the Dispute Resolution Procedures. Any amount determined to be due pursuant to the Dispute Resolution Procedures will be paid within twenty (20) days following resolution of the Dispute.

5.10.6.6 For purposes of clarity, nothing in this Section 5.10, including any review by IFA of the statement provided pursuant to Section 5.10.6.1, shall entitle Developer to any interest on any amount drawn, to be drawn against the Landscaping Work Allowance, to be paid by IFA or in Dispute, in each case, in respect of eligible Landscaping Work.

5.10.7 Developer shall perform, or cause to be performed, all Landscaping Work in accordance with the PPA Documents.

5.10.8 Landscape Establishment.

5.10.8.1 On or about May 1 following the first anniversary date of Final Acceptance, IFA will conduct an inspection of the Landscaping outside of the O&M Limits and no later than 60 days after such date will prepare or cause to be prepared a report describing what, if any, of such Landscaping has (i) died, (ii) failed to establish a root system reasonably expected for Landscaping of a similar type, nature and maturity or (iii) failed to show a growth habit reasonably expected for the Landscaping of a similar type, nature and maturity. If the report described in this Section 5.10.8.1 did not identify any of the conditions set forth in clauses (i) – (iii) herein, then IFA will pay Developer $1,000,000. If the report described in this Section 5.10.8.1 identified any of the conditions set forth in clauses (i) – (iii) herein, within thirty (30) days of the receipt of said report by Developer, Developer shall submit a written plan to IFA which will be subject to IFA's reasonable approval, setting forth the actions Developer will take to replace dead and underperforming Landscaping and to ensure that the conditions described in said report will not reoccur. Replacement plantings shall be completed within the same calendar year as the inspection. Upon completion of replacement plantings, IFA will pay Developer $1,000,000.

5.10.8.2 On or about May 1 following the second anniversary date of Final Acceptance, IFA will again inspect the Landscaping outside of the O&M Limits and will prepare or cause to be prepared a report as described in Section 5.10.8.1 no later than 60 days

after the second anniversary date of Final Acceptance. If said report did not identify any of the conditions described in (i) – (iii) of Section 5.10.8.1 IFA shall pay Developer $1,000,000. If said report identified any of the conditions set forth in (i) – (iii) of Section 5.10.8.1 within thirty (30) days of the receipt of said report by Developer, Developer shall submit a written plan to IFA, which will be subject to IFA's reasonable approval, setting forth the actions Developer will take to replace dead and underperforming Landscaping and to ensure that the conditions described in said report will not reoccur. Replacement plantings shall be completed within the same calendar year as the inspection. Upon completion of replacement plantings, IFA will pay Developer $1,000,000.

5.11 Design and Construction Warranties

5.11.1 Developer shall obtain from all Contractors representations, warranties, guarantees and obligations, in accordance with Good Industry Practice for work of similar scope and scale, with respect to design, materials, workmanship, equipment, tools and supplies furnished by such Contractors, which shall extend not only to Developer but also to IFA, KYTC, Utility Owners and any third parties for whom Work is being performed; the warranty shall be for a period of not less than one (1) year. All representations, warranties, guarantees and obligations of Contractors (a) shall be written so as to survive all IFA and Utility Owner inspections, tests and approvals, and (b) shall provide that upon expiration or any early termination of this Agreement prior to the expiration of such representations, warranties, guarantees and obligations they shall automatically be for the benefit of and enforceable by IFA and its successors and assigns, subject to the rights of the Lenders as provided in any Direct Agreement and Article 21.

5.11.2 To the extent that any Contractor warranty or guaranty is voided after termination of this Agreement by reason of Developer's negligence or failure to comply with the requirements of the PPA Documents in incorporating material or equipment into the Work, Developer shall be responsible for correcting any defects in the Work performed by such Contractor which would otherwise have been covered by such warranty.

5.11.3 Contractor warranties are in addition to all rights and remedies available under the PPA Documents or applicable Law, and shall not limit Developer's liability or responsibility imposed by the PPA Documents or applicable Law with respect to the Work, including liability for design defects, construction defects, strict liability, breach, negligence, willful misconduct or fraud.

5.12 Assignment of Certain Causes of Action

Developer agrees to assign to IFA all rights, title, and interest in and to all causes of action Developer may have under Section 4 of the Clayton Act (15 USC § 15) or under comparable State or Commonwealth of Kentucky Law, arising from purchases of goods, services or materials pursuant to this Agreement. This assignment shall be made and become effective automatically upon tender of the Milestone Payments (with adjustments and deductions as permitted under this Agreement), without further acknowledgment by the Parties.

ARTICLE 6. OPERATIONS AND MAINTENANCE

6.1 General

6.1.1 General Obligations

6.1.1.1 Developer shall be responsible for managing, operating, maintaining, repairing, and performing Rehabilitation Work (including with respect to Handback Requirements) with respect to the East End Crossing on and for the O&M Limits throughout the Operating Period. For avoidance of doubt, expansion of the East End Crossing to six (6) lanes during the Operating Period or other significant addition of assets shall be considered an IFA-Change.

6.1.1.2 At all times during the Operating Period, Developer shall carry out the O&M Work in accordance with (a) Good Industry Practice, as it evolves from time to time, (b) the requirements, terms and conditions set forth in the PPA Documents, as the same may change from time to time, (c) all Laws, (d) the requirements, terms and conditions set forth in all Governmental Approvals, (e) the approved Project Management Plan and all component parts, plans and documentation prepared or to be prepared thereunder, and all approved updates and amendments thereof (f) the approved Operations and Maintenance Plan, and all approved updates and amendments thereof, (g) the approved Maintenance Plan, and all approved updates and amendments thereof, (h) Best Management Practices, (i) Safety Compliance, the Safety Plan and Safety Standards and (j) all other applicable safety, environmental and other requirements, taking into account the Project Right of Way limits and other constraints affecting the East End Crossing. If Developer encounters a contradiction between subsections (a) through (h), Developer shall advise IFA of the contradiction and IFA shall instruct Developer as which subsection shall control in that instance. No such instruction shall be construed as an IFA Change. Developer is responsible for keeping itself informed of and applying current Good Industry Practice.

6.1.1.3 Developer, at its sole cost and expense unless expressly provided otherwise in this Agreement, shall comply with all Technical Provisions, including Safety Standards, during the Operating Period. Attachment 22-1 of the Technical Provisions sets forth minimum performance requirements related to the O&M Work. Developer's failure to comply with such requirements shall entitle IFA to the rights and remedies set forth in the PPA Documents, including the assessment of Noncompliance Points, deductions from payments otherwise owed to Developer, and termination for uncured Developer Default.

6.1.1.4 In addition to performing all other requirements of the PPA Documents, Developer shall cooperate with IFA and Governmental Entities with jurisdiction in all matters relating to the O&M Work, including their review, inspection and oversight of the operation and maintenance of the East End Crossing.

6.1.2 Changes in Performance, Operation and Maintenance Standards

6.1.2.1 IFA shall have the right to adopt at any time, and Developer acknowledges it must comply with all, Discriminatory O&M Changes and Non-Discriminatory O&M Changes. Refer to Section 15.7.1.1 for Developer's rights to compensation regarding Non-Discriminatory O&M Changes. IFA shall provide Developer with prompt Notice of Discriminatory O&M Changes and Non-Discriminatory O&M Changes. Without limiting the

foregoing, the Parties anticipate that from time to time after the Setting Date, IFA will adopt Non-Discriminatory O&M Changes. IFA shall have the right in its sole discretion to add such Discriminatory O&M Changes and Non-Discriminatory O&M Changes to the Technical Provisions by Notice to Developer, whereupon they shall constitute amendments, and become part, of the Technical Provisions and replace and supersede inconsistent provisions of the Technical Provisions. IFA will identify the superseded provisions in its Notice to Developer.

6.1.2.2 If compliance with a Non-Discriminatory O&M Change requires major repair, reconstruction, rehabilitation, restoration, renewal or replacement of any Element, Developer shall perform the major repair, reconstruction, rehabilitation, restoration, renewal or replacement not later than the first to occur of (a) any deadline recommended or prescribed in or for the Non-Discriminatory O&M Change, (b) the date when Developer next performs Rehabilitation Work on such Element, (c) the date when Developer is first obligated to perform Rehabilitation Work on such Element, or (d) provided IFA gives no less than thirty (30) days prior Notice to Developer, the date the Department first commences actions to implement the Non-Discriminatory O&M Change on any Comparable Facilities. If, however, IFA adopts the Non-Discriminatory O&M Change prior to the Substantial Completion Date, IFA shall issue a Notice informing Developer when to implement such Non-Discriminatory O&M Change. Following commencement of any Work pursuant to this Section 6.1.2.2, Developer shall diligently prosecute the Work until completion, and in any event by any deadline for completion reasonably required by IFA for such Non-Discriminatory O&M Change. Should Developer dispute the timing for commencement or completion of Work as described in this Section 6.1.2.2, Developer may submit the Dispute for resolution according to the Dispute Resolution Procedures; pending such resolution Developer shall prosecute the Work in accordance with IFA's Change Order or Directive Letter.

6.1.2.3 If compliance with a Non-Discriminatory O&M Change requires construction or installation of new improvements at, for or on the East End Crossing (vs. major repair reconstruction, etc. of existing improvements, governed by Section 6.1.2.2), Developer shall complete construction and installation of the new improvements according to the implementation period recommended or prescribed in or for the Non-Discriminatory O&M Change. If no such implementation period is recommended or prescribed, Developer shall complete construction and installation of the new improvements according to the implementation period reasonably required by IFA for such Non-Discriminatory O&M Change. Should Developer dispute the timing for commencement or completion of such new improvements, Developer may submit the issue for resolution according to the Dispute Resolution Procedures; pending such resolution Developer shall diligently prosecute the Work in accordance with IFA's Change Order or Directive Letter.

6.1.2.4 Developer shall implement a Discriminatory O&M Change only after IFA issues a Change Order or Directive Letter therefor pursuant to Article 16. If a Discriminatory O&M Change requires major repair, reconstruction, rehabilitation, restoration, renewal or replacement of any Element during the Operating Period, or requires construction or installation of new improvements, Developer shall perform the major repair, reconstruction, rehabilitation, restoration, renewal or replacement or the new improvement work according to the schedule therefor adopted in the Change Order for such work. If a Discriminatory O&M change requires implementation not entailing such work, Developer shall implement it from and after the date IFA issues the Change Order.

6.1.2.5 Section 9.2 establishes the timing by which Developer must

implement Safety Compliance during the Operating Period.

6.1.2.6 In the case of any other Discriminatory O&M Change or Non-Discriminatory O&M Change, Developer shall comply from and after the date it becomes effective and Developer is notified or otherwise obtains knowledge of it. For the avoidance of doubt, if Developer has Notice or knows of the Discriminatory O&M Change or Non-Discriminatory O&M Change on or prior to the date Developer commences maintenance, routine repair or routine replacement of damaged, worn or obsolete components or materials of the East End Crossing, then Developer shall comply with such changes, additions or replacements in carrying out such maintenance, routine repair or replacement.

6.1.2.7 Developer may apply for IFA approval of Deviations from applicable Technical Provisions regarding O&M Work. All applications shall be in writing. Where Developer requests a Deviation as part of the submittal of a component plan of the Project Management Plan, Developer shall specifically identify and label the Deviation. IFA shall consider in its sole discretion, but have no obligation to approve, any such application, and Developer shall bear the burden of persuading IFA that the Deviation sought constitutes sound and safe practices consistent with Good Industry Practice and achieves or substantially achieves IFA's applicable Safety Standards and criteria. No Deviation shall be deemed approved or be effective unless and until stated in writing signed by IFA's Authorized Representative. IFA's affirmative written approval of a component plan of the Project Management Plan shall constitute (a) approval of the Deviations expressly identified and labeled as Deviations therein, unless IFA takes exception to any such Deviation and (b) disapproval of any Deviations not expressly identified and labeled as Deviations therein. IFA's lack of issuance of a written Deviation within fourteen (14) days after Developer applies therefor in writing shall be deemed a disapproval of such application. IFA's denial or disapproval of a requested Deviation shall be final and not subject to the Dispute Resolution Procedures. IFA may elect to process the application as a Change Request under Section 16.2 rather than as an application for a Deviation.

6.1.3 Duration of Hazardous Materials Management

The provisions of Section 5.9 and Exhibit 5 in respect of Hazardous Materials Management that are not specific to the original construction of the East End Crossing shall apply throughout the Operating Period.

6.1.4 Utility Accommodation

6.1.4.1 It is anticipated that from time to time during the course of the Operating Period, Utility Owners will apply for additional utility permits to install new Utilities that would cross or longitudinally occupy the Project Right of Way, or to modify, repair, upgrade, relocate or expand existing Utilities within the Project Right of Way. In such circumstances, the provisions of Section 5.5.8 shall apply, including the application of Section 8.2 to those circumstances where IFA is pursuing a Business Opportunity involving a Utility in the Project Right of Way.

6.1.4.2 Throughout the Operating Period, Developer shall monitor Utilities and Utility Owners within the Project Right of Way that are within the O&M Limits for compliance with applicable utility permits, Utility Agreements, easements, and applicable Law, and shall use diligent efforts to obtain the cooperation of each Utility Owner having Utilities

within the Project Right of Way that is within the O&M Limits. If (a) Developer reasonably believes that any Utility Owner is not complying with the terms of a utility permit, Utility Agreement, easement, or applicable Law affecting a Utility within the Project Right of Way, or (b) any other dispute arises between Developer and a Utility Owner with respect to a Utility within the Project Right of Way that is within the O&M Limits, despite Developer having exercised its diligent efforts to obtain the Utility Owner's cooperation, Developer shall promptly notify IFA, and IFA and Developer shall work together in the manner described in Section 5.5.7; provided, however, that the "conditions to assistance" (as that term is used in Section 5.5.7.2) are that Developer shall provide evidence reasonably satisfactory to IFA that (i) Developer's position in the dispute is reasonable, (ii) Developer has made diligent efforts to obtain the Utility Owner's cooperation, and (iii) the Utility Owner is not cooperating. With respect to the Parties' rights and obligations described in Section 5.5.7.3, for purposes of this Section 6.1.4.2 the conditions to assistance described in clause (i) of the preceding sentence shall be treated in the same manner as those described in Sections 5.5.7.2 (a) and (b), and the conditions to assistance described in clauses (ii) and (iii) of the preceding sentence shall be treated in the same manner as those described in Sections 5.5.7.2 (c) and (d).

6.1.4.3 At Developer's request, IFA and Developer shall work jointly to establish a scope of work and budget for IFA's Recoverable Costs in connection with providing such assistance to Developer. Subject to any agreed scope of work and budget, Developer shall reimburse IFA for IFA's Recoverable Costs in connection with providing such assistance to Developer (including all reasonable costs of litigation if IFA agrees to pursue litigation against a Utility Owner).

6.1.5 Accommodation of Third-Party Signage and Lighting

6.1.5.1 In addition to the warning, regulatory, and guide signs within the Project ROW, Developer shall accommodate within the Project ROW third-party signs, including logo type signs. Developer shall coordinate and cooperate with any third party performing such work. Developer shall review with IFA all third-party requests for new signs in the Project Right of Way. Such requests are subject to IFA's approval. IFA may solicit input from Developer in reviewing applications for new third-party signs, but will retain sole authority for approving installation of these signs. All costs associated with fabricating and installing third-party signs shall be borne by the sign applicant. IFA may require Developer to fabricate and/or install any of these signs as an IFA Change.

6.1.5.2 All third-party requests for lighting within the Site shall be subject to IFA approval, and IFA retains sole authority for approving installation of such lighting.

6.1.6 Speed Limits

6.1.6.1 Maximum posted speed limits for the East End Crossing or portions of the East End Crossing shall be set from time to time by authorized Governmental Entities in accordance with applicable Law.

6.1.6.2 Nothing in the PPA Documents authorizes Developer to set or adjust posted speed limits on the East End Crossing, except temporary reductions during the Operating Period in accordance with the approved Transportation Management Plan and Planned Maintenance. Such authority is reserved solely to authorized Governmental Entities.

6.1.6.3 Developer shall post and maintain speed limit signs on the East End Crossing during the Operating Period so that they accurately display at all times the maximum speed limits in effect under applicable Law.

6.1.7 Updates of Record Drawings

Within thirty (30) days after undertaking any O&M Work that results in a significant change to the East End Crossing design or construction, Developer shall update the Record Drawings to reflect such change.

6.2 O&M Contracts

6.2.1 If Developer elects not to self-perform any aspect of the O&M Work, it shall enter into an O&M Contract for such O&M Work. Each O&M Contract will be a Principal Project Document. For purposes of this Section 6.2.1, "self-perform" means performance of no less than thirty percent (30%) of the O&M Work (excluding Rehabilitation Work and Handback Requirements Work).

6.2.2 Each O&M Contractor shall have the expertise, qualifications, experience, competence, skills and know-how to perform the O&M Work and related obligations of Developer in accordance with this Agreement.

6.3 Coordination of Operations and Maintenance Responsibilities

6.3.1 Developer recognizes and acknowledges that (a) the Department will control operation and maintenance of that portion of the East End Crossing that is not included within the O&M Limits and (b) KYTC will control operation and maintenance of that portion of the East End Crossing outside of the O&M Limits and in Kentucky, and that IFA will not have or assume responsibility for operation and maintenance of those portions of the East End Crossing identified in clauses (a) and (b).

6.3.2 Developer is responsible for coordinating its traffic management and control, Planned Maintenance, other maintenance activities, and other O&M Work on or for the O&M Limits with that of the Department, KYTC and any other Governmental Entity that may assume responsibility for such operation and maintenance.

6.3.3 At Developer's request from time to time, IFA will assist Developer in seeking the cooperation and coordination of the Department, KYTC and any other Governmental Entity that may assume responsibility for such operation and maintenance, with respect to their operation and maintenance activities. The objectives of such assistance will be to minimize disruptions of traffic on the East End Crossing and ensure that such operation and maintenance activities are carried out in accordance with then-current maintenance standards and then-current traffic management standards, practices and procedures of the Department, KYTC or such other Governmental Entities.

6.3.4 No interference with or disruption of traffic due to activities on or the management or condition of that portion of the East End Crossing that is not included within the O&M Limits, and no failure to meet such standards, practices and procedures, by the Department, KYTC or such other Governmental Entities, shall entitle Developer to any Claim, Relief Event or relief from any Quarterly Payment Adjustment.

6.4 [reserved]

6.5 Annual Budget

Developer shall deliver to IFA any budget for O&M Work, and any updates thereto, required by or delivered to any Lender. Developer shall deliver the same to IFA concurrently with Developer's delivery thereof to any Lender.

6.6 Developer Inspection, Testing and Reporting

6.6.1 Developer shall carry out General Inspections, Specialist Inspections and Performance Inspections in accordance with the Technical Provisions, including Section 22.5 of the Technical Provisions, and the Project Management Plan. Developer shall use the results of General Inspections, Specialist Inspections and Performance Inspections to develop and update the Rehabilitation Work Schedule, to maintain asset condition and service levels, and to develop programs of maintenance and Rehabilitation Work to minimize the effect of O&M Work on Users and other members of the public. Developer shall deliver to IFA not less than seven (7) days' prior Notice of any General Inspection, Specialist Inspection or Performance Inspection. IFA may attend and observe any General Inspection, Specialist Inspection or Performance Inspection.

6.6.2 Developer shall submit all reports relating to the O&M Work, including the O&M annual reports, in the form, with the content and within the time required under the PPA Documents.

6.6.3 Such inspections and reports are in addition to maintenance and reporting of the Noncompliance Event data base under Section 11.2.1.

6.7 Rehabilitation Work

6.7.1 The Performance and Measure Report and related provisions of the Technical Provisions set forth Performance Requirements for the Elements. Developer shall diligently perform Rehabilitation Work as and when necessary to maintain compliance with such Performance Requirements and restore the Useful Life of each Element at the end of its Residual Life. Developer also shall perform Rehabilitation Work according to the other applicable terms of the Technical Provisions, including, when applicable, the Handback Requirements. Developer shall use the Rehabilitation Work Schedule, as updated from time to time, as the principal guide for scheduling and performing Rehabilitation Work; but complying with the Rehabilitation Work Schedule shall not excuse or be a defense to any failure to comply with the Performance Requirements.

6.7.2 Not later than ninety (90) days after the end of each calendar year, Developer shall deliver to IFA a written report of the Rehabilitation Work performed in the immediately preceding calendar year. The report shall describe, by location, Element as listed in the Rehabilitation Work Schedule and other component, the type of work performed, the dates of commencement and completion and the cost, as well as the total cost of all Rehabilitation Work performed during the calendar year. During the period the Handback Requirements Reserve Account is in effect, the report also shall set forth the total draws from the Handback Requirements Reserve Account in the immediately preceding calendar year and the date, amount and use of each draw (including any use for Safety Compliance work).

6.8 Rehabilitation Work Schedule

6.8.1 Not later than ninety (90) days before the beginning of the second full calendar year after the Substantial Completion Date, Developer shall prepare and submit to IFA for review and comment a Rehabilitation Work Schedule. Using the results of its O&M Limits inspections under Section 22.5 of the Technical Provisions, Developer shall set forth in the Rehabilitation Work Schedule, by Element, (a) the estimated Useful Life, (b) the estimated Residual Life, (c) a brief description of the type of Rehabilitation Work anticipated to be performed at the end of the Element's Residual Life, (d) a brief description of any Rehabilitation Work anticipated to be performed before the end of the Element's Residual Life, including reasons why this work should be performed at the proposed time, (e) the estimated cost in current dollars of such Rehabilitation Work and (f) the total estimated cost in current dollars of Rehabilitation Work in each of the years Rehabilitation Work is anticipated to be performed under the Rehabilitation Work Schedule.

6.8.2 Developer shall estimate the Useful Life of each Element within the Rehabilitation Work Schedule based on (a) Developer's reasonable expectations respecting the manner of use, levels and mix of traffic, environmental conditions, and wear and tear and (b) the assumption that, when subject to Routine Maintenance, the Element will comply throughout its Useful Life with each applicable Performance Requirement. Developer shall estimate the Residual Life of each Element within the Rehabilitation Work Schedule based on its Age and whether (i) the Element has performed in service in the manner and with the levels and mix of traffic and wear and tear originally expected by Developer (ii) Developer has performed Routine Maintenance of the Element, and (iii) the Element has complied throughout its Age with each applicable Performance Requirement.

6.8.3 Not later than ninety (90) days before the beginning of the third full calendar year after the Substantial Completion Date and each calendar year thereafter, Developer shall prepare and submit to IFA for review and comment either (a) a revised Rehabilitation Work Schedule or (b) the then-existing Rehabilitation Work Schedule accompanied by a statement that Developer intends to continue in effect the then-existing Rehabilitation Work Schedule without revision (in either case, referred to as the "updated Rehabilitation Work Schedule"). Developer shall make revisions as reasonably indicated by experience and then-existing conditions respecting the O&M Limits, the factors described in Section 6.8.2, changes in estimated costs of Rehabilitation Work, changes in technology, changes in Developer's planned means and methods of performing Rehabilitation Work, and other relevant factors. The updated Rehabilitation Work Schedule shall show the revisions, if any, to the prior Rehabilitation Work Schedule and include an explanation of reasons for revisions. If no revisions are proposed, Developer shall include an explanation of the reasons no revisions are necessary. During the period the Handback Requirements Reserve Account is in effect, the updated Rehabilitation Work Schedule also shall set forth, by Element, Developer's planned draws from the Handback Requirements Reserve Account during the forthcoming calendar year.

6.8.4 At IFA's request, Developer and its O&M Contractor(s) shall promptly meet and confer with IFA to review and discuss the original or updated Rehabilitation Work Schedule.

6.8.5 Within thirty (30) days after receiving the original or any updated Rehabilitation Work Schedule, IFA shall have the right to object to the original or updated Rehabilitation Work Schedule or any of its elements. IFA may base its comments, objections or exceptions on whether the original or updated Rehabilitation Work Schedule and underlying assumptions are

reasonable, realistic and consistent with Good Industry Practice, East End Crossing experience and condition, applicable Technical Provisions, Governmental Approvals and Laws. If Developer has not received written comments, objections, exceptions and recommendations from IFA within the applicable time period set forth above, Developer may deliver a Notice to IFA stating that IFA's failure to issue written comments, objections, exceptions and recommendations within ten (10) days shall constitute waiver of the right to do so with respect (and only with respect) to the subject Rehabilitation Work Schedule or update.

6.8.6 Within thirty (30) days after receiving timely Notice of comments, objections, exceptions, recommendations, objections or disapprovals from IFA, Developer shall submit to IFA a revised original or updated Rehabilitation Work Schedule rectifying such matters and, for matters it disagrees with, a Notice setting forth those comments, objections, exceptions, recommendations and disapprovals that Developer disputes. Such Notice shall give details of Developer's grounds for dispute. If Developer fails to give such Notice within such time period, it shall be deemed to have accepted the comments, objections, exceptions and recommendations and the original or updated Rehabilitation Work Schedule, as applicable, shall thereupon be deemed revised to incorporate the comments and recommendations and to rectify the objections and exceptions. After timely delivery of any such Notice, Developer and IFA shall endeavor in good faith to reach agreement as to the matters listed in the Notice. If no agreement is reached as to any such matter within thirty (30) days after Developer delivers its Notice, either Party may refer the Dispute to the Disputes Resolution Procedures for determination.

6.8.7 Until resolution of any portion of the original Rehabilitation Work Schedule that is in Dispute, the treatment of that portion in the original Rehabilitation Work Schedule shall remain in effect and govern. Until resolution of any portion of the updated Rehabilitation Work Schedule that is in Dispute, the treatment of that portion in the immediately preceding Rehabilitation Work Schedule shall remain in effect and govern.

6.9 [reserved]

6.10 [reserved]

6.11 Policing, Security and Incident Response

6.11.1 Police Services

6.11.1.1 Pursuant to the requirements of IC 8-15.5-10-7, Developer and IFA shall jointly enter into (an) agreement(s) with the Indiana State Police and the Kentucky State Police, which shall, among other things, permit, without expense to IFA, the Indiana State Police, Kentucky State Police, Louisville Metro Police Department and any other public law enforcement agency with jurisdiction to provide traffic patrol, traffic law enforcement and the other police and public safety services on or for the O&M Limits in accordance with applicable Laws and agreements with State and local agencies (including any agreement(s) or other arrangement(s) made pursuant to IC 8-15.5-10-7(b) between IFA and (a) the Indiana State Police, (b) the Kentucky State Police, (c) the Louisville Metro Police Department and (d) any other public law enforcement agency with jurisdiction relating to costs incurred in provided law enforcement assistance services), including permitting at least the type and level of service that the Indiana State Police, Kentucky State Police and Louisville Metro Police Department provides on Comparable Facilities owned and operated by the Department or KYTC. Developer

shall, as a material obligation hereunder, comply with such agreement(s) and permit such law enforcement agencies to provide such law enforcement assistance services prescribed thereunder. In addition, Developer, without expense to IFA, may engage, on mutually acceptable reasonable terms and conditions, either the Indiana State Police, Kentucky State Police, Louisville Metro Police Department or another qualified public law enforcement agency with jurisdiction to provide enhanced levels of traffic patrol, traffic law enforcement services, special traffic operations services, accident assistance and investigation, and other enhanced police and Emergency services as needed due to any Developer-Related Entity's construction, operation, maintenance or other activities on or affecting the O&M Limits.

6.11.1.2 Developer shall not engage, or otherwise permit the engagement of, private security services to provide traffic patrol or traffic law enforcement services on the O&M Limits unless otherwise approved by IFA in its sole discretion.

6.11.1.3 At Developer's request and expense, IFA shall assist Developer in securing the agreement of the Indiana State Police and the Kentucky State Police to perform enhanced services on or for the O&M Limits. Such assistance may include accompanying Developer to meetings with the Indiana State Police and the Kentucky State Police, requesting the involvement of the Public Finance Director and taking any other reasonable action within its powers.

6.11.1.4 Nothing in this Section 6.11.1 shall be construed as conferring upon IFA in any way responsibility for funding enhanced policing services.

6.11.1.5 Developer acknowledges that the Indiana State Police, Kentucky State Police and Louisville Metro Police Department are empowered to enforce all applicable Laws and to enter the O&M Limits at any and all times to carry out their law enforcement duties. Developer acknowledges further that, consistent with the requirements of IC 8-15.5-10-7, all law enforcement officers of the State and the Commonwealth of Kentucky, and any political subdivision, as applicable, have the same powers and jurisdiction within the limits of Project ROW (and otherwise in respect of the East End Crossing) as such law enforcement officers have in their respective areas of jurisdiction, including the roads and highways of the State and the Commonwealth of Kentucky, as applicable. No provision of this Agreement is intended to surrender, waive or limit any police powers of the Indiana State Police, Kentucky State Police and Louisville Metro Police Department or any other Governmental Entity, and all such police powers are hereby expressly reserved. Developer shall ensure that such law enforcement officers have access to the East End Crossing to exercise their powers and jurisdiction.

6.11.1.6 IFA shall not have any liability or obligation to Developer resulting from, arising out of or relating to the failure of the Indiana State Police, Kentucky State Police and Louisville Metro Police Department as applicable or any other public law enforcement agency to provide services, or any of their, or their respective agents' or employees', acts, omissions, negligence or misconduct in providing services.

6.11.2 Security and Incident Response

6.11.2.1 Developer is responsible for the safety and security of the O&M Limits and the workers and public thereon during all construction, operation and maintenance activities under the control of any Developer-Related Entity.

6.11.2.2 Developer shall comply with all rules, directives and guidance of the U.S. Department of Homeland Security and comparable State agency, and shall coordinate and cooperate with all Governmental Entities providing security, first responder and other public emergency response services. Without limiting the foregoing, whenever the National Terrorism Advisory System (NTAS) or successor system has issued an "elevated" or "imminent" alert or comparable level of threat or alert for any region in which the O&M Limits is located or which the East End Crossing serves, Developer, at its expense, shall assign management personnel with decision-making authority to be personally present at the relevant emergency operations center serving the region. Developer shall provide such service twenty-four (24) hours a day, seven (7) days a week, until such level or threat or alert expires pursuant to its "sunset period" or is cancelled, or until the lead agency at the operations center determines such staffing level is no longer necessary.

6.11.2.3 Developer shall perform and comply with the provisions of Section 22 of the Technical Provisions concerning Incident response, safety and security.

6.11.2.4 Developer shall implement all Incident response, safety and security procedures, protocols and requirements set forth in the Incident Management Plan and Emergency Plan (components of the Project Management Plan).

6.12 Handback Requirements

6.12.1 Handback Condition

Subject to Section 6.12.3.2, on the Termination Date Developer shall cause the O&M Limits, at no charge to IFA, to be in the condition and meet all of the requirements for Residual Life at Handback specified in the Handback Requirements.

6.12.2 Handback Inspections

The Parties shall conduct inspections of the O&M Limits at the times and according to the terms and procedures specified in the Handback Requirements, for the purposes of:

6.12.2.1 Determining and verifying the condition of all Elements and their Residual Lives;

6.12.2.2 Adjusting, to the extent necessary based on inspection and analysis, Element Useful Lives, Ages, Residual Lives, estimated costs of Rehabilitation Work and timing of Rehabilitation Work;

6.12.2.3 Revising and updating the Rehabilitation Work Schedule to incorporate such adjustments;

6.12.2.4 Determining the Rehabilitation Work required to be performed and completed prior to the Termination Date, based on the requirements for Residual Life at Handback specified in the Handback Requirements, the foregoing adjustments and the foregoing changes to the Rehabilitation Work Schedule;

6.12.2.5 Verifying that such Rehabilitation Work has been properly performed and completed in accordance with the Handback Requirements; and

6.12.2.6 Adjusting Developer's funding of the Handback Requirements Reserve Account so that it is funded according to the schedule and amounts required under Exhibit 6 (Handback Requirements Reserve Elements and Reserve Funding Mechanism).

6.12.3 Rehabilitation Work under Handback Requirements

6.12.3.1 Developer shall diligently perform and complete all Rehabilitation Work required to be performed and completed prior to the Termination Date, based on the required adjustments and changes to the Rehabilitation Work Schedule resulting from the inspections and analysis under the Handback Requirements.

6.12.3.2 In the event of an early termination of this Agreement, this Section 6.12 shall apply to the extent of any Rehabilitation Work required to be performed and completed prior to the Early Termination Date, based on the required adjustments and changes to the Rehabilitation Work Schedule resulting from the inspections and analysis under the Handback Requirements.

6.13 Handback Requirements Reserve Account

6.13.1 Establishment

6.13.1.1 Beginning five (5) full calendar years before the end of the Term, Developer shall establish and fund a reserve account (the "Handback Requirements Reserve Account") exclusively available for the uses set forth in Section 6.13.3. Developer shall provide to IFA the details regarding the account, including the name, address and contact information for the depository institution and the account number. IFA shall have a first priority perfected security interest in the Handback Requirements Reserve Account, and the right to receive directly from the depository institution monthly account statements.

6.13.1.2 In lieu of establishing the Handback Requirements Reserve Account, Developer may deliver to IFA Handback Requirements Letters of Credit, on the terms and conditions set forth in Sections 6.13.5 and 17.3.

6.13.2 Funding

6.13.2.1 Developer shall make deposits to the Handback Requirements Reserve Account at the times and in the amounts set forth in Exhibit 6 (Handback Requirements Reserve Elements and Reserve Funding Mechanism).

6.13.2.2 Funds held in the Handback Requirements Reserve Account may be invested and reinvested only in Eligible Investments. Eligible Investments in the Handback Requirements Reserve Account must mature, or the principal of and accrued interest on such Eligible Investments must be available for withdrawal without penalty, not later than such times as shall be necessary to provide funds when needed for payment of draws to Developer, and in any event not later than the end of the Term. All interest earned or profits realized from the investment of funds in the Handback Requirements Reserve Account shall be retained therein.

6.13.2.3 If Developer fails to make any quarterly deposit into the Handback Requirements Reserve Account when due, including funding any increases or shortfalls required under Sections 3 and 5 of Exhibit 6 (Handback Requirements Reserve

Elements and Reserve Funding Mechanism), IFA shall be entitled to deduct the amount due from the Quarterly Payment due to Developer at the time of payment of the Quarterly Payment to Developer, and shall deposit such amount to the Handback Requirements Reserve Account on behalf of Developer.

6.13.3 Use

6.13.3.1 Developer will have the right to payments from the Handback Requirements Reserve Account to be used only to make progress and final payments for the following costs, provided the Handback Requirements Reserve Account is not at any time reduced below the amount of funds then required under Exhibit 6 (Handback Requirements Reserve Elements and Reserve Funding Mechanism):

a. Costs of Rehabilitation Work for those Elements that have a number of years stated in the "Useful Life" column in Table 23-1 (Residual Life Requirements at Handback) of the Technical Provisions, to the extent such Rehabilitation Work is to be performed prior to the end of the Term pursuant to Section 6.7;

b. Costs of Rehabilitation Work for those Elements that have a number of years stated in the "Residual Life at Handback" column in Table 23-1 (Residual Life Requirements at Handback) of the Technical Provisions, to the extent such Rehabilitation Work is necessary in order to return the Element to IFA at the end of the Term with a Residual Life equal to or greater than such number of years; and

c. Costs of Safety Compliance work.

6.13.3.2 Amounts in the Handback Requirements Reserve Account can only be used for the purposes described in this Section 6.13.3 and are not available as security for repayment of Project Debt or making Distributions. The use of amounts in the Handback Requirements Reserve Account for any purpose other than as permitted in this Section 6.13.3 shall be a Developer Default.

6.13.4 Disposition at End of Term

6.13.4.1 At the expiration or any earlier termination of the Term for any reason, including termination due to IFA Default, all funds in the Handback Requirements Reserve Account (except as provided in Section 6.13.4.2) shall automatically be and become the sole property of IFA, free and clear of all liens, pledges, encumbrances, offsets and deductions. Thereupon, Developer shall deliver such transfers, assignments and other documents, and take such other actions, as IFA or the depository institution for the Handback Requirements Reserve Account shall require to confirm transfer to IFA of the Handback Requirements Reserve Account and funds therein, free and clear of all liens, pledges, encumbrances, offsets and deductions.

6.13.4.2 If the amount in the Handback Requirements Reserve Account at such time is different from the amount then required pursuant to Exhibit 6 (Handback Requirements Reserve Elements and Reserve Funding Mechanism), Developer shall pay any shortfall to IFA upon demand, or IFA on demand shall authorize release to Developer of any excess, as the case may be. IFA, at its election, may offset any Termination Compensation owing to Developer by the amount of such shortfall. IFA, at its election, also may offset any

excess to be released to Developer by any amount Developer still owes IFA for the cost of the independent inspections conducted pursuant to the Handback Requirements. The foregoing offset rights are in addition to IFA's offset rights under Section 19.2.5. For the avoidance of doubt, if at the expiration of the Term Developer has completed and paid in full all Rehabilitation Work required on all Elements that have a number of years stated in the "Residual Life at Handback" column in Table 23-1 (Residual Life Requirements at Handback) of the Technical Provisions and funds in the Handback Requirements Reserve Account exceed the total amount required under Section 2(a) of Exhibit 6 (Handback Requirements Reserve Elements and Reserve Funding Mechanism) and the ten percent (10%) contingency thereon required under Section 2(c) of Exhibit 6 (Handback Requirements Reserve Elements and Reserve Funding Mechanism), then IFA shall on demand authorize release of such excess to Developer or, at Developer's direction, the Collateral Agent, subject to the foregoing offset rights in favor of IFA.

6.13.5 Handback Requirements Letters of Credit

6.13.5.1 In lieu of establishing the Handback Requirements Reserve Account, Developer may deliver to IFA one or more letters of credit (each, a "Handback Requirements Letter of Credit"), on the terms and conditions set forth in this Sections 6.13.5 and 17.3. If the Handback Requirements Reserve Account has been previously established, Developer at any time thereafter may substitute one or more Handback Requirements Letters of Credit for all or any portion of the amounts required to be on deposit in the Handback Requirements Reserve Account, on the terms and conditions set forth in this Section 6.13.5 and Section 17.3. Upon receipt of the required substitute Handback Requirements Letter of Credit, IFA shall authorize the release to Developer of amounts in the Handback Requirements Reserve Account equal to the face amount of the substitute Handback Requirements Letter of Credit. IFA shall be named as the sole beneficiary under each Handback Requirements Letter of Credit.

6.13.5.2 If the face amount of any Handback Requirements Letter of Credit falls below the total amount required to be funded to the Handback Requirements Reserve Account prior to expiry of the Handback Requirements Letter of Credit, Developer shall pay, when due, the shortfall into the Handback Requirements Reserve Account. Alternately, Developer may deliver a Handback Requirements Letter of Credit with a face amount equal to at least the total amount required to be funded to the Handback Requirements Reserve Account during the period up to the expiry of the Handback Requirements Letter of Credit, or may deliver additional Handback Requirements Letters of Credit or cause the existing Handback Requirements Letter of Credit to be amended to cover the shortfall before deposits of the shortfall to the Handback Requirements Reserve Account are due. If Developer fails to satisfy such obligation, IFA shall be entitled to deduct the amount due from the Quarterly Payment due to Developer at the time of payment of the Quarterly Payment to Developer, and shall deposit such amount to the Handback Requirements Reserve Account on behalf of Developer.

6.13.5.3 At the beginning of each calendar year, Developer shall have the right and obligation (in lieu of funding the Handback Requirements Reserve Account) to adjust the amount of the Handback Requirements Letter of Credit to equal the maximum amount required to be funded in the Handback Requirements Reserve Account during the forthcoming calendar year under Exhibit 6 (Handback Requirements Reserve Elements and Reserve Funding Mechanism), taking into account the most recent Rehabilitation Work Schedule and Rehabilitation Work performed to date under the Handback Requirements. No adjustment that serves to reduce the (aggregated) stated amount(s) of the Handback

Requirements Letter of Credit shall be made without the prior, written consent of IFA, which, for purposes of clarity, shall be given if IFA is satisfied, in its good faith discretion, that such reduced (aggregated) stated amount(s) equals the maximum amount required to be funded in the Handback Requirements Reserve Account during the forthcoming calendar year.

6.13.5.4 IFA shall have the right to draw on the Handback Requirements Letter of Credit (a) as provided in Section 17.3.1.2 or (b) upon expiration or earlier termination of the Term for any reason, including termination due to IFA Default, as necessary to obtain the Handback Requirements Reserve Account funds to which IFA is then entitled under Section 6.13.4.

6.13.5.5 If IFA draws on a Handback Requirements Letter of Credit, IFA shall have the right to use and apply the proceeds of such drawing as provided in Section 6.13.3. Notwithstanding the foregoing, if IFA draws on the Handback Requirements Letter of Credit due to Developer's failure for any reason to deliver to IFA a new or replacement Handback Requirements Letter of Credit, on the same terms, or at least a one (1) year extension of the expiration date of the existing Handback Requirements Letter of Credit, not later than forty-five (45) days before such expiration date, IFA shall deposit the proceeds from drawing on the expiring Handback Requirements Letter of Credit into the Handback Requirements Reserve Account.

ARTICLE 7. CONTRACTING AND LABOR PRACTICES

7.1 Disclosure of Contracts and Contractors

7.1.1 Developer shall provide IFA a monthly report listing (a) all Key Contracts in effect, (b) all Contracts in effect to which Developer is a party and (c) where Developer and an Affiliate are under direct Contract, all lower tier Contracts in effect to which such Affiliate is a party and under which all or a substantial portion of the Affiliate's responsibilities or obligations under its Contract with Developer are delegated to the Contractor. Developer also shall list in the monthly report the Contractors under such Contracts, guarantees of Key Contracts in effect and the Guarantors thereunder. Developer shall allow IFA ready access to all Contracts and records regarding Contracts and shall deliver to IFA, (i) within ten (10) days after execution, copies of all Key Contracts, guarantees thereof and amendments and supplements to Key Contracts and guarantees thereof, and (ii) within ten (10) days after receipt of a request from IFA, copies of all other Contracts and amendments and supplements thereto as may be requested.

7.1.2 As soon as Developer identifies a potential Contractor for a potential Contract described in the first sentence of Section 7.1.1, but in no event later than five (5) days after Contract execution, Developer shall provide Notice to IFA of the name, address, phone number and authorized representative of such Contractor.

7.2 Responsibility for Work, Contractors and Employees

7.2.1 Developer shall retain or cause to be retained only Contractors that are qualified, experienced and capable in the performance of the portion of the Work assigned. Developer shall ensure that each Contractor has at the time of execution of the Contract, and maintains at all times during performance of the assigned Work, all licenses, bonds and insurance required by applicable Laws.

7.2.2 The retention of Contractors by Developer does not relieve Developer of its responsibilities hereunder or for the quality of the Work or materials or services provided by it.

7.2.3 Each Contract shall include terms and conditions sufficient to ensure both the acknowledgement of and compliance by the Contractor with the applicable requirements of the PPA Documents, and shall include those terms that are specifically required by the PPA Documents to be included therein, including, to the extent applicable, those set forth in Exhibit 23 (Federal Requirements) and any other applicable federal requirements.

7.2.4 Developer shall require each Contractor to familiarize itself with the requirements of any and all applicable Laws, including those Laws applicable to the use of federal-aid funds, and the conditions of any required Governmental Approvals.

7.2.5 Nothing in this Agreement will create any contractual relationship between IFA and any Contractor. No Contract entered into by or under Developer shall impose any obligation or liability upon any Indemnified Party to any Contractor or any of its employees.

7.2.6 Developer shall supervise and be fully responsible for the actions, omissions, negligence, willful misconduct, fraud, bad faith or breach of applicable Law or contract by any Developer-Related Entity or by any member or employee of Developer or any Developer-Related Entity, as though Developer directly employed all such individuals.

7.3 Key Contracts; Contractor Qualifications

7.3.1 Key Contract Approvals, Amendments and Termination; Use of and Change in Key Contractors

7.3.1.1 The Key Contract with each of the Design-Build Contractor(s), the Lead Engineering Firm(s), and Lead Operations and Maintenance Contractor (if applicable) shall be subject to IFA's prior written approval in its good faith discretion, which approval shall be based on compliance with the requirements for such contracts contained in Section 7.3.2.

7.3.1.2 Amendment of any Key Contract with respect to a matter set forth in Section 7.3.2 shall be subject to IFA's prior written approval in its good faith discretion. Amendment in any other material respect of the Key Contract with the Design-Build Contractor(s), the Lead Engineering Firm(s), or Lead Operations and Maintenance Contractor (if applicable) shall be subject to IFA prior written approval in its good faith discretion.

7.3.1.3 Developer shall retain, employ and utilize the firms and organizations specifically listed in Exhibit 2-H (Equity Members, Contractors and Key Personnel Commitments) to fill the corresponding Key Contractor positions listed therein. For Key Contractors not known as of the Effective Date, Developer's selection thereof shall be subject to IFA's prior written approval in its good faith discretion.

7.3.1.4 Developer shall not terminate any Key Contract, permit termination of a Key Contract, permit or suffer any substitution or replacement (by way of assignment of the Key Contract, or transfer to another of any material portion of the scope of work, or otherwise) of any Key Contractor, except, in each case:

a. In the case of material uncured default by the Key Contractor;

b. Termination of this Agreement and IFA's election not to assume the Key Contract;

c. If there occurs any suspension, debarment, disqualification or removal (distinguished from ineligibility due to lack of financial qualifications) of the Contractor, or there goes into effect an agreement for voluntary exclusion of the Contractor, from bidding, proposing or contracting with any federal, State or local department or agency; or

d. With IFA's prior written approval in its good faith discretion.

7.3.2 Key Contract Provisions

Each Key Contract shall:

7.3.2.1 Require the Key Contractor to carry out its scope of work in accordance with the PPA Documents, the Governmental Approvals, applicable Law, and plans, systems and manuals developed and used by Developer pursuant to the PPA Documents;

7.3.2.2 Include a covenant to maintain all licenses required by applicable Law;

7.3.2.3 Set forth a standard of professional responsibility or a standard for commercial practice equal to the requirements of the PPA Documents and in accordance with Good Industry Practice for work of similar scope and scale;

7.3.2.4 Set forth representations, warranties, guaranties and liability provisions of the Key Contractor in accordance with Good Industry Practice for work of similar scope and scale;

7.3.2.5 Expressly state that all remaining warranties and guarantees, express or implied, shall inure to the benefit of IFA and its successors and assigns upon expiration of the term or earlier termination of this Agreement;

7.3.2.6 Require the Key Contractor to procure the applicable Payment Bond and Performance Security (as applicable) required under Section 17.2, if any, prior to commencement of any work by or on behalf of the Key Contractor;

7.3.2.7 Expressly provide that the Key Contractor shall have no right to suspend or demobilize unless and until it delivers to IFA Notice of the other contracting party's breach or default;

7.3.2.8 Require the personal services of and not be assignable by the Key Contractor without Developer's and IFA's prior written consent, provided that this provision shall not prohibit the subcontracting of portions of the Work;

7.3.2.9 Expressly include the requirements and provisions set forth in this Agreement applicable to Contractors regarding Intellectual Property rights and licenses;

7.3.2.10 Expressly require the Key Contractor to participate in meetings between Developer and IFA concerning matters pertaining to such Key Contractor, its work or the coordination of its work with other Contractors, provided that all direction to such Key

Contractor shall be provided by Developer or other party to the Key Contract, and provided further that nothing in this Section shall limit the authority of IFA to give such direction or take such action as in its opinion is necessary to remove an immediate and present threat to the safety of life or property;

7.3.2.11 Include an agreement by the Key Contractor to give evidence in any dispute resolution proceeding pursuant to Section 19.6, if such participation is requested by either IFA or Developer;

7.3.2.12 Without cost to Developer or IFA, and subject to the rights of the Collateral Agent set forth in Article 21 and any Direct Agreement, expressly permit assignment to IFA, the Collateral Agent or either of their respective successors, assignees or designees of all Developer's or other contracting party's rights under the Key Contract, contingent only upon delivery of written request from IFA following termination or expiration of this Agreement, allowing IFA or its successor, assign or designee to assume the benefit of Developer's or other contracting party's rights with liability only for those remaining obligations of Developer or the other contracting party accruing after the date of assumption, such assignment to include the benefit of all Key Contractor warranties, indemnities, guarantees and professional responsibility;

7.3.2.13 Expressly state that assumption of the Key Contract by IFA or its successor, assign or designee shall not operate to make the assignee responsible or liable for any breach of the Key Contract by Developer or the other contracting party or for any amounts due and owing under the Key Contract for work or services rendered prior to assumption, without prejudice, however, to any rights of the Contractor under the Key Contract or applicable Law to suspend work or terminate the Key Contract by reason of any such breach or failure to pay amounts due;

7.3.2.14 Expressly include (a) a covenant to recognize and attorn to IFA upon receipt of Notice from IFA that it has exercised step-in rights under this Agreement, without necessity for consent or approval from Developer or to determine whether IFA validly exercised its step-in rights, and (b) Developer's covenant to waive and release any claim or cause of action against the Key Contractor arising out of or relating to its recognition and attornment in reliance on any such Notice;

7.3.2.15 Expressly include a covenant, expressly stated to survive termination of the Key Contract, to promptly execute and deliver to IFA or its successor, assign or designee a new contract between the Key Contractor and IFA or its successor, assign or designee on the same terms and conditions as the Key Contract, if (a) the Key Contract is rejected by Developer in bankruptcy or is wrongfully terminated by Developer and (b) IFA delivers written request for such new contract within 60 days following termination or expiration of this Agreement. The Key Contract also shall include a covenant, expressly stated to survive termination of the Key Contract, to the effect that if the Key Contractor was a party to an escrow agreement for an Intellectual Property Escrow and Developer terminates it, then the Key Contractor also shall execute and deliver to IFA, concurrently with such new contract, a new escrow agreement on the same terms and conditions as the terminated escrow agreement, and shall concurrently make the same deposits to the new Intellectual Property Escrow as made or provided under the terminated escrow agreement. The obligation to include the same terms and conditions is subject to the following exceptions: (i) terms and conditions of a Key Contract or Intellectual Property Escrow agreement rendered moot or inapplicable solely due to change

in the identity of the contracting party to IFA or its successor, assign or designee; and (ii) terms and conditions of a Key Contract that must be adjusted due to schedule delay caused solely by Developer's rejection in bankruptcy or wrongful termination. This Section shall not apply to Key Contracts with IFA or Governmental Entities;

7.3.2.16 Expressly include requirements that: the Key Contractor (a) will maintain usual and customary Books and Records for the type and scope of operations of business in which it is engaged (e.g., constructor, equipment Supplier, designer, service provider), and retain such Books and Records for the period set forth in Section 23.1.4 or other applicable period set forth in the PPA Documents, (b) permit audit thereof by IFA and (c) provide progress reports to Developer appropriate for the type of work it is performing sufficient to enable Developer to provide the reports it is required to furnish IFA under this Agreement;

7.3.2.17 Expressly include the Indemnified Parties as indemnitees, with direct right of enforcement, in any indemnity given by the Key Contractor under the Key Contract;

7.3.2.18 Expressly include an acknowledgement that the Key Contractor has no right or claim to any lien or encumbrance upon the East End Crossing or Project Right of Way for failure of the other contracting party to pay amounts due the Key Contractor, and a waiver of any such right or claim that may exist at Law or in equity;

7.3.2.19 Include the right of Developer to terminate the Key Contract in whole or in part upon any termination of this Agreement, in each case without liability of Developer or IFA for the Key Contractor's lost profits or business opportunity;

7.3.2.20 Not contain any terms that do not comply or are inconsistent with the terms of the PPA Documents, including terms that do not comply or are inconsistent with this Article 7 or with the applicable requirements of Section 23.1 regarding maintenance of Books and Records, that fail to incorporate the applicable federal requirements set forth in Exhibit 23 (Federal Requirements), or that are inconsistent with the requirements of the relevant scope of Work; and

7.3.2.21 Expressly provide that any purported amendment with respect to any of the foregoing matters without the prior written consent of IFA shall be null and void. With respect to the Design-Build Contract, Developer shall not agree to any amendment to the Design-Build Contract with respect to, or relating to (a) any Milestone (as defined thereunder) or (b)(i) AP Delay Liquidated Damages or (ii) Milestone Delay Liquidated Damages (as each is defined thereunder), or both, in each case, without the prior, written consent of IFA, in its good faith discretion.

7.4 Key Personnel

7.4.1 Developer shall retain, employ and utilize the individuals specifically listed in Exhibit 2-H (Equity Members, Contractors and Key Personnel Commitments) or in the Project Management Plan to fill the corresponding Key Personnel positions listed therein. Developer shall not change or substitute any such individuals except due to retirement, death, disability, incapacity, or voluntary or involuntary termination of employment, or as otherwise approved by IFA pursuant to Section 7.4.2.

7.4.2 Developer shall provide Notice to IFA of any proposed replacement for any Key Personnel position. IFA shall have the right to review the qualifications and character of each individual to be appointed to a Key Personnel position (including personnel employed by Contractors to fill any such position) and to approve or disapprove use of such individual in such position prior to the commencement of any Work by such individual.

7.4.3 Developer shall cause each individual filling a Key Personnel position to dedicate the full amount of time necessary for the proper prosecution and performance of the Work. The following Key Personnel are intended to be full-time positions: Project Manager – full time during design/construction; Deputy Project Manager – full time during design/construction; Lead Engineer – full time during design; Construction Manager -full time during construction; Quality Manager – full time during design/construction; Safety Manager – full time during design/construction; Environmental Compliance Manager – full time during design/construction; Operations and Maintenance Manager – full time during operations period. Developer shall commit each of these Key Personnel exclusively to the East End Crossing, and each such person shall have no other conflicting assignments during the periods indicated in this Section 7.4.3.

7.4.4 Developer shall provide IFA with office and cell phone numbers and email addresses for each Key Personnel. IFA shall have the ability to contact any Key Personnel twenty-four (24) hours per day, seven (7) days per week.

7.5 [reserved]

7.6 Contracts with Affiliates

7.6.1 Developer shall have the right to have Work and services performed by Affiliates only under the following terms and conditions:

7.6.1.1 Developer shall execute a written Contract with the Affiliate;

7.6.1.2 The Contract shall comply with all applicable provisions of the PPA Documents, including this Article 7, be consistent with Good Industry Practice, and be in form and substance substantially similar to Contracts then being used by Developer or Affiliates for similar Work or services with unaffiliated Contractors;

7.6.1.3 The Contract shall set forth the scope of Work and services and all the pricing, terms and conditions respecting the scope of Work and services;

7.6.1.4 The pricing, scheduling and other terms and conditions of the Contract shall be no less favorable to Developer than those that Developer could reasonably obtain in an arms' length, competitive transaction with an unaffiliated Contractor. Developer shall bear the burden of proving that the same are no less favorable to Developer; and

7.6.1.5 No Affiliate (other than a Design-Build Contractor if it is an Affiliate) shall be engaged to perform any Work or services which any PPA Documents or the Project Management Plan or any component part, plan or other documentation thereunder indicates are to be performed by an independent or unaffiliated party. No Affiliate shall be engaged to perform any Work or services which would be inconsistent with Good Industry Practice.

7.6.2 Before entering into a written Contract with an Affiliate or any supplement or amendment thereto, Developer shall submit a true and complete copy of the proposed Contract to IFA for review and comment. IFA shall have twenty (20) days after receipt to deliver its comments to Developer. If the Contract with the Affiliate is a Key Contract, it shall be subject to IFA's approval as provided in Section 7.3.1.

7.6.3 Developer shall make no payments to Affiliates for work or services in advance of provision of such work or services, except for reasonable mobilization payments or other payments consistent with arm's length, competitive transactions of similar scope. Advance payments in violation of this provision shall be excluded from the calculation of Termination Compensation.

7.7 Labor Standards

7.7.1 In the performance of its obligations under the PPA Documents, Developer at all times shall comply, and require by contract that all Contractors and vendors comply, with all applicable federal and State labor, occupational safety and health Laws and federal and State orders.

7.7.2 All individuals performing the Work shall have the skill and experience and any licenses or certifications required to perform the Work assigned to them, and shall possess the skill and experience necessary to fulfill the standards and requirements of the PPA Documents applicable to the Work assigned to them, including any applicable minimum levels of skill and experience set forth in the Technical Provisions.

7.7.3 If any individual employed by Developer or any Contractor lacks such skill, experience, licensing and certification, or is not performing the Work in a proper, safe and skillful manner, then Developer shall, or shall cause such Contractor to, remove such individual and such individual shall not be re-employed on the Work. If, after Notice and reasonable opportunity to cure, such individual is not removed or if Developer fails to ensure that skilled, experienced, licensed and certified personnel are furnished for the proper performance of the Work, then IFA may suspend the affected portion of the Work by delivering to Developer Notice of such suspension. Such suspension shall in no way relieve Developer of any obligation contained in the PPA Documents or entitle Developer to any additional compensation, time extension or other Claim.

7.8 Ethical Standards

7.8.1 Within ninety (90) days after the Effective Date, Developer shall adopt written policies establishing ethical standards of conduct for all Developer-Related Entities, including Developer's supervisory and management personnel, in dealing with (a) IFA and the Department and (b) employment relations. Such policy shall be subject to review and comment by IFA prior to adoption. Such policy shall include standards of ethical conduct concerning the following:

7.8.1.1 Restrictions on gifts and contributions to, and lobbying of, IFA, the Department and any of their respective members, commissioners, directors, officers and employees, and elected State officials;

7.8.1.2 Protection of employees from unethical practices in selection,

use, hiring, compensation or other terms and conditions of employment, or in firing, promotion and termination of employees;

7.8.1.3 Protection of employees from retaliatory actions (including discharge, demotion, suspension, threat, harassment, pay reduction or other discrimination in the terms and conditions of employment) in response to reporting of illegal (including the making of a false claim), unethical or unsafe actions or failures to act by any Developer-Related Entity;

7.8.1.4 Restrictions on directors, members, officers or supervisory or management personnel of any Developer-Related Entity engaging in any transaction or activity, including receiving or offering a financial incentive, benefit, loan or other financial interest, that is, or to a reasonable person appears to be, in conflict with or incompatible with the proper discharge of duties or independence of judgment or action in the performance of duties, or adverse to the interests of the East End Crossing or employees;

7.8.1.5 Restrictions on use of office or job position for a purpose that is, or would to a reasonable person appear to be, primarily for the private benefit of a director, member, officer or supervisory or management person, rather than primarily for the benefit of Developer or the East End Crossing, or primarily to achieve a private gain or an exemption from duty or responsibility for a director, member, officer or supervisory or management person; and

7.8.1.6 Restrictions on directors, members, officers or employees of any Developer-Related Entity performing any of the Work if the performance of such services would be prohibited under IFA's conflict of interest rules and policies.

7.8.2 Developer shall cause its directors, members, officers and supervisory and management personnel, and require those of all other Developer-Related Entities, to adhere to and enforce the adopted policy on ethical standards of conduct. Developer shall establish reasonable systems and procedures to promote and monitor compliance with the policy.

7.8.3 Notwithstanding the foregoing in this Section 7.8, Developer has an affirmative obligation under this Agreement to disclose to IFA and to the Indiana State Ethics Commission when an interested party is or becomes an employee of IFA or the State. This obligation extends only to those facts that Developer knows or reasonably could know. For purposes of this Section 7.8.3, "interested party" means (a) the individual executing this Agreement, (b) an individual who has an interest of three percent (3%) or more of Developer, (c) any member of the immediate family of an individual specified in clause (a) or (b). For purposes of the preceding sentence, "immediate family" means the spouse and the unemancipated children of an individual.

7.9 Non-Discrimination; Equal Employment Opportunity

During the performance of this Agreement, Developer, for itself, its assignees and successors in interest agrees as follows:

7.9.1 Compliance with Regulations: Developer shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Title 49, Code of Federal Regulations, Parts 21, 24, 26 and 60 as they relate to nondiscrimination, and with Executive Order 11246 titled Equal Employment Opportunity as amended by Executive Order 11875, as they may be amended from time to time, (hereinafter

collectively referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.

7.9.2 Nondiscrimination: This covenant is enacted, in part, pursuant to the Indiana Age Discrimination in Employment Act, and the Americans with Disabilities Act.

Pursuant to the Indiana Civil Rights Law, specifically IC 22-9-1-10, and in keeping with the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, Developer shall not discriminate against any employee or applicant for employment in the performance of this Agreement with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Furthermore, Developer certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on Protected Characteristics in the provision of services.

Developer, with regard to the Work performed by it during this Agreement, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of Contractors, including procurement of materials and leases of equipment. Developer shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when this Agreement covers a program set forth in Appendix B and C of the Regulations.

7.9.3 Solicitations for Contracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Developer for work to be performed under a Contract, including procurement of materials or leases of equipment, each potential Contractor or Supplier shall be notified by Developer of Developer's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.

7.9.4 Information and Reports: Developer shall provide to IFA or its designee all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to Books and Records, accounts, other sources of information and its facilities as may be determined by IFA to be pertinent to ascertain compliance with such regulations or directives. Where any information required of Developer is in the exclusive possession of another who fails or refuses to furnish this information, Developer shall so certify to IFA and shall set forth what efforts it has made to obtain this information.

7.9.5 Sanctions for Noncompliance: In the event of Developer's non-compliance with the nondiscrimination provisions of this Agreement, IFA shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including:

7.9.5.1 Withholding of payments to Developer under this Agreement until Developer complies; and/or

7.9.5.2 Cancellation, termination or suspension of this Agreement in whole or in part for Developer Default.

7.9.6 Certification of Nonsegregated Facilities: Developer hereby certifies that, except as specifically prescribed pursuant to Attachment 2 to Exhibit 23 (Federal Requirements), Developer does not maintain or provide for Developer's employees any segregated facilities at any of Developer's establishments, and that Developer does not permit employees to perform their services at any location, under Developer's control, where segregated facilities are maintained. Developer certifies further that, except as specifically prescribed pursuant to Attachment 2 to Exhibit 23 (Federal Requirements), Developer will not maintain or provide for employees any segregated facilities at any of Developer's establishments, and that Developer will not permit Developer's employees to perform their services at any location, under Developer's control, where segregated facilities are maintained. Developer agrees that a breach of either of these certifications is a violation of the Equal Opportunity clause in this Agreement (Exhibit 23 (Federal Requirements), Attachment 4 to Exhibit 23). As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms, and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, or national origin, because of habit, local custom or otherwise.

7.9.7 Incorporation of Provisions: Developer shall include the provisions of Sections 7.9.1 through 7.9.6 in every Contract to which Developer is a party, including procurement of materials and leases of equipment unless exempt by the Regulations, or directives issued pursuant thereto. Developer shall require that they be included in all Contracts at lower tiers, so that such provisions will be binding upon each Contractor and Supplier. Developer shall take such action with respect to any Contractor or procurement as IFA or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that if Developer becomes involved in, or is threatened with, litigation with a Contractor or Supplier as a result of such direction, then Developer may request IFA to enter into such litigation to protect the interests of the State, and in addition, Developer may request the United States to enter into such litigation to protect the interests of the United States. IFA is not obligated, however, to enter into such litigation.

7.9.8 Developer shall comply with all applicable Equal Employment Opportunity and nondiscrimination provisions, including those set forth in Exhibit 23 (Federal Requirements), and shall require its Contractors to comply with such provisions. Such provisions shall apply to the entire East End Crossing and all the Work.

7.10 Disadvantaged Business Enterprise

7.10.1 General

7.10.1.1 IFA's Disadvantaged Business Enterprise (DBE) Special Provisions are set forth in Exhibit 7 (IFA's Disadvantaged Business Enterprise (DBE) Special Provisions). The purpose of the DBE Special Provisions is to ensure that DBEs shall have an equal opportunity to participate in the performance of design and construction contracts financed in whole or in part with federal funds. Developer shall comply with all applicable requirements set forth in the DBE Special Provisions and the Department's Disadvantaged Business Enterprise Program Manual adopted pursuant to 49 CFR Part 26, and the provisions in Developer's IFA-approved DBE Performance Plan. Notwithstanding the requirements of the Department's "Recurring Special Provision" 100-C-151B "Disadvantaged Business Enterprise

Procedure and Good Faith Efforts (Revised 05-23-11)" and the requirements of the Department's DBE Program Manual, Developer is not required to list all DBE utilization to meet the DBE goal prior to the submittal of Proposals as required in subsection (e) of "Recurring Special Provision" 100-C-151B and Section IV of the DBE Program Manual. Instead, Developer shall submit the detailed DBE Performance Plan as set forth in Section 7.10.3 to IFA for review and comment. IFA review of the DBE Performance Plan will replace the good faith efforts review process as outlined in "Recurring Special Provision" 100-C-151B and Section IV of the DBE Program Manual. Developer may utilize DBEs toward the DBE goal that obtain DBE certification after submittal of Proposals.

7.10.1.2 Developer shall include provisions to effectuate the DBE Special Provisions in every applicable Contract to which it is a party (including purchase orders and task orders for Work), and shall require that they be included in all applicable Contracts at lower tiers (including purchase orders and task orders for Work), so that such provisions will be binding upon each applicable Contractor.

7.10.2 DBE Participation Goals

The DBE Goal for DBE participation in the Work required under this Agreement for East End Crossing design, including professional services, and construction of the East End Crossing is nine percent (9%) of the amount set forth on the "Totals" line of Exhibit 2-I(2) (Capital Cost Table) for the professional services and construction. For purposes of clarity, assessment as to whether Developer has achieved the DBE Goal will be measured against the aggregated design and construction costs, and not separately as to each of the design costs and construction costs. This DBE Goal reflects only the anticipated ability of DBE firms to participate on the East End Crossing and is to be used as a measurement of success. Developer shall demonstrate that it will make good faith efforts to meet the DBE Goal for the East End Crossing in accordance with 49 CFR 26, Appendix A.

7.10.3 DBE Performance Plan

7.10.3.1 Developer has submitted to IFA as part of its Proposal the Preliminary DBE Performance Plan attached to this Agreement as Exhibit 2-L (Developer's Preliminary DBE Performance Plan). If not previously approved in writing by IFA, IFA will deliver to Developer comments of IFA and the Department's Economic Opportunity Division on the Preliminary DBE Performance Plan within thirty (30) days after the Effective Date. Developer shall submit to IFA, within thirty (30) days after receiving such comments, a proposed final DBE Performance Plan. The proposed final DBE Performance Plan is subject to further review and comment by IFA and the Department's Economic Opportunity Division and to IFA's approval prior to and as a condition to issuance of NTP2.

7.10.3.2 In preparing the final DBE Performance Plan, Developer shall include, to the extent known at the time of preparation:

a. The names of currently-certified DBE firms to which Developer or the Design-Build Contractor has made commitments, the percentage of each such entity's DBE participation and a description of the types of work each such DBE firm listed is to perform;

b. The dates and manner in which each of the listed DBE firms were contacted for their respective interest in DBE sub-contracting opportunities for the East End

Crossing;

c. A description of each such currently-certified and listed DBE firm's respective interest in sub-contracting for the East End Crossing;

d. An explanation of how Developer plans to recruit, solicit and evaluate potential DBEs to utilize on the East End Crossing;

e. A description of demonstrated success with the DBE program on other projects;

f. a breakdown of anticipated DBE commitments (i.e. anticipated percentages to go to design, construction, and supplies);

g. Estimated time frames for achieving DBE participation (i.e. in what years of the project will DBE participation by realized);

h. Strategies for monitoring DBE utilization and contract compliance, including proper DBE credit, performance of commercially useful function, and proper payment to DBEs;

i. The name of Developer's "DBE Compliance Manager" and description of the DBE Compliance Manager's reporting structure and responsibilities; and

j. Commitment to communicate with IFA and the Department on DBE participation and compliance efforts throughout the life of the Project.

7.10.3.3 The final DBE Performance Plan shall respond to the comments of IFA and the Department's Economic Opportunity Division, comply with all applicable Laws and Governmental Approvals, including 49 CFR Part 26, include all the matters described in Section 120-3.01 of Exhibit 7 (IFA's Disadvantaged Business Enterprise (DBE) Special Provisions), and be consistent with Developer's DBE certification set forth in Exhibit 2-M (DBE Certification).

7.10.3.4 Developer shall exercise good faith efforts to achieve the DBE Goal for the East End Crossing through implementation of Developer's approved DBE Performance Plan.

7.10.3.5 Developer shall comply with provisions relating to 25 IAC 5 as set forth in Exhibit 7 (IFA's Disadvantaged Business Enterprise (DBE) Special Provisions).

7.10.4 Changes in the D&C Work

7.10.4.1 If the scope of the D&C Work changes after the Effective Date such that there are additional opportunities for DBE firms to participate, Developer shall amend and update the DBE Performance Plan to show how it will include, or undertake good faith efforts to include, additional DBE participation in order to achieve the DBE Goal.

7.10.4.2 If the scope of the D&C Work changes after the Effective Date based on an IFA Change Order or Directive Letter, or if Developer encounters unknown conditions on the East End Crossing, in either case resulting in reduced DBE participation than

originally proposed and committed to by Developer, then Developer will not be held responsible for the reduced DBE participation; provided that Developer has followed the procedures in 49 CFR § 26.53(f), IFA has approved the change in DBE utilization and IFA has verifiable evidence that these changes or unknown conditions are not a result of actions by any Developer-Related Entity.

7.10.5 DBE Participation in O&M Work

Developer agrees to use good faith efforts to encourage DBE participation in the O&M Work.

7.10.6 Cancellation of DBE Contracts

Developer shall not cancel or terminate any Contract with a DBE firm except with IFA's prior written consent and in accordance with all requirements and provisions of 49 CFR § 26.53.

7.11 Workforce Diversity and Small Business Performance Plan

7.11.1 Developer has submitted to IFA as part of its Proposal the Preliminary Workforce Diversity and Small Business Performance Plan attached to this Agreement as Exhibit 2-N (Developer's Preliminary Workforce Diversity and Small Business Performance Plan). If not previously approved in writing by IFA, IFA will deliver to Developer comments of IFA and the Department's Economic Opportunity Division on the Preliminary Workforce Diversity and Small Business Performance Plan within thirty (30) days after the Effective Date. Developer shall submit to IFA, within thirty (30) days after receiving such comments, a proposed-final Workforce Diversity and Small Business Performance Plan. The proposed-final Workforce Diversity and Small Business Performance Plan is subject to further review and comment by IFA and the Department's Economic Opportunity Division and to IFA's approval.

7.11.2 Developer's Workforce Diversity and Small Business Performance Plan shall incorporate and be consistent with Exhibit 8 (Equal Employment Opportunity Trainees Special Provisions) and shall include a commitment to participate in the Department's Equal Employment Opportunity Trainee Program. The Workforce Diversity and Small Business Performance Plan shall apply to all the original Construction Work for the East End Crossing.

7.11.3 The purpose of the Workforce Diversity and Small Business Performance Plan is to ensure that inexperienced and untrained women, disabled veterans and other minority workers, have a substantial opportunity to participate in the performance of the Work through apprenticeships, training and similar measures to maintain and grow a diverse, skilled work force. Developer shall perform and comply with all requirements set forth in of the Workforce Diversity and Small Business Performance Plan.

7.11.4 Developer shall include provisions to effectuate the Workforce Diversity and Small Business Performance Plan in every applicable Contract to which it is a party (including purchase orders and task orders for Work), and shall require that such provisions be included in all applicable Contracts, except for Contracts with IFA or Governmental Entities, so that such provisions will be binding upon each Contractor performing Work to which the Plan applies. The foregoing shall not apply to Contracts at any tier with IFA or Governmental Entities (excepting this Agreement).

7.11.5 Developer shall meet the following requirements or demonstrate to IFA, in its good faith discretion, that Developer made good faith efforts to meet the following requirements:

7.11.5.1 Ensure construction contractors included as part of Developer's team comply with the requirements of the Department's "Equal Employment Opportunity Trainee Program," including meeting reporting requirements and documenting good faith efforts to meet the training goals assigned to each construction contractor, and

7.11.5.2 Provide the required hours of training for Department-approved trainees/apprentices in the proposed training program in Developer's final Workforce Diversity and Small Business Performance Plan.

7.12 Additional Diversity Initiatives

Developer is encouraged to make additional efforts to solicit and recruit minority and women-owned businesses and small businesses to participate in the East End Crossing.

7.13 Prevailing Wages

7.13.1 Developer shall pay or cause to be paid to all applicable workers employed by it or its Contractors to perform the Construction Work not less than the highest prescribed prevailing rates of wages, as provided in the statutes and regulations applicable to public construction projects and public work contracts, including IC 5-16-7, KRS § 337.505 *et seq.*, to the extent provided in Exhibit 23 (Federal Requirements), the Davis-Bacon Act and statutory common wage law(s) applicable to the Project. For purposes of clarity, (a) as between the prescriptions under the Davis-Bacon Act (if applicable) and the "Common Wage" prescribed pursuant to IC 5-16-7, the "prevailing rate of wages" shall be, in respect of each labor category, the higher value prescribed and (b) notwithstanding any term of this Agreement to the contrary, to the extent that FHWA and the U.S. Department of Labor approve project-specific wage rates for the Project, then Developer shall pay, and shall cause all Contractors to pay, such project-specific wage rates when performing or when contracting for the performance of any of Developer's obligations under this Agreement. Developer shall comply and cause its Contractors performing Construction Work to comply with all Laws pertaining to prevailing wages, including arranging for a "Common Wage" hearing pursuant to IC 5-16-7.

7.13.2 The provisions of Attachment 2 to Exhibit 23 (Federal Requirements) shall apply to the entire East End Crossing and to all covered classifications of employees (other than employees of IFA or Governmental Entities acting as Contractors) regardless of the contractual relationship between Developer or Contractors and laborers, mechanics or field surveyors.

7.13.3 It is Developer's sole responsibility to determine the wage rates required to be paid. If rates of wages and benefits change while this Agreement is in effect, then Developer shall bear the cost of such changes and shall have no Claim against IFA on account of such changes. Without limiting the foregoing, no Claim will be allowed which is based upon Developer's lack of knowledge or a misunderstanding of any such requirements or Developer's failure to include in the Financial Model or Financial Model Updates adequate increases in such wages over the duration of this Agreement.

7.13.4 Developer shall comply and cause its Contractors performing Construction Work, other than IFA or Governmental Entities acting as Contractors, to comply with all Laws,

regarding notice and posting of intent to pay prevailing wages, of prevailing wage requirements and of prevailing wage rates.

7.13.5 If it is found that a laborer, mechanic or field surveyor employed by Developer or a Contractor has been or is being paid a rate of wages less than the rate of wages required by this Agreement to be paid, IFA may declare a Developer Default under Section 19.1.1.12, and such a Developer Default may be the subject of a Warning Notice pursuant to Section 19.2.9 and lead to termination of this Agreement pursuant to Section 20.3.1.3.

7.14 Prompt Payment to Contractors

Developer shall require that the following provisions be incorporated in each Design-Build Contract:

7.14.1 The Design-Build Contractor shall pay each subcontractor for Work satisfactorily performed within ten (10) days after receiving payment from Developer for the Work satisfactorily performed by the subcontractor, and shall pay any retainage on a subcontractor's Work within ten (10) days after satisfactory completion of all of the subcontractor's Work after receiving payment from Developer of such retainage amount. Completed subcontractor work includes vegetative establishment, test, maintenance, performance, and other similar periods that are the responsibility of the subcontractor. For the purpose of this Section 7.14, satisfactory completion is accomplished when:

7.14.1.1 The subcontractor has fulfilled the requirements of both the Design-Build Contract and the subcontract for the subcontracted Work, including the submittal of all information required by the specifications and the Design-Build Contractor; and

7.14.1.2 The work done by the subcontractor has been inspected and approved by Developer and the final quantities of the subcontractor's work have been determined and agreed upon.

7.14.2 The foregoing payment requirements apply to all tiers of subcontractors and shall be incorporated into all subcontracts.

7.15 Retainage

Developer shall comply and cause its Contractors to comply with 49 CFR § 26.29 concerning prompt payment of retainage to subcontractors.

7.16 Suspension and Debarment

7.16.1 Developer certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency or political subdivision of the State. For purposes of this Section 7.16.1, the term "principal" for purposes of this Agreement means an officer, director, owner, partner, Key Personnel, employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of Developer.

7.16.2 Developer shall deliver to IFA, not later than January 31 of each year through Final Acceptance, and upon Final Acceptance, signed certifications regarding suspension, debarment, ineligibility, voluntary exclusion, convictions and civil judgments from Developer, from each affiliate of Developer (as "affiliate" is defined in 29 CFR § 16.105 or successor regulation of similar import), and from each Contractor whose Contract amount equals or exceeds $100,000. The annual certification shall be substantially in the form of clauses 1.a through 1.d of Attachment 6 to Exhibit 23 (Federal Requirements).

7.17 Uniforms

Any uniforms, badges, logos and other identification worn by personnel of Developer-Related Entities shall bear colors, lettering, design or other features to ensure clear differentiation from those of IFA, the Department, KYTC and their respective employees.

ARTICLE 8. RELATED FACILITIES; RESERVED RIGHTS

8.1 Integration with Related Transportation Facilities

8.1.1 Developer shall locate, configure, design, construct, operate and maintain the termini, interchanges, ramps, intersections, crossings, entrances and exits of the East End Crossing so that the East End Crossing will be compatible and integrated with the location, configuration, design, operation and maintenance of, and provide a smooth, safe and orderly transition of traffic to and from, Related Transportation Facilities. The design for the East End Crossing shall include and provide for such compatibility, integration and transition. The design, construction, operation and maintenance of the East End Crossing shall satisfy all provisions of the PPA Documents and Project Management Plan relating to compatibility, integration and transition with or at Related Transportation Facilities, including those concerning signage, signaling and communications with Users. Developer shall not block, hinder, change or restrict, partially or wholly, access to or from the East End Crossing from or to any Related Transportation Facility without the prior express written consent of, and on such terms and conditions as may be specified by, IFA and the applicable Governmental Entity or other party, as the case may be.

8.1.2 [reserved].

8.1.3 Without limiting the foregoing, Developer shall cooperate and coordinate with IFA and any third party that owns, manages, operates or maintains a Related Transportation Facility with regard to the construction, maintenance and repair programs and schedules for the East End Crossing and the Related Transportation Facility, in order to minimize disruption to the operation of the East End Crossing and the Related Transportation Facility.

8.1.4 To assist Developer, IFA shall provide to Developer during normal working hours, reasonable access to plans, surveys, drawings, as-built drawings, specifications, reports and other documents and information in the possession of IFA or its contractors and consultants pertaining to Related Transportation Facilities. Developer, at its expense, shall have the right to make copies of the same. Developer, at its expense, shall conduct such other inspections, investigations, document searches, surveys and other work as may be necessary to identify the Related Transportation Facilities and achieve such compatibility, integration and transition.

8.1.5 At Developer's request from time to time, IFA shall provide reasonable assistance to Developer in obtaining cooperation and coordination from third parties that own, manage, operate or maintain Related Transportation Facilities and in enforcing rights, remedies and warranties that Developer may have against any such third parties. Such assistance may include IFA's participation in meetings and discussions. In no event shall IFA be required to bring any legal action or proceeding against any such third party. At Developer's request, IFA and Developer shall work jointly to establish a scope of work and budget for IFA's Recoverable Costs in connection with providing such cooperation to Developer. Subject to any agreed scope of work and budget, Developer shall reimburse IFA for all reasonable costs, including IFA's Recoverable Costs, it incurs in connection with rendering such assistance within ten (10) days after written request therefor.

8.1.6 Each of IFA and the Department shall have at all times, without obligation or liability to Developer, the right to conduct traffic management activities on its Related Transportation Facilities and all other facilities of the State transportation network in the area of the East End Crossing in accordance with its standard traffic management practices and procedures in effect from time to time.

8.2 Reserved Airspace and Business Opportunities

8.2.1 Developer's rights and interests in the East End Crossing and Project Right of Way are and shall remain specifically limited only to such rights and interests that are necessary or required for performing the Work and Developer's timely fulfillment of its obligations under the PPA Documents. Developer's rights and interests specifically exclude any and all Airspace and any and all improvements, rights and personal property above, on or below the surface of the Project Right of Way which are not necessary and required for such purposes.

8.2.2 IFA reserves to itself, and Developer hereby relinquishes, all right and opportunity to develop and pursue, and to permit or assign to others the right and opportunity to develop and pursue, anywhere in the world entrepreneurial, commercial and business activities that are ancillary or collateral to the use and operation of the East End Crossing and Project Right of Way as provided in this Agreement (collectively, "Business Opportunities"). Unless expressly authorized by IFA in its sole discretion, Developer will not grant permission for any Person (other than IFA) to use or occupy the East End Crossing for any ancillary or collateral purpose. The foregoing reservation in no way precludes Developer or any Affiliate, Contractor or other Developer-Related Entity from:

8.2.2.1 Carrying out the Financial Plan;

8.2.2.2 Arranging and consummating Refinancings;

8.2.2.3 Creating and using brochures and other promotional and marketing material, responses to requests for qualifications or proposals, and similar communications that include descriptions, presentations and images of the East End Crossing or the Work for the purpose of promoting its business of developing, financing and operating transportation projects; or

8.2.2.4 Competing on any request or solicitation for proposals or bids issued by IFA in connection with Business Opportunities.

8.2.3 The Business Opportunities reserved to IFA include all the following:

8.2.3.1 All rights to finance, design, construct, operate and maintain any passenger or freight rail facility, roads and highways or other mode of transportation in the Airspace, including bridges, tunnels, flyovers, frontage roads, local roads, interchanges and fixed guide-ways, and to grant to others such rights, subject to the provisions of Sections 8.2.4, provided that construction and operation of any expansion of the Hourly Flow of traffic on the East End Crossing, whether by Developer or IFA or their respective contractors, is not a Business Opportunity;

8.2.3.2 All rights of IFA to derive revenues and other direct benefits from the installation, use, lease, grant of indefeasible rights to use, sale or operation by anyone of electrical and fiber optic conduit, cable, capacity, towers, antennas and associated equipment or other telecommunications equipment, hardware, software and capacity, over, on, under or adjacent to any portion of the Project Right of Way, whether before or after the Effective Date, except for the capacity of any such improvement installed by Developer that is necessary for and devoted exclusively to the operation of the East End Crossing. For avoidance of doubt:

a. If Developer installs any such improvements, all use and capacity thereof not necessary for operation of the East End Crossing are reserved to, and shall be the sole property of, IFA; and

b. All conduit, innerduct and other Utility space, and all hangers and supports for future conduit or Utility installations, installed as part of the East End Crossing are reserved to, and shall be the sole property of, IFA;

8.2.3.3 All rights of IFA to derive revenues and other direct benefits from the installation, use, lease, grant of indefeasible rights to use, sale or operation by anyone of any oil or gas pipeline, water line, fuel line, power line or other Utility in, on, under, above or along the East End Crossing, Project Right of Way or Airspace, except only to the extent required solely for construction, operation or maintenance of the East End Crossing;

8.2.3.4 All rights to use, sell and derive revenues from traffic data and other data generated from operation of the East End Crossing except use of such data as required solely for operation of the East End Crossing;

8.2.3.5 All ownership, possession and control of, and all rights to develop, use, operate, lease, sell and derive revenues from, the Airspace, including development and operation of service areas, rest areas and any other office, retail, commercial, industrial, residential, retail or mixed use real estate East End Crossing within the Airspace;

8.2.3.6 All ownership, possession and control of, and all rights to develop, use, lease, sell and derive revenues from, carbon credits or other environmental benefits generated by or arising out of design, development, use, operation or maintenance of the East End Crossing;

8.2.3.7 All rights to install, use and derive information, services, capabilities and revenues from Intelligent Transportation Systems and applications, except installation and use of any such systems and applications by Developer as required solely for operation of the East End Crossing. For avoidance of doubt, if Developer installs any such

systems or applications, all use and capacity thereof not necessary for operation of the East End Crossing are reserved to, and shall be the sole property of, IFA;

8.2.3.8 All rights and opportunities to use, or allow others to use, the East End Crossing to generate and sell, or as a platform to install equipment to generate and sell, power from wind action;

8.2.3.9 All rights to market, distribute, sell and derive revenues from any goods, products or merchandise depicting, utilizing or exploiting any name, image, logo, caricature, pseudonym, reputation or other representation, in any form or medium, of IFA or the East End Crossing, or that may be confused with those of IFA or the East End Crossing;

8.2.3.10 All rights and opportunities to grant to others sponsorship, advertising, branding and naming rights with respect to the East End Crossing or any portion thereof;

8.2.3.11 All rights to revenues and profits derived from the right or ability of electronic toll account customers to use their accounts or Transponders to purchase services or goods other than payment of tolls;

8.2.3.12 All rights to toll, collect tolls and perform tolling activities in the Airspace and Project Right of Way and to grant to others such rights; and

8.2.3.13 Any other commercial or noncommercial development or use of the Airspace for other than operation of the East End Crossing.

8.2.4 If the development, use or operation of the Airspace by IFA, the Department, KYTC or anyone (other than a Developer-Related Entity) legitimately claiming under or through IFA, the Department, KYTC, the State, the Commonwealth of Kentucky, or any entity created by both the State and the Commonwealth of Kentucky arising out of, or related to, the East End Crossing, or if the development or operation of a Business Opportunity in the Airspace, prevents Developer from performing its fundamental obligations under this Agreement or materially adversely affects its costs, such impacts will be treated as a Relief Event under Section 15.1.

8.2.5 Prior to deciding whether to pursue or implement a Business Opportunity, IFA may require Developer to provide analysis of the impacts thereof on Developer's costs and schedule, as if it were a Request for Change Proposal, in which case the Parties shall follow the procedures under Section 16.1.

8.2.6 Developer may propose Business Opportunities, including expected financial and other terms, for IFA consideration. If Developer desires to utilize, develop or take advantage of any Business Opportunity, then Developer may submit to IFA its ideas and proposals for development thereof. If and only if IFA, in its sole discretion, is interested in the proposed Business Opportunity, IFA and Developer shall thereafter negotiate cooperatively and in good faith to formulate a structure, terms and conditions and written agreement(s) for such Business Opportunity and its use and development, which may include a development agreement, concession or franchise agreement, license agreement, royalty agreement, joint venture, or other form of lawful joint enterprise or lawful joint participation concerning the Business Opportunity. Nothing herein, however, creates any legally binding obligation on the part of IFA or Developer to continue such negotiations or to enter into any structure or agreement for

development or use of a Business Opportunity. Neither Developer's submission to IFA of a proposed Business Opportunity or related ideas, concepts, financial models or other information, nor IFA's election not to engage in such proposed Business Opportunity with Developer, shall preclude IFA from thereafter pursuing such Business Opportunity or using, adapting and disclosing the ideas, concepts, financial models or other information presented, provided IFA pursues it through a competitive procurement process in which Developer is afforded a fair and non-discriminatory opportunity to compete.

8.2.7 If a Developer Default concerns a breach of the provisions of this Section 8.2, then, in addition to any other remedies, IFA shall be entitled to Developer's disgorgement of all profits from the prohibited activity, together with interest thereon, at a floating rate equal to the LIBOR in effect from time to time plus four hundred (400) basis points, from the date of collection until the date disgorged, and to sole title to and ownership of the prohibited assets and improvements and revenues derived therefrom.

8.2.8 Developer is prohibited from placing or permitting any outdoor advertising within the boundaries of the Project Right of Way.

ARTICLE 9. TECHNOLOGY ENHANCEMENTS; SAFETY COMPLIANCE; EMERGENCY REPAIR WORK

9.1 Technology Enhancements

9.1.1 Developer shall make Technology Enhancements on the systems it provides as and when necessary (a) to correct Defects, (b) under the Rehabilitation Work Schedule, or (c) to comply with State-wide changes in interoperability, compatibility and reciprocity standards, requirements, agreements and protocols in accordance with applicable provisions of the Technical Provisions.

9.1.2 Each Technology Enhancement described in Section 9.1.1(a) and (b) shall be at Developer's sole cost, and Developer shall have no right to a Relief Event, additional compensation, schedule relief or other relief on account of such Technology Enhancements; for each Technology Enhancement described in Section 9.1.1(c) Developer shall be entitled to submit a Relief Event Notice and such Technology Enhancements shall be treated as a Relief Event under clause (d) of the definition of "Relief Event" (Non-Discriminatory O&M Change).

9.2 Safety Compliance

9.2.1 IFA is entitled from time to time to issue Safety Compliance Orders to Developer with respect to the East End Crossing to correct a specific safety condition or risk involving the East End Crossing that IFA has reasonably determined exists through investigation or analysis.

9.2.2 IFA shall use good faith efforts to inform Developer at the earliest practicable time of any circumstance or information relating to the East End Crossing which in IFA's reasonable judgment is likely to result in a Safety Compliance Order. Except in the case of Emergency, IFA shall consult with Developer prior to issuing a Safety Compliance Order concerning the risk to public or worker safety, alternative compliance measures, cost impacts, and the availability of Developer resources to fund the Safety Compliance work.

9.2.3 Subject to conducting such prior consultation (unless excused in the case of Emergency), IFA may issue Safety Compliance Orders to Developer at any time from and after the Effective Date.

9.2.4 Developer shall implement each Safety Compliance Order as expeditiously as reasonably possible following its issuance. Developer shall diligently prosecute the work necessary to achieve such Safety Compliance until completion. In no event shall Developer be entitled to claim that any Force Majeure Event or Relief Event relieves Developer from compliance with any Safety Compliance Order.

9.3 Emergency Repair Work

9.3.1 Developer shall be responsible for procuring and overseeing temporary and/or permanent repair work in response to an Emergency for the East End Crossing from and after issuance of NTP2. Developer shall solicit competitive bids for such work if FHWA or FEMA regulations, policies or procedures require competitive bidding in order to obtain reimbursement for eligible costs. IFA shall provide oversight relating to such Emergency-related repair work in accordance with the PPA Documents.

9.3.2 Developer shall ensure that such repair work is performed in accordance with the PPA Documents and State and federal Law applicable to such Emergency-related repair work, including the requirements of the FHWA Emergency Relief Manual as most recently published by the FHWA (http://www.fhwa.dot.gov/reports/erm/). Further, Developer shall maintain estimates, cost records and supporting documentation in accordance with such Laws, and in a form and content to enable IFA to seek reimbursement for eligible costs from FHWA or FEMA, if applicable.

ARTICLE 10. PAYMENTS TO DEVELOPER; IFA'S COSTS

10.1 Milestone Payment and Adjustments

10.1.1 Subject to Sections 10.1.2.1, 10.1.2.2 and 5.10.8, IFA agrees to make payments (each a "Milestone Payment") in the amounts as calculated pursuant to Exhibit 10 and according to the schedule set forth in Exhibit 4 (in the aggregate, the "Milestone Payment Amounts"). The Milestone Payments are payments IFA chooses to make as an economic measure in lieu of larger Availability Payments, in order to maximize the overall value to IFA of this Agreement.

10.1.1.1 IFA has entered into an agreement (the "Milestone Agreement") with the Department, pursuant to which the Department will agree to make payments to IFA for deposit with the Project Trustee in an amount at least equal to the Milestone Payments owed by IFA under this Agreement. The Milestone Payments are limited obligations of IFA, payable solely from the amounts held by the Project Trustee under the Project Trust Agreement for this purpose. The obligation of IFA to make Milestone Payments does not constitute an indebtedness of the State or any political subdivision thereof within the meaning or application of any constitutional provision or limitation. The obligation of IFA to make Milestone Payments does not constitute a pledge of the faith, credit or taxing power of the State or any political subdivision thereof within the meaning or application of any constitutional provision or limitation. IFA has no taxing power. Developer has no right to have taxes levied or compel appropriations by the General Assembly of the State for any payment of the Milestone Payments.

10.1.1.2 In the Milestone Agreement, the Department covenants that it will do all things lawfully within its power to obtain and maintain funds from which to meet its payment obligations to IFA under the Milestone Agreement, including, but not limited to, requesting an appropriation in an amount sufficient to meet its payment obligations to IFA under the Milestone Agreement in writing submitted to the General Assembly of the State at a time sufficiently in advance of the date for payment thereof so that an appropriation may be made from the General Assembly in the normal State budgetary process, using its bona fide best efforts to have such request approved, and exhausting all available reviews and appeals if such request is not approved. In addition and notwithstanding a non-renewal or termination of the Milestone Agreement, IFA hereby covenants that it will do all things lawfully within its power to obtain and maintain funds from which to meet its Milestone Payment obligations owed to Developer under this Agreement, including, but not limited to (i) requesting, or causing the Department to request, an appropriation to, or for the benefit of the Department, in an amount sufficient to meet its payment obligations to IFA under the Milestone Agreement in writing submitted to the General Assembly of the State at a time sufficiently in advance of the date for payment thereof so that an appropriation may be made from the General Assembly in the normal State budgetary process, using its bona fide best efforts to have such request approved, and exhausting all available reviews and appeals if such request is not approved; and (ii) requesting an appropriation in an amount sufficient to meet its Milestone Payment obligations owed to Developer under this Agreement in writing submitted to the General Assembly of the State at a time sufficiently in advance of the date for payment thereof so that an appropriation may be made from the General Assembly in the normal State budgetary process, using its bona fide best efforts to have such request approved, and exhausting all available reviews and appeals if such request is not approved.

10.1.1.3 IFA hereby covenants and agrees to use its best efforts to enforce the provisions of the Milestone Agreement and the obligations of the Department thereunder.

10.1.1.4 IFA shall provide Notice to Developer within five (5) days of (i) a default by the Department under the Milestone Agreement and (ii) receiving notice of non-extension issued by the Department under the Milestone Agreement.

10.1.1.5 IFA shall provide Notice to Developer of any addendum, amendment or modification to the Milestone Agreement.

10.1.2 Except, for purposes of submitting invoices for Milestone Payments in respect of the Milestone of Substantial Completion, and subject to Section 10.1.3, Developer shall provide Notice to IFA when Developer believes it has achieved a Milestone. IFA shall inspect the Work and either (a) certify such completion or (b) provide Notice to Developer why it is not certifying such completion (setting forth reasons why IFA is not certifying), in either case within ten (10) Business Days of the date IFA receives Developer's Notice. Refer to Section 5.8 in respect of the process by which the Parties determine achievement, and evidence of achievement, of the Milestone of Substantial Completion. Upon receipt of an IFA certificate certifying completion of (a) Milestone(s) (including, if and as applicable, the Milestone of Substantial Completion), Developer shall submit an invoice for the Milestone Payment(s) due and payable, in each instance, in the amount (as may be adjusted pursuant to Sections 10.1.3 and 10.1.4) in respect of such Milestone(s) (including, if and as applicable, the Milestone of Substantial Completion), in each case as set forth in Exhibit 4, in a format acceptable to IFA, upon IFA certification of completion of such Milestone. IFA shall make payment to Developer of each Milestone

Payment Amount within thirty-five (35) days after the receipt of Developer's invoice therefor, provided:

10.1.2.1 Developer has fully and completely cured all Developer Defaults for which Developer received Notice from IFA prior to IFA's receipt of the foregoing invoice and written certification;

10.1.2.2 Developer has met all the conditions set forth in Section 3.4.2.2, if there exist any of the circumstances described in Section 3.4.2.1 prior to IFA's receipt of the foregoing invoice and written certification; and

10.1.2.3 If Developer issues an invoice to IFA prior to the availability of funding in accordance with the aggregate Milestone Payment schedule set forth in Section 4.3(1) of Exhibit 10, then IFA shall pay Developer on the later of (a) thirty-five (35) days from the date of receipt of such invoice and (b) the first day the funds become available, as per the maximum aggregate Milestone Payment schedule identified in Section 4.3(1) of Exhibit 10. For purposes of clarity, if the first day such funds become available post-dates the date that is thirty-five (35) days from the date of IFA's receipt of Developer's invoice, then (i) IFA shall not be, nor be deemed to be, in default of its payment obligations hereunder, (ii) there shall there exist, nor be deemed to exist, an IFA Default under Sections 19.3.1.1 or 19.3.1.3 of this Agreement, and (iii) IFA shall not be, nor be deemed to be, obligated to pay late-payment interest in accordance with Section 15.13, in each case until such time, if ever, IFA has not paid Developer on the first day such funds become available to IFA to make such payment.

10.1.3 The Milestone Payment due and payable at Substantial Completion shall be subject to adjustment by the total amount of the Milestone Payment Adjustments in respect of pre-Substantial Completion Noncompliance Events relating to the Construction Work in accordance with Exhibits 10 and 12. Developer acknowledges that such adjustments to the Milestone Payments are reasonable liquidated damages in order to compensate IFA for damages it will incur by reason of Developer's failure to comply with the requirements set forth in Attachment 1 to Exhibit 12 ("Pre-Substantial Completion Events" portion), as such amounts are calculated pursuant to Section 4.2 of Exhibit 10. Such damages include:

10.1.3.1 IFA's increased costs of administering this Agreement, including the increased costs of legal, accounting, monitoring, oversight and overhead, and may include obligations to pay or reimburse Governmental Entities with regulatory jurisdiction over the East End Crossing for violation of applicable Governmental Approvals or for their increased costs of monitoring and enforcing Developer's compliance with applicable Governmental Approvals;

10.1.3.2 Potential harm and future costs to IFA or the Department from reduction in the condition and Design Life of the East End Crossing;

10.1.3.3 Potential harm to the credibility and reputation of the Department's transportation improvement program with other Governmental Entities, with policy makers and with the general public who depend on and expect availability of service;

10.1.3.4 Potential harm or detriment to the general public, which may include loss of the use, enjoyment and benefit of the East End Crossing and of facilities connecting to the East End Crossing;

10.1.3.5 Loss of economic benefits by other Governmental Entities owning and operating transportation facilities that connect to or are affected by the East End Crossing; and

10.1.3.6 IFA's or the Department's or KYTC's increased costs of addressing potential harm to the Environment, including increased harm to air quality caused by congestion, and harm to water quality, soils conditions, historic structures and other environmental resources.

10.1.4 Developer further acknowledges that these damages would be difficult and impracticable to measure and prove because, among other things, (a) the East End Crossing is of a unique nature and no substitute for it is available; (b) the costs of monitoring and oversight prior to increases in the level thereof will be variable and extremely difficult to quantify; (c) the nature and level of increased monitoring and oversight will be variable depending on the circumstances; and (d) the variety of factors that influence use of and demand for the East End Crossing make it difficult to sort out causation of the matters that will trigger these damages and to quantify actual damages.

10.1.5 The Milestone Payment Adjustments are each subject to the Milestone Payment Adjustment Cap and such other adjustments as are set forth in Exhibit 10.

10.1.6 On or before the first day of August of each even numbered year, IFA shall prepare an annual budget forecast for the ensuing two (2) Fiscal Years which shall set forth in reasonable detail (i) the Milestone Payment owed by IFA to Developer under this Agreement for each such Fiscal Year, (ii) the amount of funds held in the MP Appropriations Fund held under the Project Trust Agreement expected to be available to make Milestone Payments in such Fiscal Year and (iii) the amount of funds to be appropriated by the General Assembly of the State to the Department to make the payments to IFA under the Milestone Agreement. As soon as available after the end of each session of the General Assembly during an odd numbered year but in any event prior to the beginning of the ensuing Fiscal Year, IFA shall adopt annual budgets for each of the ensuing two (2) Fiscal Years in such Biennium which shall set forth in reasonable detail (i) the Milestone Payment owed by IFA to Developer under this Agreement for each such Fiscal Year, (ii) the amount of funds held in the MP Appropriations Fund held under the Project Trust Agreement expected to be available to make Milestone Payments in such Fiscal Year, and (iii) the actual amount of funds appropriated by the General Assembly to the Department to make the payments to IFA under the Milestone Agreement.

If the annual budget forecast for any Fiscal Year forecasts a deficiency in the amount necessary to make the Milestone Payments, then IFA shall cause a budget request to be made at the next session of the General Assembly of the State or take other action to cure such deficiency. IFA shall establish the payments to be made by the Department to IFA under the Milestone Agreement in an amount which is expected to be at least equal the Milestone Payments to be made by IFA to Developer under this Agreement in such Fiscal Year, after taking into account the amount of funds held in the MP Appropriations Fund held under the Project Trust Agreement expected to be available to make Milestone Payments in such Fiscal Year. Prior to the beginning of each Fiscal Year, IFA shall review the payments under the Milestone Agreement and promptly establish or revise such payments as may be necessary to comply with the foregoing requirements.

10.2 Availability Payments

10.2.1 Timing and Basis for Availability Payments

10.2.1.1 IFA shall pay Availability Payments to Developer as provided in this Section 10.2. The obligation of IFA to pay the Availability Payments to Developer shall commence upon the Substantial Completion Date.

a. The obligation of IFA to make Availability Payments following the Substantial Completion Date is based on, and is subject to, the O&M Limits being open and available for public travel as measured through Developer's compliance with the PPA Documents.

b. IFA has entered into the Use Agreement with the Department, pursuant to which the Department will agree to make payments to IFA for deposit with the Project Trustee in an amount equal to the Availability Payments and certain other amounts owed by IFA under this Agreement. The Availability Payments are limited obligations of IFA, payable solely from funds held for that purpose under the Project Trust Agreement. The obligation of IFA to make Availability Payments does not constitute an indebtedness of the State or any political subdivision thereof within the meaning or application of any constitutional provision or limitation. The obligation of IFA to make Availability Payments does not constitute a pledge of the faith, credit or taxing power of the State or any political subdivision thereof within the meaning or application of any constitutional provision or limitation. IFA has no taxing power. Developer has no right to have taxes levied or to compel appropriations by the General Assembly of the State for any payment of the Availability Payments.

c. In the Use Agreement, the Department covenants that it will do all things lawfully within its power to obtain and maintain funds from which to meet its payment obligations to IFA under the Use Agreement, including, but not limited to, requesting an appropriation in an amount sufficient to meet its payment obligations to IFA under the Use Agreement in writing submitted to the General Assembly of the State at a time sufficiently in advance of the date for payment thereof so that an appropriation may be made in the normal State budgetary process, using its bona fide best efforts to have such request approved, and exhausting all available reviews and appeals if such request is not approved. In addition, IFA hereby covenants that it will do all things lawfully within its power to obtain and maintain funds from which to meet its Availability Payment obligations to Developer under this Agreement, including, but not limited to (i) requesting, or causing the Department to request, an appropriation to, or for the benefit of the Department, in an amount sufficient to meet its obligations to IFA under the Use Agreement in writing submitted to the General Assembly of the State at a time sufficiently in advance of the date for payment thereof so that an appropriation may be made from the General Assembly in the normal State budgetary process, using its bona fide best efforts to have such request approved, and exhausting all available reviews and appeals if such request is not approved; and (ii) requesting an appropriation in an amount sufficient to meet its Availability Payment obligations to Developer under this Agreement in writing submitted to the General Assembly of the State at a time sufficiently in advance of the date for payment thereof so that an appropriation may be made from the General Assembly in the normal State budgetary process, using its bona fide best efforts to have such request approved, and exhausting all available reviews and appeals if such request is not approved.

d. IFA hereby covenants and agrees to use its best efforts to enforce the provisions of the Use Agreement and the obligations of the Department thereunder.

e. IFA shall provide Notice to Developer within five (5) days upon receiving notice issued by the Department under the Use Agreement (i) of any default by the Department under the Use Agreement and (ii) that the Use Agreement will not be renewed.

f. IFA shall provide Notice to Developer of any addendum, amendment or modification to the Use Agreement.

10.2.2 Availability Payment Calculation

10.2.2.1 Availability Payments shall be calculated and earned by Developer according to the methodology set forth in Exhibit 10 (Payment Mechanism). The Availability Payments payable during any given Fiscal Year shall never exceed the MAP for that Fiscal Year, determined as set forth in Exhibit 10 (Payment Mechanism).

10.2.2.2 Each Availability Payment constitutes a single, all-inclusive payment with no fixed component and no separation of payments for operations, capital, maintenance, Rehabilitation Work, Handback or Rehabilitation Work. Availability Payments are not intended and shall not be construed as progress payments or retention under Indiana Law.

10.2.2.3 In addition to any other deductions or withholdings allowed under this Agreement, the Availability Payments shall be subject to adjustment for Unavailability Events, Noncompliance Events and other adjustments in accordance with Exhibit 10 (Payment Mechanism), subject to the limitation on adjustments during an IFA step-in as set forth in Section 11.7.

10.2.3 Availability Payment Invoicing

10.2.3.1 IFA shall pay the Availability Payments by making Monthly Disbursements as partial payments of each Quarterly Payment. The Availability Payment for any partial Quarter shall be prorated. IFA shall pay Developer a Monthly Disbursement and Quarterly Payment (net of the amount of Monthly Disbursements for such Quarter) within thirty-five (35) days after IFA receives a proper invoice for the applicable month or Quarter that meets the requirements of this Section 10.2.3. The thirty-five- (35)-day period within which to make payment of a Monthly Disbursement or Quarterly Payment (net of the amount of Monthly Disbursements for such Quarter) shall not begin until Developer submits and IFA receives a proper invoice therefor in accordance with this Section 10.2.3.

10.2.3.2 Developer shall submit the invoice no earlier than two (2) and no later than forty-five (45) days after the end of the prior month or Quarter, as applicable. For purposes of clarity, the invoice for the month that marks the end of the subject Quarter shall be an invoice for a Quarterly Payment, and the invoice for months that do not mark the end of the subject Quarter shall be an invoice for a Monthly Disbursement. The invoice must set forth the amount and calculation of the Monthly Disbursement or Quarterly Payment (net of the amount of Monthly Disbursements for such Quarter) due, including, in respect of the invoice for a Quarterly Payment, the calculation of the Quarterly Payment Adjustment for all applicable Unavailability Events and Noncompliance Events in accordance with Exhibit 10 (Payment Mechanism), if any, for the prior Quarter. In addition, the invoice for a Quarterly Payment must

be accompanied by an attached report containing information that IFA can use to verify the Quarterly Payment and all components of the Quarterly Payment Adjustment for Unavailability Events and Noncompliance Events for the prior Quarter. Such attached report shall include:

a. The calculation of the actual Availability Payment earned during the prior Quarter using the methodology set forth in Exhibit 10 (Payment Mechanism) for determining the Quarterly Payment Adjustment;

b. A description of any Unavailability Events, including the date and time of occurrence and duration;

c. A description of any Noncompliance Events;

d. Any adjustments to reflect previous over-payments and/or under-payments;

e. A detailed calculation of any interest payable in respect of any amounts owed; and

f. Any other amount due and payable from Developer to IFA or from IFA to Developer under this Agreement, including deductions IFA is entitled to make under Section 6.13.2.1 (quarterly Handback Requirements Reserve Account deposit) and Section 11.5 (Noncompliance Points).

10.2.3.3 IFA shall return any invoices that are incomplete and/or incorrect in any material respect to Developer for correction and resubmission.

10.2.3.4 IFA will verify the amount of each Monthly Disbursement and each Quarterly Payment (net of the amount of Monthly Disbursements for such Quarter) by (a) examining the invoice for the applicable month or Quarter, as applicable, (b) verifying the results reported therein by Developer, including through IFA's independent oversight and auditing process, and (c) reconciling the actual Monthly Disbursement or Quarterly Payment (net of the amount of Monthly Disbursements for such Quarter) earned and any other amount due and payable from Developer to IFA or from IFA to Developer under this Agreement.

10.2.3.5 IFA shall not be required to pay any monthly or quarterly invoice if Developer has failed to file the reports required to be filed for that Quarter as required by Section 22.1.9 of the Technical Provisions, unless and until the required reports are filed. Subject to Section 10.3.1 regarding the payment of amounts not in dispute, if it is determined that any quarterly report required to be filed pursuant to Section 22.1.9 of the Technical Provisions is inaccurate, which, had it been accurate, would have revealed that an Unavailability Event or Noncompliance Event had occurred, then IFA shall not be required to pay any monthly or quarterly invoice submitted by Developer unless and until Developer submits to IFA a revised report which is accurate to the reasonable satisfaction of IFA. Once the required or revised reports are filed, IFA shall process the quarterly invoice for payment. The failure to file a quarterly report or the filing of an inaccurate report may result in the assessment of Noncompliance Points.

10.2.4 IFA Budgeting and Appropriations

10.2.4.1 On or before the first day of August of each even numbered

year, IFA shall prepare an annual budget forecast for the ensuing two (2) Fiscal Years which shall set forth in reasonable detail (i) the estimated Indiana Revenue Share for each such Fiscal Year, (ii) the Maximum Availability Payment for each such Fiscal Year, (iii) the estimated Toll System Collection Expense First Priority Costs and IFA's Costs for such Fiscal Years, (iv) the estimated amount of additional payments owed under this Agreement, including Termination Compensation and payments with respect to Relief Events for such Fiscal Years, and (v) the estimated required deposits, if any, to funds or accounts created under the Project Trust Agreement for such Fiscal Years, (vi) the amount of funds to be appropriated to the Department to make the payments to IFA under the Use Agreement; and (vii) the amount of funds to be appropriated to IFA to make the payments to Developer under this Agreement.

10.2.4.2 As soon as available after the end of each session of the General Assembly of the State during an odd numbered year, but in any event prior to the beginning of the ensuing Fiscal Year, IFA shall adopt annual budgets for each of the ensuing two (2) Fiscal Years in such Biennium which shall set forth in reasonable detail (i) the estimated Indiana Revenue Share for each such Fiscal Year, (ii) the Maximum Availability Payment for each such Fiscal Year, (iii) the estimated Toll System Collection Expenses, First Priority Costs and IFA's Costs for such Fiscal Years, (iv) the estimated amount of additional payments owed under this Agreement, including Termination Compensation and payments with respect to Relief Events for such Fiscal Years, (v) the required deposits, if any, to funds or accounts created under the Project Trust Agreement for such Fiscal Years, (vi) the actual amount of funds appropriated for each such Fiscal Year to the Department to make the payments to IFA under the Use Agreement; and (vii). the amount of funds appropriated to IFA for each Fiscal Year to make the payments to Developer under this Agreement.

10.2.4.3 If the proposed annual budget forecast for any Fiscal Year forecasts a deficiency in the amount necessary to make the payments described in (ii) through (v) of Section 10.2.4.2, then IFA shall cause a budget request to be made at the next session of the General Assembly of the State to cure such deficiency.

10.2.4.4 IFA shall establish the payments to be made by the Department under the Use Agreement for each Fiscal Year in an amount which is expected to be at least equal to the sum of (i) the Toll System Collection Expenses, the First Priority Costs and IFA's Costs during such Fiscal Year, and (ii) the Maximum Availability Payment for such Fiscal Year. Prior to the onset of each Fiscal Year, IFA shall review the use payments so established and promptly establish or revise such use payments as necessary to comply with the foregoing requirements.

10.2.5 Sources for Availability Payments

Each Monthly Disbursement and Quarterly Payment (net of the amount of Monthly Disbursements for such Quarter) is payable from amounts held in the AP Payment Fund, which amounts are to be funded, as more fully provided in the Project Trust Agreement, in the following order of priority:

10.2.5.1 By transfer of amounts from the Toll Revenue Fund established under the Project Trust Agreement which amounts are to be funded from the Toll Revenue Fund after payment of the Toll System Collection Expenses and the First Priority Costs, as more fully provided in the Project Trust Agreement, until the Quarterly Payment and all prior Quarterly Payments are paid in full, or any lesser balance in such Fund is exhausted;

10.2.5.2 By transfer of amounts from the AP Appropriations Fund established under the Project Trust Agreement, as necessary to pay the remaining balance of such Quarterly Payment; and

10.2.5.3 If the prior two sources are insufficient, by transfer from amounts in the General Reserve Fund established under the Project Trust Agreement to make up any deficiencies.

10.2.6 [reserved]

10.2.7 Proration of Availability Payments for Partial Quarters

10.2.7.1 The Quarterly Payment for the Quarter in which the Substantial Completion Date occurs shall be prorated, before applying the Quarterly Payment Adjustment, based on the ratio that the number of days in such Quarter from and after the Substantial Completion Date bears to the total number of days in such Quarter. Developer shall submit invoices for Monthly Disbursements of any such prorated Quarter.

10.2.7.2 The Quarterly Payment for the Quarter in which the Termination Date occurs shall be prorated, before applying the Quarterly Payment Adjustment, based on the ratio that the number of days in such Quarter up to and including the Termination Date bears to the total number of days in such Quarter. Developer shall submit invoices for Monthly Disbursements of any such prorated Quarter.

10.3 Disputed Amounts

10.3.1 IFA shall have the right to dispute, in good faith, any amount specified in an invoice submitted pursuant to Section 10.1 or 10.2. IFA shall pay the amount of the invoice in question that is not in Dispute, and pending resolution of the Dispute is entitled and obligated to deposit the balance in the MP Disputed Amounts Fund or the AP Disputed Amounts Fund, respectively, held under the Project Trust Agreement. Refer to Section 19.2.5.6 for further provisions regarding IFA deductions and offsets and deposits of disputed amounts.

10.3.2 Developer and IFA shall use their reasonable efforts to resolve any such Dispute within thirty (30) days after the Dispute arises. If they fail to resolve the Dispute within that period, then the Dispute shall be resolved according to the Dispute Resolution Procedures.

10.3.3 Any amount determined to be due pursuant to the Dispute Resolution Procedures will be paid within twenty (20) days following resolution of the Dispute, together with interest thereon in accordance with Section 10.4 accruing from the date on which the payment should originally have been made to the date on which the payment is made.

10.4 Interest on Delinquent Payments and Overpayments

10.4.1 The Milestone Payments and Availability Payments owed to Developer under this Agreement and not paid when due shall bear interest at a floating rate equal to the LIBOR in effect from time to time plus four hundred (400) basis points, commencing on the date due and continuing until paid; provided, however, that if all or any portion of such a payment is withheld due to a good faith Dispute over whether it is due, then from the date withheld until the date it is finally determined pursuant to the Dispute Resolution Procedures to be due such payment shall

bear interest at the rate of earnings during such period on funds in the account under the Project Trust Agreement where the disputed amount is held pending resolution of the Dispute.

10.4.2 If as a result of any inaccuracy in an invoice any overpayment is made by IFA to Developer then, in addition to the adjustments to a Quarterly Payment as provided in Section 10.2.2.3, IFA shall be entitled to deduct or receive as a payment from Developer interest thereon at a floating rate equal to the LIBOR in effect from time to time plus four hundred (400) basis points, commencing on the date of IFA's payment of the invoice to the date the overpayment is deducted or paid. IFA will provide Notice to Developer of any IFA determination that it is entitled to deduct or receive payment for interest owed on any such overpayment. Such right of IFA to deduct or receive payment of interest is without prejudice to any other rights IFA may have under this Agreement.

10.4.3 Amounts determined to be due pursuant to the Dispute Resolution Procedures shall accrue interest at the foregoing rate.

10.5 IFA's Costs

10.5.1 IFA has established or will establish sources for funding of IFA's Costs and First Priority Costs incurred prior to the Baseline Substantial Completion Date, which may include funds held under the Project Trust Agreement.

10.5.2 IFA's Costs and First Priority Costs incurred from and after the Baseline Substantial Completion Date shall be paid monthly as follows:

10.5.2.1 Toll System Collection Expenses shall be paid from amounts held in the Toll System Collection Expense Fund established under the Project Trust Agreement, which amounts are to be funded by a transfer from the Toll Revenue Fund up to the amount of such monthly Toll System Collection Expenses or until any lesser balance in the Toll Revenue Fund is exhausted, then by a transfer from the AP Appropriations Fund up to the amount of the balance of such monthly Toll System Collection Expenses or until any lesser balance in the AP Appropriations Fund is exhausted but only after making the required deposits to the AP Payment Fund, and if the prior two sources are insufficient, then by a transfer from the General Reserve Fund;

10.5.2.2 the First Priority Costs shall be funded from the IFA First Priority Costs Fund established under the Project Trust Agreement, which amounts are to be funded by a transfer from the Toll Revenue Fund up to the amount of such monthly First Priority Costs or until any lesser balance in the Toll Revenue Fund is exhausted, then by a transfer from the AP Appropriations Fund up to the amount of the balance of such monthly First Priority Costs or until any lesser balance in the AP Appropriations Fund is exhausted and if the prior two sources are insufficient then by a transfer from the General Reserve Fund; and

10.5.2.3 IFA's Costs shall be funded from the Other IFA Costs Fund established under the Project Trust Agreement, which amounts are to be funded by a transfer from the Toll Revenue Fund, then from the AP Appropriations Fund after making the required monthly deposits to the Toll System Collection Fund, the IFA First Priority Costs Fund and the AP Payment Fund, then if the prior two sources are insufficient then by a transfer from the General Reserve Fund.

10.6 IFA Right of Withholding.

IFA will in good faith perform its required obligations hereunder. Except as otherwise provided under this Agreement, IFA does not agree to pay any penalties, liquidated damages, or attorney's fees. Developer agrees that any payments in arrears and currently due to IFA may be withheld from payments due by IFA to Developer.

ARTICLE 11. NONCOMPLIANCE EVENTS AND NONCOMPLIANCE POINTS

11.1 Noncompliance Points System

11.1.1 Attachment 1 of Exhibit 12 to this Agreement sets forth a table for the identification of Noncompliance Events and the "Cure Period" (if any) available to Developer for each such Noncompliance Event. Noncompliance Points are a system to measure Developer performance levels and trigger the remedies set forth or referenced in this Article 11. The inclusion in Attachment 1 of Exhibit 12 to this Agreement of a breach or failure to perform bears no implication as to whether the breach or failure is material. For purposes of this Section 11.1, "Cure Period" shall be that which is identified in the context of Noncompliance Events, as indicated in the table labeled "Assessment Categories" in such Attachment 1.

11.1.2 Attachment 1 of Exhibit 12 (Noncompliance Points System and Persistent Developer Default) to this Agreement contains a representational, but not exhaustive, list of Noncompliance Events possible under the PPA Documents. Accordingly, subject to Sections 11.1.3 and 11.1.4, IFA may from time to time add an entry to Attachment 1 of Exhibit 12 to this Agreement describing a Noncompliance Event under the existing PPA Documents that was not previously included in Attachment 1 of Exhibit 12 to this Agreement, establishing the Noncompliance Points applicable to such Noncompliance Event by assigning to it one of the Noncompliance Event assessment categories (A, B and C) as set forth in Attachment 1 to Exhibit 12, and setting a "Cure Period" therefor (or no "Cure Period"). IFA's right to make additions or adjustments to Attachment 1 of Exhibit 12 to this Agreement shall not be exercised in a manner to expand, nor shall it be deemed to expand, Developer's existing contractual obligations as set forth in the PPA Documents, but rather to add existing contractual obligations with greater detail as set forth in the PPA Documents to the list of Noncompliance Events for which Noncompliance Points may be assessed in accordance herewith.

11.1.3 IFA's right to add existing contractual obligations to Attachment 1 of Exhibit 12 to this Agreement or otherwise make adjustments to Attachment 1 of Exhibit 12 based on existing contractual obligations is limited to obligations respecting O&M Work and is limited such that the total number of Noncompliance Points set forth in Attachment 1 of Exhibit 12 to this Agreement as they exist on the Effective Date shall not increase by more than ten percent (10%) for the Term. IFA may elect to remove contractual obligations and reduce Noncompliance Points allocated to listed contractual obligations through re-categorization between the Noncompliance Event assessment categories (A, B and C) in order to comply with the ten percent (10%) growth limit. Further, IFA shall have no right to assess Noncompliance Points on account of a Noncompliance Event that occurs prior to the date it is added to Attachment 1 of Exhibit 12 to this Agreement.

11.1.4 On or within thirty (30) days following the third anniversary of the Substantial Completion Date, and every third anniversary thereafter for the Term, and only upon such dates (and not at any other time, except by mutual agreement of the Parties), IFA shall provide Notice

to Developer that IFA proposes to make additions or other adjustments to Attachment 1 of Exhibit 12 to this Agreement, subject to the aggregate limit set forth in Section 11.1.3. Developer shall have fifteen (15) days after receipt of any recommended additions or adjustments to deliver written comments to IFA. IFA shall consider Developer's comments and, within fifteen (15) days after receipt of Developer's written comments, and subject to the limitations otherwise set forth in this Section 11.1, IFA shall deliver to Developer a revised Attachment 1 of Exhibit 12, which shall be determined in IFA's good faith discretion, which revised Attachment 1 of Exhibit 12 shall set forth the revised terms and/or additions or other adjustments to the Noncompliance Points regime therein. Such revised Attachment 1 of Exhibit 12 shall be effective upon the earlier of receipt by Developer and three (3) days after transmittal to Developer by IFA.

11.2 Assessment Notification and Cure Process

11.2.1 Notification Initiated by Developer

11.2.1.1 As an integral part of Developer's self-monitoring obligations, Developer shall establish and maintain an electronic data base of each Noncompliance Event specified in Attachment 1 of Exhibit 12 to this Agreement, as it may be revised from time to time; and Developer shall enter each Noncompliance Event into the data base in real time upon discovery. The format and design of the data base shall be subject to IFA's reasonable approval. At a minimum, the data base shall:

a. Include a description of each Noncompliance Event in reasonable detail, including its assessment category as set forth in Attachment 1 of Exhibit 12 to this Agreement;

b. Identify the East End Crossing location (if applicable);

c. Identify the date and time of occurrence;

d. Identify the applicable response time, if any;

e. Indicate the applicable cure period, if any, as set forth in Attachment 1 of Exhibit 12 to this Agreement;

f. Indicate status; and

g. Indicate date and time of cure.

11.2.1.2 Developer shall ensure that IFA has electronic access to the data base at all times and ability to make entries as provided in Section 11.2.1.1. Developer shall retain each Noncompliance Event entry into the database until at least four (4) years after the date of cure.

11.2.1.3 Each Operations Report to IFA shall include a report of all Noncompliance Events occurring during the preceding quarter. At its sole discretion, IFA may require more frequent reports of Noncompliance Events; provided, however, that IFA may not require a frequency greater than monthly except that IFA may require reports more frequently during any period of a Persistent Developer Default. The Operations Report (or more frequent report) shall include all the same information required in the electronic data base and shall identify each Noncompliance Event for which the cure has not yet occurred. Within a

reasonable time after receiving the Operations Report (or more frequent report), IFA shall deliver to Developer a Notice setting forth for each Noncompliance Event the applicable cure period (if any), IFA's determination whether the Noncompliance Event was cured during the applicable cure period (if any), and the Noncompliance Points to be assessed with respect thereto (a "Notice of Determination").

11.2.2 Notification Initiated by IFA

If IFA believes there has occurred any Noncompliance Event specified in Attachment 1 of Exhibit 12 to this Agreement, as it may be revised from time to time, IFA may deliver to Developer a Notice of Determination setting forth the Noncompliance Event, the applicable cure period (if any), IFA's determination whether the Noncompliance Event was cured during the applicable cure period (if any), and the Noncompliance Points to be assessed with respect thereto. IFA may deliver the Notice of Determination via the electronic data base, and delivery shall be deemed given upon proper entry of the information into the electronic data base.

11.2.3 Cure Periods

11.2.3.1 Developer shall cure each Noncompliance Event by the end of the cure period (if any) for each such Noncompliance Event set forth in Attachment 1 of Exhibit 12 to this Agreement.

11.2.3.2 For each Noncompliance Event identified by the assessment category "A" in Attachment 1 of Exhibit 12 to this Agreement, Developer's cure period (if any) with respect to the Noncompliance Event shall be deemed to start upon the date and time Developer first obtained knowledge or reason to know of the Noncompliance Event. For this purpose, if the Notice of the Noncompliance Event is initiated by IFA, Developer shall be deemed to first obtain knowledge of the Noncompliance Event not later than the date of delivery of the Notice to Developer.

11.2.3.3 For each Noncompliance Event identified by the assessment category "B" in Attachment 1 of Exhibit 12 to this Agreement, Developer's cure period shall be deemed to start upon the date and time that the Noncompliance Event occurred, regardless of whether IFA has delivered a Notice to Developer.

11.2.3.4 Each of the cure periods set forth in Attachment 1 of Exhibit 12 to this Agreement shall be the only cure period for Developer applicable to the Noncompliance Event; and if such cure period set forth in Attachment 1 of Exhibit 12 to this Agreement differs from any cure period set forth in Section 19.1.2 that might otherwise apply to the Noncompliance Event, such cure period set forth in Attachment 1 of Exhibit 12 to this Agreement shall control.

11.2.4 Notification of Cure

11.2.4.1 When Developer determines that it has completed cure of any Noncompliance Event for which it is being assessed Noncompliance Points, Developer shall enter in the electronic data base, as well as in the next Operations Report (or more frequent report), Notice identifying the Noncompliance Event, stating that Developer has completed cure and briefly describing the cure, including any modifications to the Project Management Plan to protect against future similar Noncompliance Events.

11.2.4.2 Thereafter, IFA shall have the right, but not the obligation, to inspect to verify completion of the cure. If satisfied that the Noncompliance Event is fully cured, IFA shall deliver to Developer a certification of cure either by entry into the data base or in a separate writing within a reasonable time from the date that IFA has completed its inspection to verify completion of the cure.

11.2.4.3 IFA may reject any Developer Notice of cure if IFA determines that Developer has not fully cured the Noncompliance Event. Upon making this determination, IFA shall deliver a Notice of rejection to Developer either by entry into the data base or in a separate writing. Any Dispute regarding rejection of cure shall be resolved according to the Dispute Resolution Procedures.

11.3 Assessment of Noncompliance Points

If (a) the electronic data base or Operations Report (or more frequent report) indicates or IFA is notified or otherwise becomes aware of a Noncompliance Event or (b) IFA serves Notice of Determination under Section 11.2.2, IFA may assess Noncompliance Points in accordance with Exhibit 12 (Noncompliance Points System and Persistent Developer Default), subject to the following terms and conditions.

11.3.1 The date of assessment shall be deemed to be the date of the end of the first cure period, and the date of the end of each subsequent cure periods, regardless of the date of the initial Notice of Determination under Section 11.2.2.

11.3.2 IFA shall not be entitled to assess Noncompliance Points under more than one assessment category for any particular Noncompliance Event.

11.3.3 A failure by Developer to keep record of or report to IFA a Noncompliance Event as and when required under Section 11.2.1.1 or 11.2.1.2, on the one hand, and the subject Noncompliance Event, on the other hand, constitute separate and distinct breaches and failures to perform for the purpose of assessing Noncompliance Points.

11.3.4 The number of points listed in Attachment 1 of Exhibit 12 to this Agreement for any particular Noncompliance Event is the maximum number of Noncompliance Points that may be assessed for each event or circumstance that is a Noncompliance Event. IFA may, but is not obligated to, assess less than the maximum number of Noncompliance Points for any particular Noncompliance Event.

11.3.5 If a Noncompliance Event for which a cure period is provided in Attachment 1 of Exhibit 12 to this Agreement is not fully and completely cured within the applicable cure period, then continuation of such Noncompliance Event beyond such cure period shall be treated as a new and separate Noncompliance Event, without necessity for further Notice, for the purpose of assessing Noncompliance Points. Accordingly, without further Notice, (a) a new cure period equal to the prior cure period shall commence upon expiration of the prior cure period and (b) if applicable, a further Quarterly Noncompliance Adjustment under Exhibit 10 (Payment Mechanism) shall be made. Regardless of the continuing assessment of Noncompliance Points under this Section 11.3, IFA shall be entitled to exercise its step-in rights in accordance with Section 19.2.4 and, if applicable, its work suspension rights in accordance with Section 19.2.8, after expiration of the initial cure period available to Developer.

11.3.6 For each Noncompliance Event identified by the assessment categories "A" and "B" in Attachment 1 of Exhibit 12 to this Agreement, provided that the Noncompliance Event is not cured, the Noncompliance Points shall first be assessed at the end of the first cure period, and shall be assessed again at the end of each subsequent cure period, as described in Section 11.3.5.

11.3.7 [reserved]

11.3.8 For each Noncompliance Event identified by the assessment category "C" in Attachment 1 of Exhibit 12 to this Agreement (no applicable cure period), the Noncompliance Points will first be assessed on the date of the initial Notice under Section 19.2. Continuation of such Noncompliance Event will not be treated as a new or separate breach or failure.

11.3.9 Any Noncompliance Points assessed prior to Substantial Completion shall be eliminated on the date of Substantial Completion, provided Developer has fully cured the Noncompliance Events relating to the assessment of such Noncompliance Points.

11.4 Records Regarding Assessment of Noncompliance Points

Developer is responsible for keeping and providing IFA with current records of the number of assessed Noncompliance Points for each Noncompliance Event, the date of each assessment, and the date when the Noncompliance Event is cured.

11.5 Quarterly Noncompliance Adjustments and Quarterly Unavailability Adjustments for Certain Noncompliance Events and Closures

11.5.1 General

a. Noncompliance Events: In addition to Noncompliance Points, certain Noncompliance Events shall result in monetary deductions in the form of Quarterly Noncompliance Adjustments as set forth in Exhibit 10 (Payment Mechanism).

b. Unavailability Events: In addition to Noncompliance Points, Unavailability Events shall result in monetary deductions in the form of Quarterly Unavailability Adjustments as set forth in Exhibit 10 (Payment Mechanism).

11.5.2 Basis for Deductions

11.5.2.1 Developer acknowledges that the Quarterly Noncompliance Adjustments and Quarterly Unavailability Adjustments assessed in accordance with the PPA Documents are reasonable liquidated damages in order to compensate IFA for damages it will incur by reason of Developer's failure to comply with the availability and performance standards. The damages addressed by the Quarterly Noncompliance Adjustments and Quarterly Unavailability Adjustments imposed in accordance with Exhibit 10 include:

a. IFA's increased costs of administering this Agreement, including the increased costs of engineering, legal, accounting, monitoring, oversight and overhead, and could also include obligations to pay or reimburse Governmental Entities with regulatory jurisdiction over the O&M Limits for violation of applicable Governmental Approvals or for their increased costs of monitoring and enforcing Developer's compliance with applicable Governmental Approvals;

b. Potential harm and future costs to IFA from reduction in the condition and Useful Life of the O&M Limits;

c. Potential harm to the credibility and reputation of IFA with other Governmental Entities, with policy makers and with the general public who depend on and expect timely and quality O&M Limits delivery and availability of service;

d. Potential harm and detriment to Users, which may include loss of use, enjoyment and benefit of the O&M Limits and of facilities connecting to the O&M Limits, additional wear and tear on vehicles, and increased costs of congestion, travel time and accidents;

e. IFA's increased costs of addressing potential harm to the Environment, including increased harm to air quality caused by congestion, and harm to water quality, soils conditions, historic structures and other environmental resources caused by Noncompliance Events; and

f. Loss of Toll Revenues.

11.5.2.2 Developer further acknowledges that these damages would be difficult and impracticable to measure and prove, because, among other things:

a. The O&M Limits are of a unique nature and no substitute for them is available;

b. The costs of monitoring and oversight prior to increases in the level thereof will be variable and extremely difficult to quantify;

c. The nature and level of increased monitoring and oversight will be variable depending on the circumstances; and

d. The variety of factors that influence use of and demand for the O&M Limits make it difficult to sort out causation of the matters that will trigger these liquidated damages and to quantify actual damages.

11.6 Special Provisions for Certain Noncompliance Events

11.6.1 The provisions of this Section 11.6 apply to a Noncompliance Event that has an assessment category of A or B as set forth in Attachment 1 to Exhibit 12 (Noncompliance Points System and Persistent Developer Default) and is directly attributable to:

11.6.1.1 A Relief Event; or

11.6.1.2 Unexpected loss, disruption, break, explosion, leak or other damage of a Utility serving or in the vicinity of the East End Crossing but not within the maintenance responsibility of Developer (a "Utility incident").

11.6.2 If any such Noncompliance Event occurs, then:

11.6.2.1 The applicable cure period for any such Noncompliance Event shall be extended if such Noncompliance Event is not reasonably capable of being cured within

the applicable cure period solely due to the occurrence of such Relief Event or Utility incident. The extension shall be for a reasonable period of time under the circumstances, taking into account the scope of the efforts necessary to cure, the effect of the Relief Event or Utility incident on Developer's ability to cure, availability of temporary remedial measures, and need for rapid action due to impact of the Noncompliance Event on safety or traffic movement;

11.6.2.2 It shall not be counted toward a Persistent Developer Default for purposes of Section 2.1 or 2.2 of Exhibit 12 (Noncompliance Points System and Persistent Developer Default), provided the Noncompliance Event is cured within the applicable cure period, as it may be extended pursuant to Section 11.6.2.1;

11.6.2.3 Regardless of which Party initiates Notice of such Noncompliance Event, no Noncompliance Points shall be assessed if Developer cures such Noncompliance Event within the applicable cure period, as it may be extended pursuant to Section 11.6.2.1; and

11.6.2.4 Such Noncompliance Event shall not result in monetary deductions under Section 11.5 if the Noncompliance Event is cured within the applicable cure period, as it may be extended pursuant to Section 11.6.2.1.

11.7 Special Provisions for IFA Step-in

11.7.1 If IFA exercises a step-in right under Section 19.2.4 with respect to any portion of the East End Crossing (the "affected East End Crossing portion"), then:

11.7.1.1 During the period that IFA is in control of the Work for the affected East End Crossing portion (the "step-in or suspension period"), neither the condition of the affected East End Crossing portion nor the performance of or failure to perform Work respecting the affected East End Crossing portion shall result in a new Noncompliance Event, assessment of new Noncompliance Points or new monetary deductions under Section 11.5;

11.7.1.2 All cure periods that are available for Noncompliance Events respecting the affected East End Crossing portion and that arose prior to and are pending as of the date the step-in or suspension period commences shall be deemed forfeited by Developer;

11.7.1.3 During the step-in or suspension period for the affected East End Crossing portion, Section 11.3.5 shall not be applied to Noncompliance Events that arose prior to the date such step-in or suspension period commences;

11.7.1.4 The step-in or suspension period for the affected East End Crossing portion shall be disregarded for purposes of determining a Persistent Developer Default under Section 2.1 or 2.2 of Exhibit 12 (Noncompliance Points System and Persistent Developer Default). For avoidance of doubt, this means that (a) such step-in or suspension period shall not be included in counting the consecutive time periods set forth in Section 2.1 or 2.2 of Exhibit 12 (Noncompliance Points System and Persistent Developer Default) and (b) such consecutive time periods shall be treated as consecutive notwithstanding the intervening step-in or suspension period; and

11.7.1.5 No Quarterly Unavailability Adjustment shall apply to Unavailability Events respecting the affected East End Crossing portion first occurring during the step-in or suspension period.

11.7.2 Refer to Section 19.2.5 for IFA's right to damages and to offset the Milestone Payments and Availability Payments if IFA incurs costs arising out of exercise of its step-in right under Section 19.2.4.

11.8 Provisions Regarding Dispute Resolution

11.8.1 Developer may object to the assessment of Noncompliance Points or the starting point for or duration of the cure period respecting any Noncompliance Event by delivering to IFA Notice of such objection not later than five (5) days after IFA delivers its Notice of Determination. Such Notice also shall constitute Notice for purposes of Section 19.6.

11.8.2 Developer may object to IFA's rejection of any certification of completion of a cure given pursuant to Section 11.2.4.3 by delivering to IFA Notice of such objection not later than fifteen (15) days after IFA delivers its Notice of rejection. Such Notice also shall constitute Notice for purposes of Section 19.6.

11.8.3 If for any reason Developer fails to deliver its Notice of objection within the applicable time period, Developer shall be conclusively deemed to have accepted the matters set forth in the applicable Notice, and shall be forever barred from challenging them.

11.8.4 If Developer gives timely Notice of objection and the Parties are unable to reach agreement on any matter in Dispute within ten (10) days of such objection, either Party may refer the matter for resolution according to the Dispute Resolution Procedures. The Parties agree to such ten (10)-day period in lieu of (and not in addition to) the period for Informal Resolution Procedures set forth in Section 19.6.

11.8.5 In the case of any Dispute as to the number of Noncompliance Points to assign for Noncompliance Events added to Attachment 1 of Exhibit 12 to this Agreement, the sole issue for decision shall be how many Noncompliance Points should be assigned in comparison with the number of Noncompliance Points set forth in Attachment 1 of Exhibit 12 to this Agreement for Noncompliance Events of equivalent severity.

11.8.6 Pending the resolution of any Dispute arising under this Section 11.8, the provisions of this Article shall take effect as if the matter were not in Dispute. If the final decision regarding the Dispute is that (a) the Noncompliance Points should not have been assessed, (b) the number of Noncompliance Points must be adjusted, (c) the starting point or duration of the cure period must be adjusted, or (d) a Noncompliance Event has been cured, then the number of Noncompliance Points assigned or assessed, the uncured Noncompliance Points balance and the related liabilities of Developer shall be adjusted to reflect such decision.

11.8.7 For the purpose of determining whether IFA may issue a Notice of Developer Default under Section 19.2.9 for failure to timely submit or comply with the remedial plan, the number of Noncompliance Points in Dispute:

11.8.7.1 Shall not be counted pending resolution of the Dispute if Developer initiates the Dispute Resolution Procedures and, if applicable, any proceedings available following action by the Arbitrator within the applicable time limit set forth in Section 19.6;

11.8.7.2 Shall be counted if Developer for any reason does not initiate the Dispute Resolution Procedures or any, if applicable, proceedings available following action

by the Arbitrator within the applicable time limit set forth in Section 19.6, or does not diligently pursue the Dispute Resolution Procedures to conclusion (and in any such case Developer shall be deemed to have irrevocably waived the Dispute).

ARTICLE 12. FINANCIAL MODEL AND FINANCIAL MODEL UPDATES

12.1 Financial Model and Financial Model Updates

12.1.1 The Financial Model, Financial Model Updates and Financial Modeling Data are to be held in escrow pursuant to Section 23.6. IFA is entitled to hold a copy thereof in its files, but such copies, and any copies Developer holds, are unofficial and the materials held in escrow shall constitute the originals for all purposes under this Agreement.

12.1.2 Developer shall run new projections and calculations under the Financial Model Formulas to establish a Financial Model Update:

12.1.2.1 Whenever there occurs a Relief Event for which IFA owes a Compensation Amount;

12.1.2.2 Whenever there occurs a Relief Event resulting in an extension of the Term pursuant to Section 15.4.2(e);

12.1.2.3 Whenever there occurs a Refinancing with Refinancing Gain in which IFA participates;

12.1.2.4 Whenever there occurs an event for which IFA is entitled to compensation pursuant to Section 16.1.6.3 or 16.2.5;

12.1.2.5 As required under Section 13.7.10; and

12.1.2.6 Whenever the PPA Documents are amended and the Parties agree that the amendment has a material effect on the Financial Model.

12.1.3 Developer shall prepare the Financial Model Updates by running new projections and calculations under the Financial Model Formulas. Developer shall deliver to IFA each Financial Model Update and the related Financial Modeling Data as updated as and when prepared.

12.1.4 Financial Model Updates pursuant to Section 12.1.2.5 require the mutual written approval of the Parties. Where the Financial Model Update is pursuant to Section 12.1.2.1, 12.1.2.2, 12.1.2.3 or 12.1.2.4, IFA shall have the right to challenge, according to the Dispute Resolution Procedures, the validity, accuracy or reasonableness of any Financial Model Update or the related updated and revised Financial Modeling Data. In the event of a challenge, the immediately preceding Financial Model Update that has not been challenged (or, if there has been no unchallenged Financial Model Update, the Financial Model) shall remain in effect pending the outcome of the challenge or until a new Financial Model Update is issued and not challenged.

12.2 Model Audits

12.2.1 Within two (2) Business Days after Financial Close, Developer shall deliver to IFA an update of the audit and opinion obtained from the independent model auditor that provided to IFA an opinion on the suitability of the Financial Model. The updated audit and opinion shall be in the same form as that delivered for the Proposal and shall be co-addressed to IFA, and IFA shall be expressly identified therein as an entity entitled to rely thereon. The updated audit and opinion shall take into account the final terms and conditions of the Initial Funding Agreements and Initial Security Documents.

12.2.2 IFA may require that Financial Model Updates be audited by an independent audit firm satisfactory to IFA prior to Financial Model Update becoming effective under this Agreement. The Parties shall bear equally the cost of the audit. The audit of the Financial Model Update may be the same one required by the Lenders, in which case IFA shall have no liability for the cost of the audit.

12.3 Financial Model Formulas

In no event shall the Financial Model Formulas be changed except with the prior written approval of both Parties, each in its sole discretion.

ARTICLE 13. DEVELOPER FINANCING; REFINANCING; EQUITY

13.1 Developer Right and Responsibility to Finance

13.1.1 Developer may grant security interests in or assign the entire Developer's Interest (but not less than the entire Developer's Interest) to Lenders for purposes of securing the Project Debt, subject to the terms and conditions contained in this Agreement. Developer is strictly prohibited from pledging or encumbering the Developer's Interest, or any portion thereof, to secure any indebtedness of any Person other than (a) Developer, (b) any special purpose entity that owns Developer but no other assets and has purposes and powers limited to the East End Crossing and Work, (c) a special purpose entity subsidiary owned by either Developer or an entity described in clause (b) above, or (d) the PABs Issuer.

13.1.2 Developer is solely responsible for obtaining and repaying all financing, at its own cost and risk and without recourse to IFA, necessary for the Work that is the Developer's responsibility under the PPA Documents, including (i) the design, permitting, development, construction, equipping, of the East End Crossing, (ii) the operation, maintenance, modification, reconstruction, rehabilitation, restoration, renewal and replacement of the O&M Limits and (iii) the Utility Adjustment Work. Developer will diligently pursue its obligations to obtain the necessary financing as described in Exhibit 2-C (Financial Plan) to this Agreement.

13.1.3 If Developer seeks to utilize PABs or TIFIA Loans, then Developer bears all risks relating to a delay in receiving the necessary approvals and for compliance with all Federal Requirements except as specifically provided otherwise in Section 13.7.7. At Developer's written request, IFA will use best efforts in order to assist Developer's efforts to obtain necessary federal approvals for PABs, including a modification of the PABs allocation obtained by IFA for the East End Crossing to increase the principal amount of such allocation, or TIFIA Loans.

13.1.4 Except as provided in Section 13.7.7, Developer exclusively bears the risk of any changes in the interest rate, payment provisions, collateral requirements, financing charges, breakage charges or the other terms of its financing.

13.1.5 Notwithstanding the foreclosure or other enforcement of any security interest created by a Security Document, Developer shall remain liable to IFA for the payment of all sums owing to IFA under this Agreement and the performance and observance of all of Developer's covenants and obligations under the PPA Documents.

13.2 No IFA Liability

13.2.1 Except in the case of PABs issued by IFA, none of the State, IFA or any other agency, instrumentality or political subdivision of the State, and no member, director, officer, employee, agent or representative of any of them, shall have any obligation to pay debt service on any debt issued or incurred in connection with the East End Crossing or the PPA Documents. Except in the case of PABs issued by IFA, IFA shall have no obligation to join in, execute or guarantee any note or other evidence of indebtedness incurred in connection with the East End Crossing or this Agreement, any other Funding Agreement or any Security Document. In the case of PABs issued by IFA, the PABs are special and limited obligations of IFA, payable solely from and secured exclusively by the revenues and other amounts pledged therefor under the relevant indenture, including the payments to be made by Developer under the loan agreement entered into between IFA and Developer in connection with the loan of the proceeds from the sale of the PABs by IFA to Developer and are not payable from taxes or from appropriations made by the General Assembly of the State. PABs do not constitute an indebtedness, or a pledge of the faith and credit, of IFA, the State or any political subdivision thereof within the meaning or application of any constitutional provision or limitation. The obligation of IFA to pay the amount of the principal of, premium, if any, and interest on the PABs does not constitute a pledge of the faith, credit or taxing power of the State or any political subdivision thereof within the meaning or application of any constitutional provision or limitation. IFA has no taxing authority. The holders or owners of the PABs have, individually or collectively, no right to have taxes levied or compel appropriations by the General Assembly of the State or any political subdivision of the State for the payment of any or all of the amount of such principal of, premium, if any, and interest on the PABs.

13.2.2 Except in the case of PABs issued by IFA, none of the State, IFA or any other agency, instrumentality or political subdivision of the State, and no member, director, officer, employee, agent or representative of any of them, shall have any liability whatsoever for payment of the principal sum of any Project Debt, any other obligations described in Section 4.3.2 issued or incurred by any Person in connection with this Agreement or the East End Crossing, or any interest accrued thereon or any other sum secured by or accruing under any Funding Agreement or Security Document. Except in the case of a default by IFA of its express obligations set forth in a Funding Agreement with respect to PABs issued by IFA and except for a violation by IFA of its express obligations to Lenders set forth in Article 21 or any Direct Agreement, no Lender is entitled to seek any damages or other amounts from IFA, whether for Project Debt or any other amount. IFA's review of any Funding Agreements or Security Documents or other East End Crossing financing documents is not a guarantee or endorsement of the Project Debt, any other obligations described in Section 4.3.2 issued or incurred by any Person in connection with this Agreement or the East End Crossing, and is not a representation, warranty or other assurance as to the ability of any such Person to perform its obligations with respect to the Project Debt or any other obligations issued or incurred by such Person in

connection with this Agreement or the East End Crossing, or as to the adequacy of the Toll Revenues to provide for payment of the Project Debt or any other obligations issued or incurred by such Person in connection with this Agreement or the East End Crossing. For the avoidance of doubt, the foregoing does not affect IFA's liability to Developer under Article 20 and Exhibit 22 (Early Termination Dates and Terms for Termination Compensation) for Termination Compensation that is measured in whole or in part by reference to outstanding Project Debt.

13.2.3 IFA shall not have any obligation to any Lender pursuant to the PPA Documents, except, if the Collateral Agent has notified IFA of the existence of its Security Documents, for the express obligations to Lenders set forth in Article 21, any Direct Agreement or in any other instrument or agreement signed by IFA in favor of such Lender or Collateral Agent. The foregoing does not preclude Lender enforcement of this Agreement against IFA where the Lender has succeeded to the rights, title and interests of Developer under the PPA Documents, whether by way of assignment or subrogation.

13.3 Mandatory Terms of Project Debt, Funding Agreements and Security Documents

Project Debt, Funding Agreements and Security Documents and any amendments or supplements thereto, shall comply with the following terms and conditions.

13.3.1 The Security Documents may only secure Project Debt the proceeds of which are obligated to be used exclusively for the purposes of:

13.3.1.1 Designing, permitting, building, constructing, improving and equipping the East End Crossing, and modifying, operating, maintaining, reconstructing, restoring, rehabilitating, renewing or replacing the East End Crossing, performing the Utility Adjustment Work or the Rehabilitation Work, or performing other Work;

13.3.1.2 Paying interest and principal on other existing Project Debt;

13.3.1.3 Paying reasonable development fees to Developer-Related Entities or to a Design-Build Contractor or its affiliates for services related to the East End Crossing;

13.3.1.4 Paying fees and premiums to any Lender of the Project Debt or such Lender's agents;

13.3.1.5 Paying costs and fees in connection with the closing and administering of any permitted Project Debt;

13.3.1.6 Making payments due under the PPA Documents to IFA or any other Person;

13.3.1.7 Making payment of Taxes;

13.3.1.8 Funding reserves required under this Agreement, Funding Agreements or Security Documents, applicable securities laws, or Environmental Laws;

13.3.1.9 Making Distributions; and

13.3.1.10 Refinancing any Project Debt under Sections 13.3.1.1 through

13.3.1.9.

13.3.2 The Security Documents may only secure Project Debt and Funding Agreements issued and executed by (a) Developer, (b) its permitted successors and permitted assigns, (c) a special purpose entity that owns Developer but no other assets and has purposes and powers limited to the East End Crossing and the Work, (d) any special purpose entity-subsidiary wholly owned by Developer or such entity, or (e) the PABs Issuer.

13.3.3 Project Debt under a Funding Agreement and secured by a Security Document must be issued and held only by Institutional Lenders who qualify as such at the date the Security Document is executed and delivered (or, if later, at the date any such Institutional Lender becomes a party to the Security Document), except that (a) qualified investors other than Institutional Lenders may acquire and hold interests in Project Debt, but only if an Institutional Lender acts as Collateral Agent for such Project Debt, (b) PABs may be issued, acquired and held by parties other than Institutional Lenders but only if an Institutional Lender acts as indenture trustee for the PABs and (c) Subordinate Debt is not subject to this provision.

13.3.4 The Security Documents, as a whole, securing each separate issuance of debt shall encumber the entire Developer's Interest, provided that the foregoing does not preclude entry by Developer into subordinate Security Documents (such subordination to be in accordance with the terms set forth in the Funding Agreements) or equipment lease financing.

13.3.5 No Security Document or other instrument purporting to mortgage, pledge, encumber, or create a lien, charge or security interest on or against Developer's Interest shall extend to or affect the right, title and interest of IFA in the East End Crossing or the Project Right of Way or IFA's rights or interests under the PPA Documents.

13.3.6 Each note, bond or other negotiable or non-negotiable instrument evidencing Project Debt, or evidencing any other obligations issued or incurred by any Person described in Section 13.3.2 in connection with this Agreement or the East End Crossing must include or refer to a document controlling or relating to the foregoing that includes a conspicuous recital on its face (i) in the case of Project Debt other than PABs, to the effect that payment of the principal thereof and interest thereon is a valid claim only as against the obligor and the security pledged by Developer or the obligor therefor, is not an obligation, moral or otherwise, of the State, IFA, any other agency, instrumentality or political subdivision of the State, or any elected official, member, director, officer, employee, agent or representative of any of them, and neither the full faith and credit nor the taxing power, and no assets, of the State, IFA, or any other agency, instrumentality or political subdivision of the State is pledged to the payment of the principal thereof and interest thereon, (ii) with respect to Project Debt consisting of PABs issued by IFA, (a) the PABs are special and limited obligations of IFA, payable solely from and secured exclusively by the revenues and other amounts pledged therefor under the relevant indenture, including the payments to be made by Developer under the loan agreement entered into between IFA and Developer in connection with the loan of the proceeds from the sale of the PABs by IFA to Developer and are not payable from taxes or appropriations made by the General Assembly of the State, and (b) the PABs do not constitute an indebtedness, or a pledge of the faith and credit, of IFA, the State or any political subdivision thereof within the meaning or application of any constitutional provision or limitation, (c) the obligation of IFA to pay the amount of the principal of, premium, if any, and interest on the PABs does not constitute a pledge of the faith, credit or taxing power of the State or any political subdivision thereof within the meaning or application of any constitutional provision or limitation, (d) IFA has no taxing

authority and (e) the holders or owners of the PABs have, individually or collectively, no right to have taxes levied or compel appropriations by the General Assembly of the State or any political subdivision of the State for the payment of any or all of the amount of such principal of, premium, if any, and interest on the PABs.

13.3.7 Each Funding Agreement and Security Document containing provisions regarding default by Developer shall require that if Developer is in default thereunder and the Collateral Agent gives notice of such default to Developer, then the Collateral Agent shall also give concurrent notice of such default to IFA. Each Funding Agreement and Security Document that provides Lender remedies for default by Developer or the borrower shall require that the Collateral Agent deliver to IFA, concurrently with delivery to Developer or any other Person, every notice of election or enforcement of remedies, including an election to sell or foreclose, notice of sale or foreclosure or other notice required by Law or by the Security Document in connection with the exercise of remedies under the Funding Agreement or Security Document.

13.3.8 No Funding Agreement or Security Document that may be in effect during any part of the period that the Handback Requirements apply shall grant to the Lender any right to apply funds in the Handback Requirements Reserve Account or to apply proceeds from any Handback Requirements Letter of Credit to the repayment of Project Debt, to any other obligation owing the Lender or to any other use except the uses set forth in Section 6.13.3, and any provision purporting to grant such right shall be null and void, provided, however, that (a) any Lender or Substituted Entity shall, following foreclosure or transfer in lieu of foreclosure, automatically succeed to all rights, claims and interests of Developer in and to the Handback Requirements Reserve Account and (b) a Funding Agreement or Security Document may create such rights regarding excess funds described in Section 6.13.4.2.

13.3.9 Each relevant Funding Agreement and Security Document that may be in effect during any part of the period that the Handback Requirements apply shall expressly permit, without condition or qualification, Developer to (a) use and apply funds in the Handback Requirements Reserve Account in the manner contemplated by the PPA Documents, (b) issue additional Project Debt, secured by the Developer's Interest, for the added limited purposes of funding work pursuant to Handback Requirements and Safety Compliance as set forth in Section 9.2 and (c) otherwise comply with its obligations in the PPA Documents regarding Rehabilitation Work, the Rehabilitation Work Schedule, Safety Compliance, the Handback Requirements and the Handback Requirements Reserve Account. Subject to the foregoing, any protocols, procedures, limitations and conditions concerning draws from the Handback Requirements Reserve Account set forth in any Funding Agreement or Security Document or the issuance of additional Project Debt as described in clause (b) above shall be consistent with the permitted uses of the Handback Requirements Reserve Account, and shall not constrain Developer's or IFA's access thereto for such permitted uses, even during the pendency of a default under the Funding Agreement or Security Document. For the avoidance of doubt:

13.3.9.1 The Lenders then holding Project Debt may limit additional Project Debt if other funds are then, in IFA's determination, readily available to Developer for the purpose of funding the work;

13.3.9.2 No Lender then holding Project Debt is required hereby to grant *pari passu* lien or payment status to any such additional Project Debt; and

13.3.9.3 The Lenders then holding Project Debt may impose reasonable

and customary requirements as to performance and supervision of the Work that are no more onerous than those set forth in their respective existing Funding Agreements or Security Documents.

13.3.10 Each Funding Agreement and Security Document shall expressly state that the Lender shall not name or join IFA, any other agency, instrumentality or political subdivision of the State, or any elected official, member, director, officer, employee, agent or representative of any of them in any legal proceeding seeking collection of the Project Debt or other obligations secured thereby or the foreclosure or other enforcement of the Funding Agreement or Security Document.

13.3.11 Each Funding Agreement and Security Document shall expressly state that the Lender shall not seek any damages or other amounts from IFA, any other agency, instrumentality or political subdivision of the State, or any elected official, member, director, officer, employee, agent or representative of any of them, whether for Project Debt or any other amount, except (a) damages from IFA only for a violation by IFA of its express obligations to Lenders set forth in Article 21 and any Direct Agreement, if applicable, and (b) amounts due from IFA under this Agreement where the Lender has succeeded to the rights and interests of Developer under the PPA Documents, whether by way of assignment or subrogation. IFA shall be entitled to take reasonable steps to ensure Developer's compliance with this Section 13.3.11, including contacting the Lender prior to execution of the Funding Agreement and Security Document.

13.3.12 Each Funding Agreement and Security Document shall expressly state that the Lender and the Collateral Agent shall respond to any request from IFA or Developer for consent to a modification or amendment of any of the PPA Documents within a reasonable period of time.

13.4 Refinancing

13.4.1 Right of Refinancing

Developer from time to time may consummate Refinancings under the Funding Agreements, subject to IFA's prior written approval except in the case of Exempt Refinancings and Rescue Refinancings. IFA shall have no obligations or liabilities in connection with any Refinancing except for the rights, benefits and protections set forth in Article 21. If the Refinancing is with a new Lender, the new Lender may be added to an existing Direct Agreement or IFA shall enter into a new Direct Agreement with the new Lender, if Lender so elects.

13.4.2 Notice of Refinancing

13.4.2.1 In connection with any proposed Refinancing, except an Exempt Refinancing under clause (b), (c) or (d) of the definition of Exempt Refinancing, Developer shall as soon as practicable submit to IFA a summary outline of the proposed Refinancing, together with a schedule setting forth the various activities, each with schedule durations, to be accomplished from the commencement through the close of the proposed Refinancing.

13.4.2.2 At least thirty (30) days prior to the proposed date for closing

any Refinancing except an Exempt Refinancing under clause (b) of the definition of Exempt Refinancing, Developer shall submit to IFA draft proposed Funding Agreements and Security Documents and the Pre-Refinancing Data, and any other matters required by Exhibit 14 (Calculation and Payment of Refinancing Gain). If Developer believes the Refinancing is an Exempt Refinancing or Rescue Refinancing, it shall concurrently provide Notice to IFA that Developer considers the Refinancing to be an Exempt Refinancing or Rescue Refinancing. Developer shall include in such Notice facts to support the basis on which Developer believes the Refinancing is an Exempt Refinancing or Rescue Refinancing.

13.4.2.3 Within fifteen (15) days after receipt of the materials required under Section 13.4.2.2, IFA will review and determine whether the proposed Refinancing is an Exempt Refinancing or Rescue Refinancing, if neither, whether to approve or disapprove the proposed Refinancing, and whether the proposed Refinancing will result in a Refinancing Gain. If applicable, IFA also will select the means for payment of its portion of the Refinancing Gain. IFA's failure to deliver to Developer Notice of such determination and selection within such time period shall not prejudice IFA's right to disapprove the proposed Refinancing or to receive its portion of Refinancing Gain, if any, or its selection of the means for payment of such portion.

13.4.2.4 Developer shall submit to IFA final drafts of the proposed Funding Agreements and Security Documents, together with updated versions of the Pre-Refinancing Data, not later than seven (7) days prior to the proposed date for closing the Refinancing.

13.4.2.5 Developer shall deliver to IFA, not later than ten (10) days after close of the Refinancing, copies of all signed Funding Agreements and Security Documents in connection with the Refinancing, and the Refinancing Data.

13.4.2.6 Developer shall include with each submission of Pre-Refinancing Data and Refinancing Data Developer's financial model showing how Developer has calculated the Refinancing Gain, if any, following the procedures set forth in Exhibit 14 (Calculation and Payment of Refinancing Gain), and any other matters required by Exhibit 14.

13.4.2.7 No later than fifteen (15) days after close of the Refinancing, IFA and Developer shall meet and confer to agree upon the final calculation of the Refinancing Gain, at which time Developer shall pay IFA its portion of the Refinancing Gain if the selected means of payment is a lump sum payment.

13.4.3 Refinancing Limitations, Requirements and Conditions

13.4.3.1 Other than an Exempt Refinancing and a Rescue Refinancing, no Refinancing is permitted prior to the Substantial Completion Date, except to the extent Developer demonstrates to IFA's reasonable satisfaction that (a) the Committed Investment will not decrease as a result of the Refinancing to a level below the level required by Section 13.6, and (b) the Refinancing will produce Refinancing Gain in which IFA will be entitled to a portion in accordance with Exhibit 14 (Calculation and Payment of Refinancing Gain).

13.4.3.2 If IFA renders any assistance or performs any requested activity in connection with a Refinancing apart from delivering a consent and estoppel certificate under Section 21.9, then concurrently with close of the Refinancing, and as a condition precedent to Developer's right to close the Refinancing, Developer shall reimburse IFA all of

IFA's Recoverable Costs incurred in connection therewith. IFA shall deliver to Developer a written invoice and demand therefor prior to the scheduled date of closing. If for any reason the Refinancing does not close, Developer shall reimburse such IFA's Recoverable Costs within ten (10) days after IFA delivers to Developer a written invoice and demand therefor.

13.4.3.3 Developer shall bear all risks for any Refinancing that negatively affects its Equity IRR, debt coverage ratios or financial performance.

13.5 Refinancing Gain Sharing

13.5.1 IFA shall be entitled to receive a payment equal to fifty percent (50%) of any Refinancing Gain attributable to any Refinancing other than an Exempt Refinancing; provided, that if Developer, at its option, utilizes a TIFIA loan or other form of TIFIA assistance in connection with a Refinancing and IFA has obtained a reservation of funding and invitation to submit an application for such TIFIA assistance IFA shall be entitled to receive a payment equal to seventy-five percent (75%) of any Refinancing Gain attributable to such Refinancing. The Parties shall calculate Refinancing Gain, and IFA shall receive its portion of the Refinancing Gain, in the manner set forth in Exhibit 14 (Calculation and Payment of Refinancing Gain).

13.5.2 The Parties shall negotiate in good faith to determine the Refinancing Gain; and if the Parties fail to agree, the Dispute shall be resolved according to the Dispute Resolution Procedures.

13.6 Equity Requirements

Developer shall have and maintain Committed Investments totaling not less than ten percent (10%) of the Total Project Capital Cost, less the cumulative Milestone Payments (each expressed in year of expenditure terms), throughout the period between the date of Financial Close and the Substantial Completion Date, except to the extent:

13.6.1 IFA otherwise approves in writing in its sole discretion;

13.6.2 Developer must reduce the amount of Committed Investments below ten percent (10%) as part of a workout of a breach or default under the Initial Funding Agreements or Initial Security Documents; or

13.6.3 The amount of Committed Investments is reduced below ten percent (10%) because Developer incurs additional Project Debt pursuant to a Rescue Refinancing.

13.7 Financial Close

13.7.1 Concurrently with execution of this Agreement, Developer shall deliver, or has delivered, to IFA the Financial Close Security.

13.7.2 Developer Financial Close Notice; IFA Notice Extending Financial Close

13.7.2.1 Developer shall give IFA forty-five (45) days' Notice (the "Developer FC Notice") of the date scheduled for Financial Close, which date shall not be earlier than February 15, 2013. If IFA desires to extend the date for Financial Close set out in the Developer FC Notice, IFA shall give Developer Notice thereof (the "IFA FC Notice") at least thirty (30) days prior to the date scheduled for Financial Close as set forth in the Developer FC

Notice, setting forth the new scheduled date for Financial Close, which date shall not exceed one hundred twenty (120) days from the date originally scheduled for Financial Close as set forth in the Developer FC Notice, and Developer shall extend the Financial Close Security to the new scheduled date for Financial Close. In the event the Effective Date occurs after a date which is forty-five (45) days' before the date scheduled for Financial Close as set forth in the Proposal, Developer shall have a day for day extension to give the Developer FC Notice and there shall be a day for day extension of the date scheduled for Financial Close.

13.7.2.2 Concurrently with giving to Developer the IFA FC Notice, if the new date scheduled for Financial Close as set forth in the IFA FC Notice to Developer occurs after the date of expiration of any commitments of Lenders contained in the Proposal as such commitments may be extended as provided in Section 4.6.2 of Volume 1 of the RFP (Instructions to Proposers), IFA shall also have the right to issue a Notice to Developer commencing a competition among eligible Lenders for providing the Initial Project Debt (the "IPDC Commencement Notice") authorizing and directing Developer to commence a competition among eligible Lenders for providing the Initial Project Debt. If (a) IFA elects not to issue the IPDC Commencement Notice as permitted in the preceding sentence or (b) the date for Financial Close is extended due to a delay in the Effective Date, as described in Section 13.7.2.1 to a date that occurs after the date of expiration of any commitments of Lenders contained in the Proposal, as such commitments may be extended in Section 4.6.2 of Volume 1 of the RFP (Instructions to Proposers), Developer shall conduct negotiations with the Core Lender(s) and Lead Underwriter, including any other members of the lending group from whom Developer obtained commitments in connection with the submission of the Proposal, to renew or extend their commitments to the new scheduled date for Financial Close as set forth in the IFA FC Notice which negotiations (i) shall be transparent and open to IFA and its advisors and (ii) shall have the key objective of achieving the most competitive financing terms for the East End Crossing, given this Agreement, PPA Documents, Principal Project Documents and the risk allocation contained in each of them. Any major deviations from the original commitments may be accepted in the good faith discretion of IFA.

13.7.2.3 If the IFA FC Notice extends the date of Financial Close or if the date for Financial Close is extended due to a delay in the Effective Date as described in Section 13.7.2.1, IFA shall pay Developer as an adjustment to the Availability Payments through a Deferral of Compensation as provided in Section 15.5 and subject to the limitations set forth in Section 15.4.4, (a) if the date for Financial Close has been extended beyond April 24, 2013, escalation costs of labor, materials and equipment, if any, equal to the percentage change in CPI index value published on or immediately before April 24, 2013 and CPI published on or immediately before the date on which Financial Close is achieved; (b) breakage costs and work fees, if any, payable to the Lenders who provided price commitments in connection with the submission of the Proposal and did not renew or extend their commitments after the expiration of such commitments before the new date for Financial Close, provided, the total amount of such breakage costs and work fess payable by IFA shall not to exceed one percent (1%) of the principal amount of such commitments, and (c) the lesser of (i) Developer's documented, actual, reasonable, external and internal costs (without markup or profit) incurred for the work necessary to achieve Financial Close (whether relating to the negotiation of commitment extensions or conducting the IPDC) commencing on the date originally scheduled for Financial Close as set forth in the Developer FC Notice, or (ii) $3,000,000.

13.7.2.4 Such payment, along with IFA's payment of the cost of extending Developer's Financial Close Security as provided in Section 2.6 of Exhibit 17, shall be

the sole and exclusive amount payable to Developer as compensation for IFA's extension of the date of Financial Close.

13.7.3 Commencing upon issuance of the IPDC Commencement Notice, Developer shall conduct a competition among eligible Lenders to provide the Initial Project Debt. Developer shall conduct such competition in compliance with the provisions of Exhibit 18. Exhibit 18 sets forth several phases of such competition.

13.7.4 Unless Developer or IFA elects to terminate this Agreement pursuant to Section 20.6.1, Developer shall be unconditionally obligated to enter into the Initial Funding Agreements and Initial Security Documents and complete closing for all the Initial Project Debt (including any sub-debt), in a total amount which, when combined with all unconditional equity commitments acceptable to the Collateral Agent and the Milestone Payment amounts set out in Exhibit 4, is sufficient to fund all capital requirements set forth in the Financial Model, by not later than the Financial Close Deadline.

13.7.5 Except to the extent expressly permitted in writing by IFA, Developer shall not be deemed to have achieved Financial Close until all of the following conditions have been satisfied:

13.7.5.1 If, at Developer's option, TIFIA financing is part of the IFA-approved Financing Plan, Developer has completed all necessary steps to obtain and close any TIFIA financing;

13.7.5.2 If IFA has issued the IPDC Commencement Notice, Developer has completed the IPDC in accordance with the terms and conditions therefor set forth in Exhibit 18;

13.7.5.3 Developer has delivered to IFA for review and comment drafts of those proposed Initial Funding Agreements and Initial Security Documents that will contain the material commercial terms relating to the Initial Project Debt not later than twenty (20) days prior to the proposed date for Financial Close (as may be adjusted pursuant to Section 13.7.2), and, if IFA has issued the IPDC Commencement Notice, such Initial Funding Agreements and Initial Security Documents are consistent with, or no less favorable to Developer than, the terms and conditions offered by the Lenders selected pursuant to the IPDC;

13.7.5.4 IFA has received for the Financial Model an update of the audit and opinion obtained from the independent model auditor that provided to IFA an opinion on suitability of the Financial Model, which update shall (a) be co-addressed to IFA, (b) expressly identify IFA as an entity entitled to rely thereon, and (c) take into account only the change in the Base Maximum Availability Payment and differences between the financial terms assumed in the Financial Model and the financial terms obtained through the IPDC or negotiations with the Lender(s) and/or Lead Underwriter as described in Section 13.7.2, as provided for in Section 13.7.8, and (d) be delivered within two (2) Business Days after the date of Financial Close;

13.7.5.5 Developer has delivered to IFA a true and complete executed copy of each Direct Agreement requested by the Lenders, if any; and

13.7.5.6 All applicable parties have entered into and delivered the Initial Funding Agreements and Initial Security Documents (except to the extent that such documents are not required to be executed on such date) meeting the requirements of Section 13.3, and

Developer has delivered to IFA true and complete copies of the executed Initial Funding Agreements and Initial Security Documents (other than minor ancillary documents normally delivered after Financial Close and containing no new material commercial terms).

13.7.6 Developer shall provide IFA with Notice of Developer's satisfaction of the conditions set forth in Section 13.7.5 within one (1) Business Day after all such conditions are satisfied.

13.7.7 Developer's obligation to achieve Financial Close by the Financial Close Deadline is excused only if such failure is directly attributable to one of the following (and in such event this Agreement may be terminated pursuant to Section 20.6.1):

13.7.7.1 If (i) IFA has issued the IPDC Commencement Notice, Developer has diligently and timely conducted the IPDC in accordance with Section 13.7.3, or (ii) Developer has conducted negotiations with the Core Lender(s) or Lead Underwriter to extend or renew the commitments as described in Section 13.7.2.2, but (a) despite such efforts Developer is unable to close financing for the Project in the principal amount indicated in Exhibit 2-C, or (b) the IPDC or such negotiations to extend or renew the commitments results in a Maximum Availability Payment in any year that exceeds the Annual MAP Limit for that year;

13.7.7.2 After the adjustments to the Base Maximum Availability Payment as provided in Section 13.7.8, the Maximum Availability Payment in any year exceeds the Annual MAP Limit for that year and IFA gives Notice to Developer of its exercise of the right to terminate this Agreement as provided in Section 20.6.1;

13.7.7.3 IFA gives Notice to Developer that Developer should not proceed to Financial Close because the risk of Environmental Litigation is unacceptable

13.7.7.4 If, but only if, a commitment of Developer's Lenders (and/or, if bonds (whether taxable or PABs) are part of the initial financing under Developer's Project Plan of Finance, Developer's underwriters') identified in Developer's plan of finance in respect of the East End Crossing, is conditioned on, as of the date of Financial Close, the absence of (i) any Environmental Litigation in respect of the Project or the East End Crossing arising after the Setting Date; and/or (ii) any new orders, rulings, or other actions by the court presiding over any Environmental Litigation occurring on or after the Setting Date in respect of any Environmental Litigation existing as of the Setting Date, that would, as reasonably determined by the Lenders or the underwriters, as applicable, materially increase the likelihood that the plaintiffs/petitioners in such Environmental Litigation would obtain a final judgment in their favor resulting in an order halting work, or a substantially similar condition, such that the Lenders or the underwriters, as applicable, invoke such condition in relation to Environmental Litigation described in (i) or (ii) in writing to IFA at least thirty (30) days' prior to the Financial Close Deadline (or, if the event described in clause (i) or (ii) above occurs within thirty (30) days of the Financial Close Deadline, promptly upon occurrence of such event), and following the giving of said Notice, Developer and such Lender(s) (and/or, if applicable, Developer's underwriter(s)) meet and confer with IFA regarding the basis for their reasonable determination;

13.7.7.5 A court with jurisdiction issues a temporary restraining order or other form of injunction that prohibits prosecution of any material portion of the Work, where the order or injunction remains pending on the Financial Close Deadline;

13.7.7.6 If IFA has obtained a reservation of funding and invitation to submit an application for TIFIA assistance and Developer, at its option, revises its Project Plan of Finance as set forth in Exhibit 2-C to utilize a TIFIA loan or other form of TIFIA assistance, a decision of the TIFIA Joint Program Office not to provide credit assistance to Developer, or to provide credit assistance in an amount which the Parties mutually determine is likely to be insufficient to achieve Availability Payments below the Annual MAP Limit, taking into account increases in the TIFIA contract and budget authority for the East End Crossing that are available through payment of subsidies to the U.S. Department of Transportation and the cost of such subsidies that are to be factored in the Base Maximum Availability Payment as provided in Section 13.7.8;

13.7.7.7 If IFA has obtained a reservation of funding and invitation to submit an application for TIFIA assistance and Developer, at its option, revises its project Plan of Finance as set forth in Exhibit 2-C to utilize a TIFIA loan or other form of TIFIA assistance, the failure of the TIFIA Joint Program Office to close financing on or prior to the Financial Close Deadlines despite commercially reasonable efforts by Developer to do so (including making reasonable financial and commercial concessions as necessary and appropriate under the circumstances); provided, however, that the failure of Developer, prior to the expiration of any TIFIA credit commitment, to satisfy any of the conditions precedent for the TIFIA financing set forth in the term sheet and/or credit agreement (other than conditions outside of the control of Developer, including any such conditions requiring actions of IFA and for which IFA has been notified by Developer that it is responsible and must act and IFA fails to act) shall be deemed not to be a failure by the TIFIA Joint Program Office to close financing by the Financial Close Deadline;

13.7.7.8 If PABs are part of the initial financing under Developer's Project Plan of Finance as set forth in Exhibit 2-C, the refusal or unreasonable delay of IFA to issue bonds in the amount that Developer's underwriters are prepared to underwrite, provided that such refusal or delay is not due to any fault or less than diligent efforts of Developer, including Developer's failure to satisfy all requirements that it is obligated to satisfy under the rules and regulations of IFA (in its capacity as an issuer of tax-exempt bonds) in place as of the Setting Date. Delay by IFA shall not be considered unreasonable where the financing schedule Developer establishes does not provide IFA normal and customary time periods for carrying out the ordinary and necessary functions of a conduit issuer of tax-exempt bonds;

13.7.7.9 If PABs are part of the initial financing under Developer's Project Plan of Finance as set forth in Exhibit 2-C, (i) the refusal of IFA's counsel to allow closing of the PABs where the bond counsel is ready to give an unqualified opinion regarding the validity of the issuance of the PABs and the tax exempt status of interest paid on the PABs, unless the basis for such refusal is that it would be unreasonable for bond counsel to deliver the opinion or (ii) the delay of IFA's counsel in authorizing closing of the PABs. Delay by IFA's counsel shall not be considered where the financing schedule Developer establishes does not provide IFA's counsel normal and customary time periods for carrying out the ordinary and necessary functions of such counsel to a conduit issuer of tax-exempt bonds;

13.7.7.10 If PABs are part of the initial financing under Developer's Project Plan of Finance as set forth in Exhibit 2-C and the aggregate principal amount of the PABs as set forth in Exhibit 2-C exceeds $775,000,000, failure or refusal by USDOT to modify the PABs allocation obtained by IFA to increase such amount but only up to the amount of $1.075 billion at least forty-five (45) days prior to the Financial Close Deadline; or

13.7.7.11 IFA fails to timely deliver to Developer (i) the certificate, substantially in the form of Form 2-T and (ii) an update to the opinion of IFA's counsel in favor of the Lender(s) pursuant to Section 6.1.2 of Volume I ("Instructions to Proposers") of the RFP.

13.7.8 Subject to IFA's rights to terminate under Sections 20.6.1, IFA will bear the risk and have the benefit of the following:

13.7.8.1 One hundred percent (100%) of the impact (either positive or negative) on the Base Maximum Availability Payment of changes in the base interest rates set forth in Exhibit 2-C (the "base interest rates") for the period beginning at 10:00 a.m. ET on October 17, 2012 and ending on the earliest of (a) 10:00 a.m. ET on the date of Financial Close, (b) 10:00 a.m. ET on the Financial Close Deadline, (c) the date of execution of any interest rate hedging instrument by Developer or (d) the date of the execution of a bond purchase agreement relating to the purchase and sale of PABs or taxable bonds (the "last date of the base interest rate protection period"). The interest rate adjustment will be based on the movement, if any, in the base interest rates. Developer and IFA shall both adjust the Financial Model as of the last date of the base interest rate protection period to reflect the changes (if any) in the base interest rates and any revisions approved by the Parties but not any potential errors identified as part of the updated audit opinion provided pursuant to Section 12.2.2; and

13.7.8.2 Ninety percent (90%) of the impact (either positive or negative) on the Base Maximum Availability Payment of the differences between the credit spreads for any bonds (whether PABs or taxable bonds) assumed and indicated in the Financial Model and in Developer's financial plan as set forth in Exhibit 2-C and the credit spreads for PABs or taxable bonds as obtained at Financial Close or the date of the execution of the bond purchase agreement relating to the purchase and sale of the PABs or taxable bonds.

13.7.8.3 Provided that Developer completes either the IPDC in accordance with Exhibit 18 if IFA has issued the IPDC Commencement Notice or conducts negotiations with the Core Lender(s) or Lead Underwriter as provided in Section 13.7.2, ninety percent (90%) of the impact (either positive or negative) on the Base Maximum Availability Payment of the differences between the financial terms assumed and indicated in the Financial Model and in Developer's financial plan as set forth in Exhibit 2-C and the financial terms of the Initial Project Debt and initial Financing Documents as obtained at Financial Close. For the purpose of this Section 13.7.8.3 only, "financial terms" shall consist of and be limited to: the ratio of Project Debt to Committed Investment (subject to the provisions of Section 13.7.9), base case annual debt service coverage ratio (ADSCR), base case loan life coverage ratio (LLCR), senior debt margins, interest on reserves, reserve requirements, swap credit spreads, bond spreads, underwriting fees, conduit fees, bank commitment fees and bank draw fees.

13.7.9 IFA's risk and benefit under Section 13.7.8.3 is subject to the following limitation. In no event shall the ratio of Initial Project Debt to Committed Investment at Financial Close be less than 85:15, unless Developer agrees that the decrease shall be assigned an amended Equity IRR for the purpose of determining adjustments to the Base Maximum Availability Payment equal to the blended average cost of the Initial Project Debt as determined from the IPDC final submissions, evaluation and selection.

13.7.10 The Parties will use the Financial Model to calculate the change under Section 13.7.8, positive or negative, in the Base Maximum Availability Payment. The Parties shall make such calculation and produce the Financial Model Update and Equity IRR at Financial Close

as follows:

13.7.10.1 First, the Financial Model shall be run to solve for a "first interim" Base Maximum Availability Payment, inputting only the changes, if any, in base interest rates as described in Sections 13.7.8.1, and holding the Original Equity IRR constant;

13.7.10.2 Second, the interim Financial Model resulting from the first step shall be run to solve for a "second interim" Base Maximum Availability Payment, inputting only the changes, if any, in financial terms recognizable under Section 13.7.8.2, and holding the Original Equity IRR constant;

13.7.10.3 Third, the changed Base Maximum Availability Payment shall be determined as the sum of (a) the first interim Base Maximum Availability Payment plus (b) ninety percent (90%) of the difference, positive or negative, between the first interim and the second interim Base Maximum Availability Payments;

13.7.10.4 Fourth, the interim Financial Model resulting from the first step shall be run to solve for the Equity IRR, inputting (a) the Base Maximum Availability Payment determined under Section 13.7.10.3, (b) all the changes in the financial terms recognizable under Section 13.7.8.2 (without regard to Section 13.7.9), and (c) all other changes in terms of financing between those assumed and indicated in the Financial Model and in Developer's financial plan as set forth in Exhibit 2-C and those set forth in the Initial Project Debt and initial Financing Documents as obtained at Financial Close. The resulting model shall constitute a Financial Model Update, and the resulting internal rate of return on equity shall be the Equity IRR as of Financial Close.

13.7.11 The Parties shall prepare and execute an amendment to this Agreement adding Exhibit 13 at Financial Close.

13.7.12 Within two (2) Business Days after the date of Financial Close, IFA shall return to Developer the original of the Financial Close Security.

13.7.13 Developer shall deliver copies of any ancillary supporting documents (e.g., UCC financing statements) to IFA within thirty (30) days after the date of Financial Close.

ARTICLE 14. TOLLING OPERATIONS; DISPOSITION OF TOLL REVENUES; TOLLING COVENANTS; APPROPRIATIONS

14.1 Tolling Operations--General

14.1.1 Tolling operations shall be conducted on a unified and consistent basis for both the East End Crossing and the Downtown Crossing, through the services of a Toll Operator, acting with the Tolling Body, pursuant to the terms of the Toll Policy Agreement and the Toll Operations Agreement.

14.2 Schedule for Tolling Operations

14.2.1 Tolling operations for the East End Crossing and the Downtown Crossing shall commence, in each case, as soon as each is open to traffic.

14.2.2 Tolling operations for the existing Kennedy bridge shall commence upon the earlier of: (i) completion of the new Downtown bridge (i.e., portion of the Downtown Crossing), (ii) completion of the new East End Bridge, and (iii) June 30, 2018.

14.3 Ownership of Indiana Revenue Share

14.3.1 The Indiana Revenue Share shall be the exclusive property of IFA, subject to the provisions of the Custody Agreement and Project Trust Agreement. Developer hereby disclaims any and all right, title and interest in and to the Indiana Revenue Share, including administrative fees and violation charges, except its beneficial interests under the Project Trust Agreement.

14.3.2 If any User, court or public official remits to IFA (or the Toll Operator) any tolls, administrative fees, violation charges, Incidental Charges, fees, penalties and other charges collected via toll collection proceedings, or if any User in response to or settlement of a grace period Notice or violation Notice or Notice of any collection proceeding remits to IFA (or the Toll Operator) any such tolls, administrative fees, violation charges, Incidental Charges, fees, penalties and other charges, then IFA (or the Toll Operator) shall forthwith remit such payments to the Custodian. Any amounts so remitted to IFA (or the Toll Operator) shall be deemed received merely as a bailee or collection agent for the Custodian, and shall not constitute funds or property of IFA (or the Toll Operator).

14.4 Further Agreements

14.4.1 IFA and KPTIA, will develop a tolling policy in accordance with the NEPA Documents and will enter into an agreement establishing a comprehensive tolling policy for the Project (the "Toll Policy Agreement," and such policy, the "Toll Policy").

14.4.2 IFA and KPTIA, together with, or acting through, the Tolling Body, agree to engage a qualified toll system operator (the "Toll Operator") to develop, operate and manage a comprehensive toll system for the Project pursuant to an agreement with the Toll Operator, which may be a public private agreement under IC 8-15.5 (the "Toll Operations Agreement").

14.4.3 IFA, together with KPTIA and a custodial bank, shall enter into the Custody Agreement as described in Section 14.7 below.

14.5 Toll Policy Agreement; Terms

14.5.1 The Toll Policy Agreement may establish either a separate legal entity or a joint board, representing each of the parties to the Toll Policy Agreement (the "Tolling Body"), which shall exercise the designated powers of each of the parties thereto, subject to such limitations as may be contained therein. The Toll Policy Agreement may require consent of the parties thereto for certain changes in the Toll Policy or in maximum rates or fees which may be charged pursuant to the Toll Policy Agreement and the Toll Operations Agreement.

14.5.2 The Toll Policy Agreement shall include, among other appropriate terms:

14.5.2.1 Expected initial toll rates, including identification of vehicle classes, unit toll rates by vehicle class, allowable toll variations by time of day or day of week, and toll variations tied to levels of traffic congestion, and

14.5.2.2 Toll rate adjustments and adjustment mechanisms, including allowable frequency of toll rate adjustments, market or other external indices underlying adjustment mechanisms, and any forced triggers for rate adjustments.

14.6 Toll Operations Agreement; Terms

14.6.1 The Toll Operations Agreement shall provide that IFA and KPTIA shall have consent rights over key operational considerations, as specified therein (including changes to maximum toll rates and rate adjustment mechanisms), as well as audit rights related to the activities of the Toll Operator.

14.6.2 IFA agrees that the parties to the Toll Operations Agreement, for so long as either shall have outstanding obligations related to their portions of the Project, shall agree on a mechanism for annual or more frequent periodic review of existing toll schedules and adjustment mechanisms to support payment and covenant obligations with respect to such outstanding obligations.

14.6.3 The Toll Operations Agreement will establish procedures for operations, insurance, management, repair, replacement, of tolling activities by the Toll Operator on the affected portions of the Project within the Toll Operations Agreement, as well as appropriate provisions for oversight, removal, termination or replacement of the Toll Operator by the Tolling Body or the governmental parties.

14.6.4 No party to the Toll Operations Agreement shall have discretionary authority over any element of cash collections, account deposits or distributions.

14.7 Custodial Arrangements

14.7.1 KPTIA and IFA will establish, no later than the date that is six (6) months prior to the Substantial Completion Date, a lockbox and custodial account arrangement (the "Custody Arrangement") for the purpose of receiving, administering and distributing funds prepaid by Transponder holder customers, Toll Revenue receipts from such customers for Transactions not prepaid, administrative fees, violation charges, and other amounts on account of nonpayment of tolls, Incidental Charges, and Toll Revenues received from Transponder Issuers. The Custody Arrangement will be created and administered pursuant to a lockbox and custodial account agreement (the "Custody Agreement") that will incorporate in substance the terms set forth on Exhibit 15 (Summary of Terms for Custody Agreement). The Custodian may, but need not, be the Project Trustee. IFA will provide a draft Custody Agreement to the Developer at least thirty (30) days prior to the establishment of the Custody Arrangement. Developer may provide comments to IFA at no later than ten (10) days thereafter, which comments shall be limited to Developer's assessment of material differences between the Custody Agreement term sheet and the draft Custody Agreement. IFA shall consider only such Developer comments; provided, however, that neither IFA nor KPTIA, nor any of either of their successors or permitted assigns, shall be, nor be deemed to be, obligated to address any of such comments in any revision, if any, of the draft Custody Agreement prior to execution thereof.

14.7.2 Pursuant to the Custody Arrangement and the terms of the Custody Agreement, such revenue receipts and prepaid amounts described above will be deposited with the Custodian on a daily basis and held, free and clear of any claim, lien, charge, security interest or encumbrance in favor of any creditor of Developer or IFA or KPTIA, pending distribution thereof

from the Custodian to the Project Trustee. The terms of the Custody Agreement also shall provide for the Custodian's access to IFA and KPTIA customer and account information (subject to compliance with applicable confidentiality requirements and customer account agreements) for the sole purpose of determining appropriate receipt and disbursement of amounts held pursuant to the Custody Arrangement.

14.7.3 The Custody Agreement shall require:

14.7.3.1 the daily deposit of Toll Revenues into an account or accounts for the benefit of IFA and KPTIA,

14.7.3.2 the division of such Toll Revenue deposits on a 50/50 basis (i.e., the Kentucky Revenue Share and the Indiana Revenue Share) into accounts for the benefit of IFA and KPTIA, and

14.7.3.3 procedures for the periodic withdrawal of funds from the accounts or subaccounts as more particularly described in Exhibit 15 Summary of Terms for Custody Agreement.

14.7.4 No party to the Custody Agreement or the Toll Operations Agreement shall have discretionary authority over any element of cash collections, account deposits or distributions.

14.7.5 The fees and charges of the Custodian payable by IFA shall be a First Priority Cost.

14.8 Appropriations

Except with respect to those sources of funds that as a matter of Law are not subject to annual appropriations, including the Indiana Revenue Share, the Parties acknowledge that the source of funds for payment of the Milestone Payments, Availability Payments and other amounts due to Developer under this Agreement is subject to the availability of funds appropriated by the General Assembly of the State and approved by the Governor of the State of Indiana.

ARTICLE 15. RELIEF EVENTS

This Article 15 sets forth the requirements for obtaining schedule and monetary relief under the PPA Documents due to Relief Events. Developer hereby acknowledges and agrees that the Milestone Payments and Availability Payments provide for full compensation for performance of all the Work, and the Project Schedule Deadlines provide reasonable and adequate time to perform the Work required within the Project Schedule Deadlines, subject only to those exceptions specified in this Article 15. The compensation amounts, deadline extensions and performance relief specified in this Article 15 shall represent the sole and exclusive right against IFA, the Department, the State, and their respective successors, assigns, agencies, divisions, officeholders, officers, directors, commissioners, agents, representatives, consultants and employees to compensation, damages, deadline extension and performance relief for the adverse financial and schedule effects of any event affecting the Work, the East End Crossing or Developer. No award of compensation or damages shall be duplicative. Developer unconditionally and irrevocably waives the right to any claim against IFA, the Department, the State, and their respective successors, assigns, agencies, divisions, officeholders, officers, directors, commissioners, agents, representatives, consultants and

employees for any monetary compensation, schedule relief or other relief except to the extent specifically provided in this Article 15 or otherwise as specifically provided in this Agreement. The foregoing waiver is limited solely to the occurrence of Relief Events and encompasses all theories of liability, whether in contract, tort (including negligence), strict liability, equity, *quantum meruit* or otherwise, and encompasses all theories to extinguish contractual obligations, including impracticability, mutual or unilateral mistake and frustration of purpose. Notwithstanding anything to the contrary herein, no liability of Developer that arose before the occurrence of the Relief Event giving rise to a claim under this Article 15 shall be excused as a result of the occurrence. Nothing in the Technical Provisions shall have the intent or effect or shall be construed to create any right of Developer to any claim for additional monetary compensation, schedule relief or other relief, any provision in the Technical Provisions to the contrary notwithstanding, in each case with respect to Relief Events. The provisions of this paragraph shall not affect Developer's remedies under the PPA Documents in the event of an IFA Default or upon termination of this Agreement prior to the stated expiration of the Term.

15.1 Relief Event Claim Process

This Section 15.1 applies to all Relief Events, except Relief Events that are an IFA Change. The process for IFA Changes shall be through a Change Order or Directive Letter pursuant to Sections 16.1 and 16.3, respectively.

If (i) a Relief Event occurs that is covered by any insurance policy required to be in place pursuant to Exhibit 19, (ii) Developer is responsible for obtaining and maintaining in effect such insurance policy pursuant to Exhibit 19 and (iii) such Insurance Policy is not in full force and effect (with premiums paid) at the time that such Relief Event occurs, then IFA shall owe, and shall be deemed to owe, no compensation to Developer, and the applicable sections of this Article 15 shall not apply in respect of assessment of the value of any loss arising out of or relating to such Relief Event to the extent that Developer recovers under any such insurance policy. The deductible and limits of the applicable insurance policy(ies) under this Article 15 and Exhibit 19 shall apply, and Developer shall be responsible to pay or absorb the policy deductible(s) pursuant to the terms of this Agreement. If the proceeds of the insurance required under this Agreement (including Exhibit 19) provide Developer with less compensation for a loss arising out of or relating to such Relief Event than the amount of compensation which would have been paid under this Article 15, then after applicable deductibles under this Article 15 have been applied, if any, Developer may make a claim under this Article 15, but then only for the difference (i.e., the value of the loss net of the insurance amount paid to Developer and other applicable deductions under this Agreement). In no event shall IFA compensate, or be deemed to be obligated to compensate, Developer for amounts relating to a Relief Event that, when combined with insurance, would exceed the total amount of compensation that would be paid under any part of this Article 15.

IFA acknowledges that Developer may enter into Contracts pursuant to which additional costs directly attributable to the occurrence of a Relief Event or its impact on schedule or performance of Work may be borne by a Contractor subject to the right to claim relief from Developer to the extent Developer obtains relief from IFA under this Agreement. For purposes of evaluating the merits of any Relief Event Notice, Relief Request or Claim against IFA for such Relief Event, such costs or impact on schedule or performance of Work will be deemed to be directly incurred by Developer.

15.1.1 Relief Event Notice

15.1.1.1 If at any time Developer determines that a Relief Event has occurred or is imminent, Developer shall submit a written Relief Event Notice to IFA. IFA shall promptly acknowledge receipt of each Relief Event Notice.

15.1.1.2 The Relief Event Notice shall include, to the maximum extent of the information then-available:

a. A description of the Relief Event and its date of occurrence or inception in reasonable detail;

b. Developer's preliminary good faith estimate of the anticipated adverse and beneficial effects of the Relief Event and the basis for such estimate;

c. Developer's preliminary good faith estimate of the Critical Path impact directly attributable to the Relief Event and the basis for such estimate;

d. If the Relief Event will likely impact the O&M Work, Developer's initial analysis whether a Permitted Closure will be claimed;

e. Developer's initial analysis of any adverse effect of the Relief Event on its ability to perform its obligations under this Agreement;

f. The actions Developer has taken prior to the Relief Event Notice to prevent, and proposes to take thereafter to mitigate, the cost, delay and other consequences of the Relief Event; and

g. The type and amount of insurance that may be applicable and amounts that have been or are anticipated to be collected under such insurance.

15.1.1.3 The nature and scope of the potential Claim stated in the Relief Event Notice shall remain consistent (except for reductions) for the remainder of the Claim process and, if applicable, during any subsequent Dispute Resolution Procedures, except with respect to consequences of a Relief Event that (a) are of a different nature or scope, (b) first arise or occur after the Relief Event Notice is delivered, and (c) could not have been anticipated through the exercise of reasonable diligence and Good Industry Practice prior to delivering the Relief Event Notice. If any such new consequences arise or occur prior to submission of the Relief Request, Developer shall report them to IFA by a supplemental Relief Event Notice.

15.1.1.4 Developer shall submit the Relief Event Notice on a standardized form approved by IFA.

15.1.1.5 Developer shall assign an exclusive identification number for each Relief Event Notice, determined by chronological sequencing. The exclusive identification number shall be used on each of the following corresponding documents: (i) Relief Request; (ii) supplemental Notices and submissions pertaining to the Relief Event Notice; and (iii) full and final documentation of the Claim.

15.1.1.6 If a single Relief Event is a continuing cause of delay, only one Relief Event Notice shall be necessary.

15.1.2 Relief Request

15.1.2.1 Developer shall, within a further forty-five (45) days after the date of the Relief Event Notice, submit to IFA a Relief Request that provides Developer's complete reasoning for additional compensation, Project Schedule Deadline adjustments and other requested relief relating to the Relief Event. IFA shall promptly acknowledge receipt of each Relief Request. The Relief Request shall include the following information, to the maximum extent then-available:

a. Full details of the Relief Event, including its nature, the date of its occurrence, its duration (to the extent that the Relief Event and the effects thereof have ceased or estimated duration to the extent that the Relief Event and the effects thereof have not ceased), affected locations, and items of Work affected. Impacts to the O&M Work, if any, shall be stated by Fiscal Year.

b. Identification of all pertinent documents and the substance of any oral communications, if any, relating to the Relief Event and the name of the person or persons making such material oral communications.

c. Identification of the particular provisions of the PPA Documents that are claimed to entitle Developer to the relief sought, and a statement that sets forth the reasons why such provisions entitle Developer to such relief. If Developer seeks relief for IFA's alleged breach of the PPA Documents, then Developer shall identify the provisions of the PPA Documents which allegedly have been breached and the actions constituting such breach.

d. Where a request for a Project Schedule Deadline adjustment is made, a Critical Path time impact analysis of the Project Schedule that (i) identifies Controlling Work Items and Critical Path (with activity durations, predecessor and successor activities and resources, including Total Float), and illustrates the effect of schedule changes or disruptions on the Project Schedule Deadlines and (ii) complies with the requirements of Section 1.5.2.3 of the Technical Provisions.

e. A detailed, itemized estimate of all amounts claimed under Sections 15.2, 15.3 and 15.4 to the extent such amounts are eligible for compensation under the terms of the PPA Documents for the Relief Event in question. All such amounts shall be broken down in terms of the eligible direct costs for labor (including burden), Materials, supplies, Equipment, indirect costs, including expenses and profit, and any other cost category or categories IFA reasonably specifies. The estimate shall include, to the extent applicable, the Extra Work Costs for future O&M Work, stated by Fiscal Year and by net present value using the then-applicable yield on two-year U.S. Treasury bonds as the discount rate.

f. The effect of the Relief Event on Developer's ability to perform any of its obligations under this Agreement, including details of the relevant obligations, the effect on each such obligation, and the likely duration of that effect.

g. If applicable, the cause of any claimed Permitted Closure and the actual and projected duration and impacts thereof.

h. An explanation of the measures that Developer has previously taken to prevent, and proposes to undertake to mitigate, the costs, delay and other consequences of the Relief Event.

i. The type and amount of insurance that may be applicable and amounts that have been or are anticipated to be collected under such insurance.

15.1.2.2 Developer shall submit the Relief Request on a standardized form approved by IFA.

15.1.2.3 If, following issuance of any Relief Request, Developer receives or becomes aware of any further information or estimates relating to the Relief Event and/or its impact on cost, schedule, Closures or performance of Work, including information on new consequences as described in Section 15.1.1.3, it shall submit such further information to IFA as soon as possible. IFA may request from Developer any further information that IFA may reasonably require, and Developer shall supply the same within a reasonable period after such request.

15.1.2.4 Neither the fact that Developer submits to IFA a Relief Request, nor the fact that IFA keeps account of the costs of labor, Materials, or Equipment, or time, shall in any way be construed as establishing the validity of the Relief Request or the Claims therein or method of computing any compensation or extension of Project Schedule Deadlines.

15.1.3 IFA Evaluation and Response to Relief Request; Negotiations

15.1.3.1 IFA will evaluate the information presented in the Relief Request and provide a written response to Developer within forty-five (45) days after its receipt. If Developer complies with the Notice and information requirements in Sections 15.1.1 and 15.1.2, but IFA does not provide Developer a written response within such forty-five- (45)-day period, then, except as provided otherwise in Section 15.1.6, Developer shall have the right to assert a Claim against IFA for the relevant Relief Event and have such Claim determined according to the Dispute Resolution Procedures.

15.1.3.2 If Developer timely complies with the Notice and information requirements in Sections 15.1.1 and 15.1.2 and IFA provides a written response within such forty-five- (45)-day period indicating that there are any matters in Dispute regarding the Relief Request, then the Parties may mutually elect to commence good faith negotiations to determine the matters in Dispute, or Developer may elect to assert a Claim against IFA for the matters in Dispute and have such Claim determined according to the Dispute Resolution Procedures.

15.1.3.3 If IFA or Developer determines after engaging in good faith negotiations that continuation of such negotiations is not likely to resolve the matters in Dispute, then, except as provided otherwise in Sections 15.1.6, Developer may initiate the Dispute Resolution Procedures.

15.1.4 Final Documentation of Relief Event Claim

15.1.4.1 Within thirty (30) days of the completion of work related to a Relief Event that is the subject of a Relief Request, Developer shall submit to IFA the full and final documentation of the Claim. Pertinent information, references, arguments, and data to support the Claim shall be included in the full and final documentation, including updated

analyses, descriptions, actual amounts and impacts, specific dates for Project Schedule Deadline adjustments, and other documentation covering the same scope of information as required for the Relief Request.

15.1.4.2 Without limiting the foregoing, if Developer claims compensation under Sections 15.2, 15.3 or 15.4, and except to the extent that the same are the subject of a previous written agreement by the Parties to be paid as a negotiated fixed price, Developer shall provide an itemized accounting of the actual direct costs broken down in terms of labor (including burden), Materials, supplies, Equipment, indirect costs, including expenses and profit, and any other cost category reasonably requested by IFA. The documentation also shall include, to the extent applicable, the Extra Work Costs for future O&M Work, stated by Fiscal Year and by net present value using the then-applicable yield on two-year U.S. Treasury bonds as the discount rate. The labor, Materials, and Equipment cost categories shall account for the following items:

a. Labor. A listing of individuals, classifications, regular hours and overtime hours worked, dates worked, and other pertinent information related to the requested payment of labor costs.

b. Materials. Invoices, purchase orders, location of materials either stored or incorporated into the East End Crossing, dates materials were transported to the Site or incorporated into the East End Crossing, and other pertinent information related to the requested payment of material costs.

c. Equipment. Listing of detailed description (make, model, and serial number), hours of use, dates of use and equipment rates. Equipment rates shall be determined pursuant to Section 1.2.3.1 of Exhibit 17 to this Agreement as of the first date when the affected work related to the Claim was performed.

15.1.4.3 Developer shall submit the full and final documentation of the Claim on a standardized form approved by IFA, and shall certify the Claim to be accurate, truthful and complete. Information submitted subsequent to the full and final documentation submittal will not be considered. No full and final documentation of Claim will be considered that does not have the same nature, scope (except for reductions) and circumstances, and basis of Claim, as those specified in the Relief Event Notice and any supplements submitted in accordance with Section 15.1.1.3 and in the Relief Request.

15.1.5 IFA Response to Final Documentation

IFA's failure to respond to a full and final documentation of a Claim arising out of a Relief Event within forty-five (45) days after receipt shall constitute IFA's rejection of the Claim which shall be subject to the Dispute Resolution Procedures. If IFA finds the Claim or any part thereof to be valid, or as a result of completion of the Dispute Resolution Procedure with respect to such Claim, the Claim or any part thereof is deemed to be valid, IFA will:

15.1.5.1 Deliver to Developer Notice of Determination authorizing such partial or whole Claim;

15.1.5.2 Pay such Claim to the extent deemed valid (as to Extra Work Costs and Delay Costs, by one of the methods set forth in Section 15.4.5); and

15.1.5.3 Grant a commensurate Project Schedule Deadline adjustment, if applicable, as provided in the PPA Documents.

15.1.6 Waiver

Time is of the essence in Developer's delivery of its written Relief Event Notice, supplemental Relief Event Notice and Relief Request. Accordingly:

15.1.6.1 If for any reason Developer fails to deliver such written Relief Event Notice or supplement thereto in substantial compliance with all applicable requirements:

a. Within forty-five (45) days following the date (for purposes of this Section 15.1.6, the "starting date") on which Developer first became aware (or should have been aware, using all reasonable due diligence) of the Relief Event (or, in the case of a supplement, the new consequences described in Section 15.1.1.3), Developer shall be deemed to have irrevocably and forever waived and released the portion of any Claim or right to relief for adverse effect attributable to the Relief Event accruing after such forty-five- (45)-day deadline and until the date Developer submits the written Relief Event Notice or supplement thereto; and

b. Within ninety (90) days following the starting date, Developer shall be deemed to have irrevocably and forever waived and released any and all Claim or right to relief for any adverse effect attributable to such Relief Event.

15.1.6.2 If for any reason Developer fails to deliver such written Relief Request in substantial compliance with all applicable requirements in Section 15.1.2 within forty-five (45) days after the date of the Relief Event Notice, Developer shall be deemed to have irrevocably and forever waived and released any and all Claim or right to relief (including extension of the Term) for any adverse effect attributable to such Relief Event.

15.1.7 Open Book Basis

Developer shall share with IFA all data, documents and information, and shall conduct all discussions and negotiations, pertaining to a claimed Relief Event on an Open Book Basis.

15.2 Compensation to Developer due to Missed Availability Payment as a Result of Relief Event Delay of Substantial Completion

15.2.1 The Parties acknowledge that Developer may incur certain losses if Availability Payments scheduled in the Financial Model to commence accruing on the original Baseline Substantial Completion Date are delayed due to Relief Event Delays. For the delay in commencing accrual of Availability Payments on the original Baseline Substantial Completion Date IFA agrees to compensate Developer for its losses, but only to the extent such losses are caused by Relief Event Delays. Such compensation shall be calculated in accordance with the formulas set forth in Sections 15.2.2.

15.2.2 Subject to the other limitations set forth in this Section 15.2, the total compensation owed to Developer for the delay in receiving Availability Payments scheduled in the Financial Model to commence accruing on the original Baseline Substantial Completion Date shall equal the following:

15.2.2.1 Subject to the limitations set forth in Sections 15.1 and 15.2.4,

the greater of:

a. The average daily accrual of scheduled debt service payments (except the repayment of principal scheduled to be funded by the Milestone Payment which has been delayed by a Relief Event Delay) on the outstanding portion of the Initial Senior Project Debt during the period commencing on the original Baseline Substantial Completion Date and ending on the Substantial Completion Date, multiplied by the lesser of (i) one (1) or (ii) a ratio the numerator of which is the number of days of Relief Event Delays and the denominator of which is the number of days from and including the original Baseline Substantial Completion Date to the Substantial Completion Date; or

b. Ninety-five percent (95%) (or one hundred percent (100%) of the average daily Availability Payment, less any substantiated avoidable costs if such delay is as a result of one or more of the Relief Events described in clauses (a), (b), (f), (g), (h), (i) and (s) (but only if such restraining order, preliminary injunction or other form of relief arises solely out of, or solely relates to Environmental Litigation) of the definition of "Relief Event") of the average daily Availability Payment scheduled to accrue during the period commencing on the original Baseline Substantial Completion Date and ending on the Substantial Completion Date, multiplied by the lesser of (i) one (1) or (ii) a ratio the numerator of which is the number of days of Relief Event Delays and the denominator of which is the number of days from and including the original Baseline Substantial Completion Date to the Substantial Completion Date;

minus, in either case

15.2.2.2 The proceeds available to Developer from any delayed start up or business interruption insurance policy procured to cover any loss of Availability Payment during the period commencing on the original Baseline Substantial Completion Date and ending on the Substantial Completion Date, multiplied by the lesser of (a) one (1) or (b) a ratio the numerator of which is the number of days of Relief Event Delays and the denominator of which is the number of days from and including the original Baseline Substantial Completion Date to the Substantial Completion Date, excluding any insurance proceeds paid to Developer to cover the loss of the Availability Payment, if any, during the 60 day period provided in Section 15.2.3;

minus, in either case

15.2.2.3 The amount of any deduction or offset allowed under this Agreement.

15.2.3 If a Deductible Relief Event causes a Relief Event Delay, no compensation under this Section 15.2 shall be due or payable for the first 60 days of Relief Event Delays attributable to such Deductible Relief Event, and such deductible shall not be included in calculating the number of days of Relief Event Delays under Section 15.2.2. Such 60 day deductible as applied to Section 15.2.2 shall be cumulative and apply in the aggregate for all Deductible Relief Events affecting Substantial Completion.

15.2.4 Except to the extent that Section 20.2.4 applies and provides otherwise, in no event shall Developer be entitled to compensation under this Section 15.2 in excess of two hundred twenty (220) days for Relief Event Delays that in the aggregate affect Substantial Completion. If Relief Event Delays affecting Substantial Completion exceed two hundred twenty (220) days in the aggregate, the Parties' rights and remedies shall be as set forth in Section 20.2.

15.2.5 Compensation owed under this Section 15.2 shall be paid monthly pursuant to properly-submitted invoices separately identifying such compensation under this Section 15.2, commencing on the last day of the month within which exists the original Baseline Substantial Completion Date and continuing monthly thereafter until all compensation owed under this Section 15.2 is paid.

15.2.6 Notwithstanding any provision to the contrary, Developer shall not be entitled to any payments under this Section 15.2 if Developer achieves Substantial Completion on or before the original Baseline Substantial Completion Date.

15.2.7 Claims under this Section 15.2 shall be submitted and subject to the claims procedures and requirements set forth in Section 15.1, and Developer shall be required to prove the existence, cause, effect, and timing of a Relief Event Delay in accordance with Section 15.1.

15.3 Delayed Milestone Payments Due to Relief Event Delays

15.3.1 If a Relief Event Delay extends the dates described in Section 10.1.2, then subject to Sections 15.3.2 through 15.3.6, Developer shall be entitled to submit Claims for the additional interest incurred resulting from a delay in making any Initial Senior Project Debt principal payment expected to be paid from a Milestone Payment beyond the later of:

15.3.1.1 The reasonably expected dates for payment of Milestone Payments under Section 10.1.2 absent impact of the Relief Event Delay, taking into consideration the reasonably expected timing for incurring costs of eligible Construction Work relating to the applicable Milestone as indicated in the Project Baseline Schedule IFA approves pursuant to Section 1.5.2.1.1 of the Technical Provisions; or

15.3.1.2 The dates for payment scheduled in the Financial Model absent impact of the Relief Event Delay.

15.3.2 Compensation under this Section 15.3 shall be due and owing only if:

15.3.2.1 Such Initial Senior Project Debt principal payment was scheduled to be funded by the Milestone Payment;

15.3.2.2 Receipt of the Milestone Payment was delayed by a Relief Event Delay; and

15.3.2.3 The delay in making such Initial Senior Project Debt principal payment was directly caused by the delayed receipt of the Milestone Payment.

15.3.3 The compensation owed under this Section 15.3 shall be calculated based on the number of days of Relief Event Delays from and after the later of the dates described in Sections 15.3.1.1 and 15.3.1.2, up to a maximum of three hundred sixty-five (365) days, multiplied by the daily interest charged for the relevant principal amount under the applicable Funding Agreement.

15.3.4 If a Deductible Relief Event causes a Relief Event Delay, no compensation shall be due or payable for the first 60 days of Relief Event Delays from and after the later of the dates described in Sections 15.3.1.1 and 15.3.1.2 attributable to such Deductible Relief Event, and such deductible shall not be included in calculating the number of days of Relief Event

Delays under Section 15.3.1. Such 60 day deductible shall be cumulative and apply in the aggregate for all Deductible Relief Events. If a Relief Event Delay is caused concurrently by a Deductible Relief Event and a non-Deductible Relief Event, such delay shall be deemed caused solely by the Deductible Relief Event.

15.3.5 The compensation owed shall be reduced by the proceeds from any delayed start up or business interruption insurance policy procured to cover any extra cost of funds during the period of delay in payment of the Milestone Payment, excluding any insurance proceeds paid to Developer to cover the cost of funds during the 60 day period provided in Sections 15.3.4.

15.3.6 Claims for the additional interest shall be due and payable the later of (a) thirty (30) days after each date Developer delivers to IFA a request for payment together with documentation demonstrating the next interest payment date under the terms of the applicable Funding Agreement and the amount of the additional interest owing under this Section 15.3 or (b) two (2) Business Days before such interest payment date, provided that payments shall not be due earlier or more frequently than thirty (30) days after the end of each Quarter.

15.3.7 Claims under this Section 15.3 shall be submitted and subject to the claims procedures and requirements set forth in Section 15.1, and Developer shall be required to prove the existence, cause, effect and timing of a Relief Event Delay in accordance with Section 15.1.

15.4 Payment for Extra Work Costs and Delay Costs

15.4.1 Except as provided otherwise in this Agreement, IFA shall compensate Developer for Extra Work Costs and Delay Costs directly attributable to occurrence of a Relief Event.

15.4.2 IFA shall compensate Developer for amounts due for Extra Work Costs and Delay Costs (a) to the extent permitted by Law, as a lump sum payment, (b) as periodic payments over the Term, (c) as an adjustment to the MAP over the Term, (d) as progress payments invoiced as Work is completed, (e) through an extension of the Term if the event giving rise to the Claim occurs after the Construction Period, or (f) through any combination of the above, as determined by IFA in its sole discretion but subject to Section 15.4.4; provided, further that, if such amounts are less than $20,000,000 in total in each Fiscal Year during the Construction Period, IFA shall pay such amounts as a lump sum payment. Subject to Section 15.5, IFA shall pay for any Extra Work Costs and Delay Costs resulting from Relief Events that are IFA Changes as progress payments invoiced as Work is completed.

15.4.3 IFA shall provide Developer with a Notice of the method chosen for paying Developer for the amounts of Extra Work Costs and Delay Costs owed. The Parties shall conduct all discussions and negotiations to determine any compensation amount (including additional compensation amounts under Section 15.5, if any), and Developer shall provide IFA with all data, documents and information pertaining thereto, on an Open Book Basis.

15.4.4 If IFA elects to compensate Developer through Deferral of Compensation, Developer shall use diligent efforts to obtain (a) funding from the Lenders, or other lenders if permitted by the Funding Agreements, and/or (b) equity support from existing and potentially new Equity Members of Developer, in either case, to finance the applicable Extra Work Costs and the Delay Costs relating to the Relief Event in advance of receiving the required

compensation payments from IFA. If despite such diligent efforts and the additional compensation that would be paid pursuant to this Section 15.4 Developer is unable to obtain such funding and equity support (or IFA does not accept the terms under which Developer is able to obtain additional financing as pursuant to clauses (a) and (b) of this Section 15.4.4), then IFA's election to compensate through Deferral of Compensation shall be deemed void, and IFA shall pay the applicable Extra Work Costs and Delay Costs through another method set forth in Section 15.4.2.

15.4.5 Following receipt of complete and conforming Claim documentation pursuant to Sections 15.1.1 and 15.1.2, if IFA chooses to compensate Extra Work Costs and/or Delay Costs, as applicable, owed under this Section 15.4, then IFA shall compensate Developer such Extra Work Costs and/or Delay Costs, as applicable:

15.4.5.1 As a lump sum payment other than a negotiated fixed price, then payment of all undisputed amounts shall be due and owing thirty (30) days following IFA's receipt of all pertinent data, documents and information on an Open Book Basis with respect to such Extra Work Costs and/or Delay Costs, as applicable;

15.4.5.2 As a lump sum payment that is a negotiated fixed price, then payment(s) of all undisputed amounts shall be due and owing thirty (30) days after IFA receives from Developer all documentation required pursuant to the negotiated fixed price terms in order to receive scheduled payments under the negotiated fixed price terms with respect to such Extra Work Costs and/or Delay Costs, as applicable; and

15.4.5.3 As progress payments invoiced as Work is completed, then payment of all undisputed amounts shall be due and owing thirty (30) days after each date IFA receives from Developer an invoice, not more often than monthly, of such Extra Work Costs and/or Delay Costs incurred, as applicable, for such Work during the previous month, which invoice shall be itemized as set forth in Section 15.1.4 and by the components of Extra Work Costs and/or Delay Costs, as applicable, allowable under Exhibit 17 (Extra Work Costs and Delay Costs Specifications).

15.4.6 Subject to the provisions of Section 15.4.2, if any portion of the Extra Work Costs and Delay Costs consists of costs of design or construction to be performed, or other future capital expenditures, then IFA shall have no obligation to make advance payments and shall have the right to pay such portion in monthly progress payments according to the Department's standard practices and procedures for paying its contractors and applicable Laws.

15.4.7 If IFA elects to make quarterly or other periodic payments, at any later time it may choose to complete compensation through a lump sum payment of the present value of the remaining Extra Work Costs and Delay Costs.

15.4.8 For the purpose of any discounting of future cost impacts, the Parties shall use the then-applicable yield on two-year U.S. Treasury bonds as the discount rate.

15.4.9 Extra Work Costs and Delay Costs attributable to a Relief Event shall:

15.4.9.1 Exclude:

a. Third-party entertainment costs, lobbying and political activity costs, costs of alcoholic beverages, costs for first class travel in excess of prevailing economy travel costs,

and costs of club memberships, in each case to the extent that such costs would not be reimbursed to an employee of IFA in the regular course of business, and

b. Unallowable costs under the following provisions of the federal Contract Cost Principles, 48 CFR §§ 31.205: 31.205-8 (contributions or donations), 31.205-13 (employee morale, health, welfare, food service, and dormitory costs and credits), 31.205-14 (entertainment costs), 31.205-15 (fines, penalties, and mischarging costs), 31.205-27 (organization costs), 31.205-34 (recruitment costs), 31.205-35 (relocation costs), 31.205-43 (trade, business, technical and professional activity costs), 31.205-44 (training and education costs), and 31.205-47 (costs related to legal and other proceedings);

15.4.9.2 Exclude amounts paid or to be paid to Affiliates in excess of the pricing Developer could reasonably obtain in an arms' length, competitive transaction with an unaffiliated Contractor;

15.4.9.3 Except as provided in Exhibit 17, exclude those costs incurred in investigating, analyzing, asserting, pursuing or enforcing any Claim or Dispute, including legal, accounting, financial advisory and technical advisory fees and expenses, and including such costs in connection with preparing Relief Event Notices, Relief Requests and final documentation of Claims in respect of Relief Events;

15.4.9.4 Take into account any savings in costs or time resulting from the Relief Event;

15.4.9.5 Be subject to Developer's obligation to prevent and to mitigate cost increases and augment cost decreases in accordance with Section 15.15; and

15.4.9.6 Exclude any amounts covered by applicable insurance required in Exhibit 19.

15.4.9.7 IFA, at its election, may offset any amounts owing to Developer in respect of costs for which IFA is obligated to pay against any amounts due and owing to IFA from Developer pursuant to this Agreement, such offset rights being in addition to IFA's offset rights under Section 19.2.5.

15.5 Restoration of Financial Balance for Deferral of Compensation

15.5.1 If IFA elects to compensate Developer through Deferral of Compensation, Developer shall be entitled to additional compensation as necessary to restore the reduction in the Original Equity IRR resulting from the Deferral of Compensation and to debt service coverage ratios.

15.5.2 Developer shall provide IFA with the total amount of compensation that Developer considers owed to restore the Original Equity IRR and debt service ratios as a result of the Deferral of Compensation, including supporting calculations and documentation. In no event shall Developer be entitled to any compensation for losses unrelated and not directly caused by the Deferral of Compensation. Developer shall provide IFA with the amount of any insurance that may be applicable and amounts that have been or are anticipated to be collected under such insurance.

15.5.3 If through mutual consent of the Parties, IFA is to compensate Developer through Deferral of Compensation for any Extra Work Costs and Delay Costs resulting from an IFA Change, the Equity IRR assumed to be earned on the additional invested equity in connection with the IFA Change shall be equal to the Original Equity IRR.

15.6 Relief Events Allowance Account; Relief Events Allowance Amount; Claim Deductible

15.6.1 Relief Events Allowance Account, Relief Events Allowance Amount

15.6.1.1 On or before the date of Financial Close, Developer shall establish an escrow account (the "Relief Events Allowance Account") exclusively available for the uses set forth in Section 15.6.1. Developer shall provide to IFA the details regarding the account, including the name, address and contact information for the depository institution and the account number. IFA shall have a first priority perfected security interest in the Relief Events Allowance Account, and the right to receive directly from the depository institution monthly account statements. IFA hereby covenants and agrees to deposit $45,000,000 ("Relief Events Allowance Amount") in the Relief Events Allowance Account by making deposits in such amounts and on such dates so that the cumulative amount deposited by IFA in the Relief Events Allowance Account will be at least equal to the cumulative deposit amounts specified in the table below no later than the corresponding dates specified below:

No Later than	Cumulative Amount Deposited by IFA
Earlier of the date of Financial Close or June 30, 2013	$9,000,000
August 1, 2013	$18,000,000
August 1, 2014	$27,000,000
August 1, 2015	$36,000,000
August 1, 2016	$45,000,000

15.6.1.2 Amounts on deposit in the Relief Events Allowance Account shall be available and used as the first source of funds to pay undisputed Extra Work Costs and Delay Costs due to Developer (after taking into consideration the Claim Deductible) for occurrence prior to the Substantial Completion Date of Relief Events under clauses (j) (other than a Seismic Event), (m), (o), (p), (q), (u) and (v) of the definition of Relief Events, and for no other purpose.

15.6.1.3 If concurrent Relief Events occur that cause or contribute to the same Extra Work Costs or Delay Costs and one of such Relief Events is payable from amounts in the Relief Events Allowance Account, then such Extra Work Costs or Delay Costs shall be payable from the Relief Events Allowance Account.

15.6.1.4 Funds held in the Relief Events Allowance Account may be invested and reinvested only in Eligible Investments. Eligible Investments in the Relief Events Allowance Account must mature, or the principal of and accrued interest on such Eligible Investments must be available for withdrawal without penalty, not later than such times as shall be necessary to provide funds when needed for payment of draws to Developer, and in any event not later than the end of the Term. All interest earned or profits realized from the investment of funds in the Relief Events Allowance Account shall be retained therein.

15.6.1.5 At the earlier of (a) any earlier termination of this Agreement for any reason, including termination due to IFA Default or (b) the Substantial Completion Date, and both (i) all undisputed Extra Work Costs and Delay Costs claimed by Developer for Relief Events referred to in Section 15.6.1.2 that occurred prior to the Substantial Completion Date have been paid in full, and (ii) there are no Extra Work Costs or Delay Costs claimed by Developer for Relief Events referred to in Section 15.6.1.2 that occurred prior to the Substantial Completion Date that are in dispute, fifty percent (50%) of the difference between Relief Events Allowance Amount and the aggregate amount of all Claims payable from the Relief Events Allowance Account shall be transferred to each of IFA and Developer, subject to the following sentence. IFA's portion shall automatically become the sole property of IFA, free and clear of all liens, pledges, encumbrances, offsets and deductions, and Developer's portion shall become the sole property of Developer upon delivery to IFA, and acceptance by IFA, of an executed written waiver and release of all known and unknown, suspected and unsuspected, Claims payable from the Relief Events Allowance Account. Developer shall thereafter deliver such transfers, assignments and other documents, and take such other actions, as IFA shall require to confirm transfer to IFA of its portion of the funds in the Relief Events Allowance Account, free and clear of all liens, pledges, encumbrances, offsets and deductions.

15.6.1.6 The amount on deposit in the Relief Events Allowance Account is not in and of itself a limitation on IFA's liability for Extra Work Costs and Delay Costs directly attributable to the Relief Events payable from the Relief Events Allowance Account which limitations are set forth elsewhere in this Article 15.

15.6.2 Claim Deductible

15.6.2.1 Except as provided in Section 15.6.2, each separate occurrence of a Relief Event for which a Claim is made seeking the recovery of Extra Work Costs and Delay Costs, as applicable, shall be subject to the Claim Deductible. The Claim Deductible reflects the Parties' agreement that: (a) Developer shall bear the financial risks for Extra Work Costs and Delay Costs, as applicable, for each separate occurrence of a Relief Event, up to the Claim Deductible; and (b) except as otherwise provided in this Article 15, IFA will compensate Developer for Extra Work Costs and Delay Costs, as applicable, in excess of the Claim Deductible, provided that each Claim complies with Section 15.1.

15.6.2.2 The Claim Deductible shall not apply to a Claim seeking recovery for the following:

a. IFA Change (other than a Non-Discriminatory O&M Change);

b. A Relief Event set forth in clause (a), (e), (f), (g) (but only as to performance or failure to perform work by IFA), (h), (i), (m) (but only as to IFA Releases of

Hazardous Materials), (n) (but only as to IFA Releases of Hazardous Materials) or (s) of the definition of Relief Event;

c. Extra Work Costs and Delay Costs directly attributable to a Flood Event;

d. Extra Work Costs and Delay Costs directly attributable to a Seismic Event, which are subject to the deductible set forth in Section 15.7.11;

e. Compensation under Sections 15.2 and 15.3; and

f. Compensation under Sections 2.6 and 2.7 of Exhibit 17.

15.6.2.3 The amount of the Claim Deductible shall be adjusted annually at the beginning of each Fiscal Year after the Effective Date by a percentage equal to the percentage adjustment in the CPI between the CPI most recently published for the second immediately preceding Fiscal Year and the CPI most recently published for the immediately preceding Fiscal Year.

15.7 Other Deductibles; Special Provisions

Developer's rights and remedies respecting certain Relief Events and Losses are subject to the provisions of this Section 15.7. The provisions of this Section 15.7 supersede any contrary provisions of this Agreement.

15.7.1 Non-Discriminatory O&M Change

15.7.1.1 In no event shall Developer be entitled to compensation for increases in costs of O&M Work, whether Extra Work Costs or Delay Costs, due to a Non-Discriminatory O&M Change, except for capital costs of required major new improvements or required major repair, reconstruction, rehabilitation, restoration, renewal or replacement of any affected Element. Developer shall be entitled to Extra Work Costs only if IFA directs Developer to implement the Non-Discriminatory O&M Changes prior to the date when Developer performs or is scheduled to perform the Rehabilitation Work (if any) on the affected Element or otherwise outside the ordinary course of performing the O&M Work. In such case, the amount of the Extra Work Costs shall equal the lesser of (a) the actual, reasonable Extra Work Costs incurred or (b) the net present value (applying Developer's then-applicable yield on two-year U.S. Treasury bonds as the discount rate) of the cost of funds for such actual, reasonable Extra Work Costs from the date of funding until the next scheduled Rehabilitation Work for the affected Element. Developer shall not be entitled to any Extra Work Costs for implementing Non-Discriminatory O&M Changes if Developer replaces the affected Element during the ordinary course of performing the O&M Work.

15.7.2 Project Right of Way Acquisition

Respecting the Relief Event under clause (f) of the definition of Relief Event (concerning IFA-Caused Delay) where the IFA-Caused Delay is under clause (c)(ii) of such definition (concerning a time period to make available to Developer Additional Property being acquired), Developer shall have no Claim to a Relief Event or Change Order on account of, and Developer shall have the sole risk arising out of:

15.7.2.1 The refusal of any Governmental Entity that owns or controls an

Additional Property to grant necessary rights of access, entry and use to IFA after IFA makes diligent efforts to negotiate acquisition of such Additional Property; or

15.7.2.2 The holding by the court in any condemnation action for the taking of an Additional Property to the effect that (a) IFA's power of eminent domain does not extend to such Additional Property or (b) the proposed condemnation does not satisfy legal requirements for necessity of the taking.

15.7.3 Use of Airspace for Business Opportunity

Prior to deciding whether to pursue or implement a Business Opportunity, at IFA's request Developer shall promptly provide analysis of the impacts thereof on Developer's costs and schedule.

15.7.4 Flood Event

15.7.4.1 For each Flood Event, Developer shall bear (a) the amount of its deductible or self-insured retention under its then applicable Insurance Policy for the Flood Event, plus (b) all cost impacts other than the Extra Work Costs and Delay Costs to repair or replace tangible property damage to the East End Crossing caused by the Flood Events. If Developer is excused from insuring the Flood Event pursuant to Section 17.1.8, then Developer shall be deemed to have self-insured the Flood Event risk in the amount of the deductible under the most recent Insurance Policy Developer carried for such risk, inflated annually by the increase, if any, in the CPI between the CPI most recently published before January 1 of the last year covered by such Insurance Policy and the CPI most recently published before January 1 of the applicable year.

15.7.4.2 If the East End Crossing fails to meet flooding or other design requirements under the Technical Provisions, then IFA shall have no liability for any Extra Work Costs or Delay Costs arising out of the Flood Event that would not have been suffered had Developer met such flooding or other design requirements. (Refer to Section 15.9 regarding reduction of IFA's liability for Extra Work Costs and Delay Costs by insurance or deemed self-insurance).

15.7.4.3 Unless specified otherwise by IFA, from and after issuance of NTP2 Developer shall comply with the requirements for performance of emergency repair work and maintenance of documents as set forth in Section 9.3 of this Agreement and other provisions of the PPA Documents.

15.7.5 Major Environmental Approval Delay

Developer shall not be entitled to any Claim for Extra Work Costs relating to a Relief Event under clause (k) of the definition of Relief Event (concerning Major Environmental Approvals).

15.7.6 Utility Owner Delay

Developer shall not be entitled to any Claim for Extra Work Costs relating to a Utility Owner delay set forth in clause (l) of the definition of Relief Event (concerning Utility Owner delay).

15.7.7 Hazardous Materials

15.7.7.1 Developer's rights to compensation and schedule relief with respect to Hazardous Materials under clauses (m) and (n) of the definition of Relief Event (concerning certain Hazardous Materials) are limited to those set forth in Exhibit 5 (Hazardous Materials Risk Allocation Terms).

15.7.7.2 The terms and provisions of Exhibit 5 (Hazardous Materials Risk Allocation Terms) shall exclusively govern Developer's rights in the case of any presence, existence or Release of Hazardous Materials. Without limiting the foregoing, this Section 15.7.7 supersedes any Relief Event other than that under clauses (m) and (n) of the definition of Relief Event that might otherwise be triggered by the presence, existence or Release of Hazardous Materials.

15.7.8 Change in Law

15.7.8.1 New or revised statutes adopted after the Setting Date that change, add to or replace applicable standards, criteria, requirements, conditions, procedures, specifications and other provisions, including Safety Standards and Project Standards, relating to the D&C Work or O&M Work, as well as revisions to the Technical Provisions to conform to such new or revised statutes, shall be treated as a Change in Law (clause (r) of the definition of Relief Event) rather than an IFA Change to Technical Provisions; however, changes in Adjustment Standards caused by new or revised statutes shall constitute neither a Change in Law nor an IFA Change.

15.7.8.2 A Non-Discriminatory O&M Change that IFA requires in order to comply with or implement a Change in Law shall be treated under this Agreement as a Change in Law.

15.7.8.3 In no event shall Developer be entitled to compensation for increases in costs of O&M Work, whether Extra Work Costs or Delay Costs, due to a Change in Law, except for capital costs of required major new improvements or required major repair, reconstruction, rehabilitation, restoration, renewal or replacement of any Element.

15.7.8.4 Notwithstanding any contrary provision of this Agreement, if the Change in Law is the lawful levy of state or local real property taxes on the Developer's Interest, Developer shall be entitled to compensation for the full amount of such property taxes.

15.7.9 Damage and Destruction to Specified Property

Developer shall bear all costs, including Extra Work Costs and Delay Costs, to repair or replace, and shall not be entitled to any compensation for delay due to, any loss, damage or destruction caused by a Relief Event or other event (except IFA's gross negligence, recklessness or willful misconduct) to:

15.7.9.1 Any equipment, materials, inventory, supplies and other property at locations outside the Project Right of Way; or

15.7.9.2 Any equipment, materials, inventory, supplies and other property while in transit to the Site.

15.7.10 [reserved]

15.7.11 Seismic Event

15.7.11.1 Developer shall promptly repair or replace any damage to the East End Crossing arising out of, relating or otherwise attributable to any Seismic Event, and Developer shall bear all costs and expenses associated with such repair or replacement work, including design and engineering costs necessary for the repair and replacement work, in each case except as set forth in this Section 15.7.11. In respect of Seismic Events, Developer shall bear the first $10,000,000 of Extra Work and Delay Costs (which shall be inclusive of any deductible under an Insurance Policy) resulting therefrom in the aggregate for all Seismic Events for reconstruction of the East End Crossing and temporary works associated therewith, and IFA shall pay Extra Work and Delay Costs for such reconstruction and temporary works in excess thereof up to the point at which insurance, if any, attaches. Developer shall, within five (5) days of such occurrence, submit to IFA Notice thereof. Developer shall thereafter follow the procedures for notification set forth in Section 15.1, or such shorter or extended periods of time for notification and Claim submission as the Parties agree is reasonable under the circumstances, Developer shall submit complete written and photographic documentation supporting its Claim, and provide detailed quantification of the damages caused thereby. Such written documentation shall include detailed identification of the property damage, the scope of necessary repair work, the proposed approach to performing the necessary repair work, and the projected costs of repair together with a supporting cost-loaded repair schedule. According to the time periods set forth in Section 15.1, or such shorter or extended period of time as the Parties agree is reasonable under the circumstances, IFA shall evaluate the documentation supplied by Developer and provide IFA's provisional determination of the cost to repair the property damage to the East End Crossing, which determination shall be subject to the Dispute Resolution Procedures. Developer shall comply with any IFA request for explanation, elaboration or additional information reasonably necessary to facilitate IFA's analysis.

15.7.11.2 IFA shall not be responsible for, or obligated or deemed to be obligated to pay, any Extra Work Costs, Delay Costs, or other compensation to any Developer-Related Entity for:

a. Seismic Events for which Developer is to bear all costs and expense, pursuant to Section 15.7.11;

b. Damage or destruction caused by any Seismic Event to any property or items of any kind except as described in Section 15.7.11.1; and

c. Damage or destruction caused by any Seismic Event occurring after Substantial Completion that would not have been suffered had Developer met the Design Requirements, including specifically seismic or other design requirements under the Technical Provisions, if the East End Crossing fails to meet such Design Requirements. Developer bears the burden of proof in establishing that the affected portions of the East End Crossing met the Design Requirements at the occurrence of the Seismic Event.

15.7.12 Inaccurate Utility Information

For the Relief Event set forth in clause (u) of the definition thereof (concerning Utility Information that is not Reasonably Accurate):

15.7.12.1 Compensation for Extra Work Costs shall be limited to the aggregate Extra Work Costs of the Utility Work (including reimbursements payable to Utility Owners) that would not have been incurred had the Utility been identified; and

15.7.12.2 Developer shall be entitled to any Claim for Delay Costs only if the Utility, other than a Service Line, is encountered where the Utility Information incorrectly indicates that the subject Utility does not exist anywhere within the boundary lines of the Project Right of Way. For purposes of clarity, Developer shall not be entitled to any Claim for Delay Costs where a Utility, other than a Service Line, is encountered where the Utility was not otherwise identified with Reasonable Accuracy.

15.8 Accounting for Relief Event Work pertaining to the Relief Events Allowance Account

15.8.1 Developer shall submit to IFA a statement, in a format acceptable to IFA in its good faith discretion, meeting the requirements of Section 15.8.2 (each, a "REAA Statement"), setting forth Extra Work Costs and Delay Costs paid to Developer (after taking into consideration the Claim Deductible) from the Relief Events Allowance Account in respect of Relief Events, since the date of the preceding statement (or, in respect of the first statement, since the commencement date of Construction Work).

15.8.2 The REAA Statement shall, at a minimum, itemize, and set forth the amount for each such itemized portion of, eligible Extra Work Costs and Delay Costs paid to Developer (after taking into consideration the Claim Deductible) from the Relief Events Allowance Account in respect of Relief Events. The statement must be accompanied by information sufficient, in IFA's good faith determination, for IFA to verify that such amounts were for Extra Work Costs and Delay Costs actually incurred in respect of Relief Events. Such attached report shall include:

a. citation to Claims that are subject to draws on the Relief Events Allowance Account since the preceding REAA Statement

b. to the extent not fully captured in such citation, a description of the basis for Extra Work Costs and Delay Costs paid to Developer (after taking into consideration the Claim Deductible) in respect of Relief Events;

c. invoices from Contractors substantiating or supporting some or all of those costs and expenses, if any;

d. the sum of all prior amounts paid by Developer through the last day of the prior statement;

e. a certification by Developer's Authorized Representative that:

i. Developer has fully and completely cured all Developer Defaults for which Developer received Notice from IFA prior to IFA's receipt of the REAA Statement;

ii. Developer has met all the conditions set forth in Section 3.4.2.2, if there exist any of the circumstances described in Section 3.4.2.1 prior to IFA's receipt of the REAA Statement; and

iii. the REAA Statement and all supporting documentation are each, and is collectively, true, correct and complete.

15.8.3 IFA shall return to Developer any REAA Statement that is incomplete and/or incorrect in any material respect for correction and resubmission. Developer shall correct or complete, as applicable, such returned REAA Statement, which shall include a recertification by Developer as to all items, up to the subsequent date of submission, listed in Section 15.8.2. IFA's obligation to fund Extra Work Costs or Delay Costs in excess of the Relief Events Allowance Amount shall also be suspended during such period.

15.8.4 IFA will examine submitted REAA Statements, including through IFA's independent oversight and auditing process, and reconcile the total amount drawn against the Relief Events Allowance Amount, as detailed in such REAA Statements, against IFA's independent assessment of the amount to which Developer is entitled, if any, pursuant to Sections 15.1.3 and 15.1.5 (the "IFA REAA Accounting"). If IFA disagrees with, or is unable to verify, the accuracy of any amount drawn by Developer against the Relief Events Allowance Amount, then IFA shall promptly, but in no case later than ten (10) Business Days following receipt of the subject REAA Statement, provide Notice to Developer of such disagreement or inability. Subject to the provisions of Section 15.8.5, any draw by Developer upon the Relief Events Allowance Amount during the period commencing upon receipt by Developer of such Notice until receipt by Developer of a subsequent Notice stating that IFA is able, in its good faith determination, to agree with Developer's statement, shall be a Developer Default. IFA's obligation to fund Extra Work Costs or Delay Costs in excess of the Relief Events Allowance Amount shall also be suspended during such period.

15.8.5 IFA shall have the right to dispute, in good faith, any amount specified in any REAA Statement, whether incurred by Developer, drawn by Developer against the Relief Events Allowance Amount, or to be paid by IFA. During the period of any Dispute relating to the amount to be drawn by Developer against the Relief Events Allowance Account (and not whether Developer may draw any amount against the Relief Events Allowance Account), Developer may draw (with IFA's prior written permission for such draw and only for the amount to be drawn) against the Relief Events Allowance Account or, if applicable, IFA shall pay, the amount identified in the REAA Statement that is not in Dispute pursuant to this Article 15. Developer and IFA shall use their reasonable efforts to resolve any such Dispute within thirty (30) days after the Dispute arises. If the Parties fail to resolve the Dispute within that period, then the Dispute shall be resolved according to the Dispute Resolution Procedures. Any amount determined to be due pursuant to the Dispute Resolution Procedures will be paid within twenty (20) days following resolution of the Dispute.

15.8.6 For purposes of clarity, nothing in this Section 15.8, including any review by IFA of the statement provided pursuant to Section 15.8.1, shall entitle Developer to any interest on any amount drawn, to be drawn against the Relief Events Allowance Amount, to be paid by IFA or in Dispute, in each case, in respect of eligible Extra Work Costs or Delay Costs in excess of the Relief Events Allowance Amount.

15.9 Insurance Deductible

15.9.1 Each Claim seeking the recovery of compensation for Extra Work Costs and Delay Costs, as applicable, shall be net of all insurance available to Developer, or deemed to be self-insured by Developer under Section 17.1.4.4, with respect to the Relief Event giving rise to

the Extra Work Costs or Delay Costs. The amount of such insurance or deemed self-insurance shall be netted out before determining the amount of Extra Work Costs and Delay Costs to be charged against the Relief Events Allowance Account.

15.9.2 Each Claim seeking the recovery of compensation under Sections 15.2 and 15.3, as applicable, shall be net of all delayed opening or business interruption insurance available to Developer (if any). Proceeds from delayed opening or business interruption insurance payable to IFA shall not reduce the amount of compensation due Developer under Sections 15.2 and 15.3.

15.10 Sources for Payment of Compensation Amounts

15.10.1 Compensation Amounts not addressed through Deferral of Compensation and due on or prior to the Substantial Completion Date are payable first from the Relief Events Allowance Account, as applicable, and then from the MP Relief Event and Termination Compensation Fund or other sources available to IFA.

15.10.2 Compensation Amounts not addressed through Deferral of Compensation and due after the Substantial Completion Date are payable from amounts held in the AP Relief Event and Termination Compensation Fund, until such Compensation Amount is paid in full or any lesser balance in the AP Relief Event and Termination Compensation Fund is exhausted and then from the General Reserve Fund as necessary to pay the remaining balance of such Compensation Amount.

15.10.3 IFA hereby covenants and agrees to use its best efforts to cause the General Assembly of the State to appropriate amounts that will be sufficient to enable IFA to pay the Compensation Amounts owed by IFA to Developer under this Agreement, including exhausting all available reviews and appeals if such amounts are not approved for appropriation. Further, IFA hereby covenants that it will do all things lawfully within its power to obtain and maintain funds from which to pay the Compensation Amounts owed by IFA to Developer under this Agreement, including, but not limited to requesting an appropriation in an amount sufficient to pay the Compensation Amounts owed by IFA to Developer under this Agreement in writing submitted to the State Budget Agency and the General Assembly at a time sufficiently in advance of the date for payment thereof so that an appropriation from the General Assembly may be made in the normal State budgetary process, using its bona fide best efforts to have such request approved, and exhausting all available reviews and appeals if such request is not approved. The Compensation Amounts are limited obligations of IFA, payable solely from amounts held by the Project Trustee under the Project Trust Agreement for this purpose. The obligation of IFA to pay Compensation Amounts does not constitute an indebtedness of the State or any political subdivision thereof within the meaning or application of any constitutional provision or limitation. The obligation of IFA to pay Compensation Amounts does not constitute a pledge of the faith, credit or taxing power of the State or any political subdivision thereof within the meaning or application of any constitutional provision or limitation. IFA has no taxing power. Developer has no right to have taxes levied or compel appropriations by the General Assembly of the State for any payment of Compensation Amounts.

15.11 Certain Relief Events Causing Closures

15.11.1 If a Relief Event described in clauses (j) (but not subclauses (e) and (g) of the definition of "Force Majeure Event"), (m) (but excluding IFA Release of Hazardous

Materials), or (n) of the definition of Relief Event results in a Closure, then notwithstanding that such Closures may be Permitted Closures, th e Availability Payment shall be adjusted as follows:

15.11.2 For up to the first thirty (30) days that such Closure persists, Developer shall be assessed one hundred percent (100%) of the adjustment as if such Closure were an Unavailability Event as calculated under Exhibit 10 (Payment Mechanism);

15.11.3 For up to the next thirty (30) days that such Closure persists, Developer shall be assessed only fifty percent (50%) of the adjustment as if such Closure were an Unavailability Event as calculated under Exhibit 10 (Payment Mechanism); and

15.11.4 For any further period that such Closure persists, Developer shall be assessed only five percent (5%) of the adjustment as if such Closure were an Unavailability Event as calculated under Exhibit 10 (Payment Mechanism).

15.11.5 For the avoidance of doubt, such Relief Events may constitute Permitted Closures under the definition of Permitted Closure for all other purposes under this Agreement other than for purposes of making adjustments to the Availability Payment or for determining Noncompliance Points.

15.12 Effect of Relief Events on Project Schedule Deadlines, Performance, Developer Default, Noncompliance Points and Deductions

15.12.1 Developer shall be entitled to extension of applicable Project Schedule Deadlines by the period that the end of the Critical Path extends beyond the original Project Schedule Deadline due to any Relief Event Delay that Developer cannot reasonably avoid through mitigation as required under Section 15.15, subject to satisfaction of any conditions or requirements set forth in the PPA Documents, including in Section 15.7. In the event of a Relief Event Delay resulting from concurrent IFA-Caused Delay(s) and delays for which Developer is responsible under the PPA Documents, subject to Developer's continuing obligation to reasonably avoid and/or mitigate such delay(s) and other conditions or requirements herein, Developer shall be entitled to extension of applicable Project Schedule Deadlines by the period that the end of the Critical Path extends beyond the original Project Schedule Deadline following conclusion of the concurrent IFA-Caused Delay.

15.12.2 Developer shall not be excused from timely payment of monetary obligations under this Agreement due to the occurrence of a Relief Event. Developer shall not be excused from compliance with the PPA Documents or applicable Laws due to the occurrence of a Relief Event, except temporary inability to comply due solely and directly to the Relief Event.

15.12.3 Developer shall be entitled to rely upon the occurrence of a Relief Event as a defense against a Developer Default where the occurrence of the Relief Event causes such Developer Default.

15.12.4 Refer to Section 11.6 regarding the effect of a Relief Event on the accrual of Noncompliance Events and Noncompliance Points and assessment of monetary deductions for Noncompliance Events.

15.13 Interest on Late Payments

If IFA does not make any required lump sum payment or periodic payment of a Compensation Amount within forty-five (45) days after the determination of the Compensation Amount by mutual agreement or the Dispute Resolution Procedures, it shall thereafter bear interest, at a floating rate equal to the LIBOR in effect from time to time plus four hundred (400) basis points, until the date the amount due is paid.

15.14 Exclusive Relief; Release of Claims

The relief provided through agreement or pursuant to Dispute Resolution Procedures for a Relief Event shall represent the sole right to compensation, damages and other relief from the adverse effects of a Relief Event. As a condition precedent to IFA's obligation to pay any Compensation Amount or grant or abide by such relief, Developer shall execute a full, unconditional, irrevocable waiver and release, in form reasonably acceptable to IFA, of any other Claims, Losses or rights to relief associated with such Relief Event that is not the subject of a Dispute.

15.15 Mitigation

15.15.1 Developer shall take all steps reasonably necessary to mitigate the consequences of any Relief Event, including all steps that would generally be taken in accordance with Good Industry Practice. Without limiting the foregoing, Developer shall not be entitled to submit a claim for Compensation Amounts, time or Project Schedule Deadline extensions, or other relief for impacts that could have been avoided through re-sequencing and re-scheduling of the Work and/or other work-around measures whose cost is justified by equal or greater savings in Extra Work Costs, Delay Costs and additional interest costs. Developer shall not be entitled to submit a claim for Compensation Amounts, time or Project Schedule Deadline extension or other relief if the Relief Event occurred as a result of any negligence, recklessness, willful misconduct, fault, breach of contract, or breach by any of the Developer-Related Entities of the requirements of the PPA Documents (including Safety Standards), or violation of Law or a Governmental Approval of or by any of the Developer-Related Entities.

15.15.2 Whenever a Relief Event occurs and Developer submits a Relief Event Notice or Relief Request for a Compensation Amount, Developer shall concurrently submit to IFA an analysis of potential re-sequencing, re-scheduling and other work-around measures and a comparison of the estimated costs thereof to the estimated savings in the Compensation Amount that would result. Developer shall cooperate with IFA thereafter to identify the re-sequencing, re-scheduling and other work-around measures that will maximize mitigation of costs to IFA taking into account the cost of potential re-sequencing, re-scheduling and other work-around measures. IFA shall compensate Developer for the reasonable costs of re-sequencing, re-scheduling and other work-around measures authorized in writing by IFA pursuant to this provision, in the same manner it compensates for Extra Work Costs and Delay Costs under Sections 15.4 and 15.5.

15.15.3 For further mitigation obligations of Developer respecting Hazardous Materials and Recognized Environmental Conditions, refer to Section 5.9.2.

15.16 Claims Against Third Parties

In coordination with IFA and without prejudice to IFA's right to pursue such claims, Developer will be entitled to exercise all rights and remedies available at Law or in equity to claim for and recover casualty and other damages to the East End Crossing from third parties, including without limitation, the amount of any deductibles under casualty or property insurance policies.

ARTICLE 16. IFA CHANGES; DEVELOPER CHANGES; DIRECTIVE LETTERS

This Article 16 sets forth the exclusive requirements, terms and conditions for obtaining Change Orders under this Agreement.

16.1 IFA Changes

This Section 16.1 concerns (a) Change Orders unilaterally issued by IFA and (b) Change Orders issued by IFA following a Request for Change Proposal.

16.1.1 IFA Right to Issue Change Order

16.1.1.1 IFA may, at any time and from time to time, without Notice to any Lender or Surety, authorize and/or require, pursuant to a Change Order, changes in the Work (including reductions in the scope of the D&C Work or O&M Work) or in terms and conditions of the Technical Provisions (including changes in the standards applicable to the Work), except IFA has no right to require any change that:

a. Is not in compliance with applicable Laws;

b. Would contravene an existing Governmental Approval and such contravention could not be corrected by the issuance of a further or revised Governmental Approval;

c. Would cause a material insured risk to become uninsurable, unless IFA, in issuing the Change Order, agrees to self-insure the risk; or

d. Is not technically feasible to design or construct.

16.1.1.2 Developer shall have no obligation to perform any work within any such exception unless on terms mutually acceptable to IFA and Developer.

16.1.2 Request for Change Proposal

16.1.2.1 If IFA desires to initiate or evaluate whether to initiate a Change Order, then IFA may, at its discretion, issue a Request for Change Proposal. The Request for Change Proposal shall set forth the nature, extent and details of the proposed IFA Change.

16.1.2.2 Within five (5) Business Days after Developer receives a Request for Change Proposal, or such longer period to which the Parties may mutually agree, IFA and Developer shall consult to define the proposed scope of the change. Within five (5) days after the initial consultation, or such longer period to which the Parties may mutually agree, IFA and Developer shall consult concerning the estimated financial, schedule and other

impacts.

16.1.3 Response to Request for Change Proposal

As soon as possible through the exercise of diligent efforts, and in any event within 60 days, following IFA's delivery to Developer of the Request for Change Proposal, Developer shall provide IFA with a written response as to whether, in Developer's opinion, the IFA Change constitutes a Relief Event, and if so, a detailed assessment of the cost, schedule and other impacts of the proposed IFA Change, including the following:

16.1.3.1 Developer's detailed estimate of the impacts on costs of carrying out the proposed IFA Change;

16.1.3.2 If the Change Notice is issued prior to the Final Acceptance Date, the effect of the proposed IFA Change on the Project Schedule, including achievement of the Project Schedule Deadlines, taking into consideration Developer's duty to mitigate any delay;

16.1.3.3 The effect (if any) of the proposed IFA Change on Performance Requirements, the Rehabilitation Work Schedule and Handback Requirements; and

16.1.3.4 Any other relevant information related to carrying out the proposed IFA Change.

16.1.4 Negotiation and Directed Changes

16.1.4.1 Following IFA's receipt of Developer's detailed assessment and of such further assessment by IFA and its consultants of the cost, schedule and other impacts of the proposed IFA Change, IFA and Developer, giving due consideration to such assessments, shall exercise good faith efforts to negotiate a mutually acceptable Change Order, including (a) adjustment of the Project Schedule and Project Schedule Deadlines, and either (b) if applicable, any Compensation Amount to which Developer is entitled, and the timing and method for payment of any Compensation Amount (in accordance with Section 15.4.5 with respect to Extra Work Costs and Delay Costs, if any) or (c) if applicable, any net cost savings and schedule savings to which IFA is entitled under Section 16.1.6 and the timing and method for realizing such cost savings.

16.1.4.2 If IFA and Developer are unable to reach agreement on a Change Order, IFA may, in its sole discretion, resolve the Dispute according to the Dispute Resolution Procedures without issuing a Directive Letter, or deliver to Developer a Directive Letter pursuant to Section 16.3.1 directing Developer to proceed with the performance of the Work in question notwithstanding such disagreement. Upon receipt of such Directive Letter, pending final resolution of the relevant Change Order according to the Dispute Resolution Procedures, (a) Developer shall implement and perform the Work in question as directed by IFA and (b) IFA will make interim payment(s) to Developer on a monthly progress payment basis for the reasonable documented Extra Work Costs and Delay Costs in question, subject to subsequent adjustment through the Dispute Resolution Procedures.

16.1.5 Payment and Schedule Adjustment

IFA shall be responsible for payment of the Compensation Amount agreed upon or determined through the Dispute Resolution Procedures (and with respect to Extra Work Costs and Delay Costs through one of the payment mechanisms set forth in Section 15.4.5), and the Project Schedule shall be adjusted as agreed upon or determined through the Dispute Resolution Procedures, and in accordance with Section 15.11, to reflect the effects of the Change Order.

16.1.6 Reductive IFA Changes

16.1.6.1 IFA reserves the right to make alterations or changes in the Work that reduce the scope of the Work up to a cap of ten percent (10%) of the Total Project Capital Cost. Within 60 days following IFA's delivery to Developer of the Request for Change Proposal, IFA shall deliver to Developer a written analysis as to whether, in IFA's opinion, the IFA Change will reduce Developer costs, or save time, and if so, a detailed assessment of the advantageous cost and schedule impacts of the proposed IFA Change, including the following:

a. IFA's detailed estimate of the advantageous impacts on costs of carrying out the proposed IFA Change;

b. If the Change Notice is issued prior to the Final Acceptance Date, the effect of the proposed IFA Change on shortening the Project Schedule and Project Schedule Deadlines;

c. The effect (if any) of the proposed IFA Change upon traffic flow and traffic volume on the East End Crossing during the Operating Period;

d. The effect (if any) of the proposed IFA Change on Performance Requirements, the Rehabilitation Work Schedule and Handback Requirements; and

e. Any other relevant information related to carrying out the proposed IFA Change.

16.1.6.2 Within thirty (30) days following IFA's submission of such information, Developer shall prepare and submit to IFA a written analysis with respect to the proposed reductive IFA Change. Promptly thereafter, but in no event later than ten (10) Business Days following receipt by IFA of Developer's analysis submission, the Parties shall meet and engage in good faith discussions in an effort to agree as to the final value of the net cost savings attributable to such reductive IFA Change pursuant to the prescriptions of Section 16.1.6.3. If the Parties fail to reach agreement, then, without derogating IFA's rights under Section 16.3, either Party may submit the matter for resolution pursuant to the Dispute Resolution Procedures.

16.1.6.3 IFA shall be entitled to seventy-five percent (75%) of the net cost savings, if any, attributable to any reductive IFA Change, as determined pursuant to Section 16.1.6.2 and this Section 16.1.6.3. Determination of such net cost savings shall include consideration of both (i) the net reduction, if any, in labor, material, equipment and overhead costs associated with the IFA Change and (ii) actual, direct and documented increases in Developer's costs arising out of such reductive IFA Change, and one hundred percent (100%) of the savings in financing costs associated with any savings in capital costs, which Developer

shall pay to IFA (a) as periodic payments over the Term, (b) as an adjustment to the MAP over the Term, or (c) through any combination of the above, as selected by IFA, in its sole discretion. IFA also may take such net reduction as a credit against IFA's liability for Extra Work Costs and Delay Costs during the Term. Developer shall include specifically in its response to IFA's Request for Change Proposal delivered under this Section 16.1.6 a summary narrative and documentation substantiating, in IFA's good faith determination, any actual, direct and documented increases in Developer's costs arising out of such reductive IFA Change as may affect the determination of net cost savings under this Section 16.1.6. If IFA selects periodic payments over the Term, such payments shall be due and owing to IFA quarterly on the last day of each calendar quarter. If Developer does not make any such payment when due, it shall thereafter bear interest, at a floating rate equal to the LIBOR in effect from time to time plus four hundred (400) basis points, until the date the amount due is paid.

16.1.6.4 IFA shall be entitled to one hundred percent (100%) of the effect, if any, of the proposed IFA Change on shortening the Project Schedule and Project Schedule Deadlines.

16.2 Developer Initiated Changes

16.2.1 By submittal of a written Change Request using a form approved by IFA, Developer may request IFA to approve (a) modifications to the Technical Provisions, (b) modifications to Developer's Proposal commitments as set forth in Exhibit 2 (Developer's Schematic Design of East End Crossing and Proposal Commitments), or (c) adjustments to the Project Right of Way not already indicated in Developer's Schematic Design. The Change Request shall set forth Developer's detailed estimate of net impacts (positive and negative) on costs and schedule attributable to the requested change.

16.2.2 IFA, in its sole discretion (and, if it so elects in its good faith discretion, after receiving a comprehensive report, at no cost to IFA, from an independent engineer and IFA's traffic and revenue consultant regarding the proposed Change Request), may accept or reject any Change Request proposed by Developer. If IFA accepts such Change Request, Developer shall execute a Change Order and shall implement such change in accordance with the Change Order, applicable Technical Provisions, the Project Management Plan, Good Industry Practice, and all applicable Laws.

16.2.3 Developer shall be solely responsible for payment of any increased costs, for any Toll Revenue losses and for any Project Schedule delays or other impacts resulting from a Change Request accepted by IFA.

16.2.4 Without limiting the foregoing, Developer shall compensate IFA for any incremental increase in IFA's overhead, administrative and out-of-pocket costs resulting from a Change Request accepted by IFA. Developer shall make payment in the amount and at the time or times agreed upon in the Change Order or determined through the Dispute Resolution Procedures. If Developer does not make any payment within thirty (30) days after the determination of the amount due by mutual agreement or the Dispute Resolution Procedures, it shall thereafter bear interest, at a floating rate equal to the LIBOR in effect from time to time plus four hundred (400) basis points, until the date the amount due is paid.

16.2.5 To the extent a Change Request accepted by IFA results in a net cost savings to Developer, IFA shall be entitled to fifty (50%) of such savings that the analysis indicates will

occur in the first five (5) years after approval of the Change Request, and one hundred percent (100%) of such savings that the analysis indicates will occur thereafter. IFA shall obtain its share of the savings in the manner described in Section 16.1.6.3.

16.2.6 Developer may implement and permit a Utility Owner to implement, without a Change Request or Change Order, changes to a Utility Adjustment design that do not vary from the Technical Provisions.

16.2.7 No Change Request shall be required to implement any change to the Work that is not a Deviation and is not specifically regulated or addressed by the PPA Documents or applicable Law.

16.2.8 Certain minor changes without significant cost savings or revenue benefits may be approved in writing by IFA as Deviations, as described in Sections 5.2.4 and 6.1.2.7, and in such event shall not require a Change Order. Any other change in the requirements of the PPA Documents shall require a Change Order.

16.3 Directive Letters

16.3.1 IFA may at any time issue a Directive Letter to Developer regarding any matter for which a Change Order can be issued or in the event of any Dispute regarding the scope of the Work or whether Developer has performed in accordance with the requirements of the PPA Documents. The Directive Letter will state that it is issued under this Section 16.3, will describe the Work in question and will state the basis for determining compensation, if any and schedule adjustment, if any. Subject to Section 16.1.5, Developer shall proceed immediately as directed in the letter, pending the execution of a formal Change Order (or, if the letter states that the Work is within Developer's original scope of Work or is necessary to comply with the requirements of the PPA Documents, Developer shall proceed with the Work as directed but shall have the right to assert a Claim that an IFA Change has occurred).

16.3.2 The fact that a Directive Letter was issued by IFA shall not be considered evidence that in fact an IFA Change occurred. The determination whether an IFA Change in fact occurred shall be based on an analysis of the original requirements of the PPA Documents and a determination as to whether the Directive Letter in fact constituted a change in those requirements.

ARTICLE 17. INSURANCE; PAYMENT AND PERFORMANCE SECURITY; INDEMNITY

17.1 Insurance

17.1.1 Insurance Policies and Coverage

At minimum Developer shall procure and keep in effect the Insurance Policies, or cause them to be procured and kept in effect, and in each case satisfy the requirements therefor set forth in this Section 17.1 and Exhibit 19 (Insurance Coverage Requirements). Developer shall also procure or cause to be procured and kept in effect the Contractors' insurance coverages as required in Section 17.1.2.5 and Exhibit 19 (Insurance Coverage Requirements).

17.1.2 General Insurance Requirements

17.1.2.1 Qualified Insurers

Each of the Insurance Policies required hereunder shall be procured from an insurer that at the time coverage under the applicable policy commences and throughout the term that coverage is required is:

a. Licensed or authorized to do business in the State and in the Commonwealth of Kentucky and has a current policyholder's management and financial size category rating of not less that "A –: VIII" according to A.M. Best's Financial Strength Rating and Financial Size Category; or

b. Otherwise approved in writing by IFA in its good faith discretion.

17.1.2.2 Deductibles and Self-Insured Retentions

a. IFA shall have no liability for deductibles (whenever the term deductible is used, it shall also mean self-insured retention) and amounts in excess of the coverage provided, unless part of a Compensation Amount or Termination Compensation.

b. If an Insurance Policy provides coverage with respect to a Relief Event, then Developer's deductible liability shall be the greater of (i) the insurance deductible or (ii) the Claim Deductible (if any), subject to Sections 15.6.2.3, 15.7.11 and 15.9.

c. If an Insurance Policy provides coverage with respect to an occurrence or event other than a Relief Event, then Developer shall be responsible for paying all insurance deductibles, and IFA shall have no liability for deductibles and claim amounts in excess of the required coverage.

d. IFA will have the right to recover deductibles under casualty or property insurance policies, and claim amounts in excess of the required coverage, through deductions from the Availability Payments, direct billing, or any other method deemed appropriate by IFA.

17.1.2.3 Primary Coverage

Each Insurance Policy shall provide that the coverage thereof is primary and noncontributory coverage with respect to all named or additional insureds, except for coverage that by its nature cannot be written as primary. For each property policy, such policy shall provide that the coverage thereof is primary and noncontributory with respect to all insureds, as their interest may appear. Any insurance or self-insurance beyond that specified in this Agreement that is maintained by an insured or any such additional insured shall be excess of such insurance and shall not contribute with it.

17.1.2.4 Verification of Coverage

a. At each time Developer is required to initially obtain or cause to be obtained each Insurance Policy, including insurance coverage required of Key Contractors, and thereafter not later than ten (10) Business Days prior to the expiration date of each Insurance Policy, Developer shall deliver to IFA a certificate of insurance and a written evidence of insurance. The certificate and evidence must be consistent in all respects. The evidence of insurance shall be on the most recent ACORD form, without disclaimer. Each required certificate must be in standard form, state the identity of all carriers, named insureds and additional insureds required under this Agreement, state the type and limits of coverage, deductibles and termination provisions of the policy, include as attachments all applicable

additional insured endorsements, include endorsements consistent with Section 17.1.2.8(a) and be signed by an authorized representative of the insurance company shown on the certificate or its agent or broker. The evidence must state the signer's company affiliation, title and phone number, state the identity of all carriers, named insureds and additional insureds, state the type and limits of coverage, deductibles, subrogation waiver, termination provisions of the policy and other essential policy terms, list and describe all endorsements, include as attachments all additional insured endorsements, including endorsements consistent with Section 17.1.2.8(a), and otherwise must be in form reasonably satisfactory to IFA.

b. If Developer has not provided IFA with the foregoing proof of coverage within five (5) days after IFA delivers to Developer written request therefor or Notice of a Developer Default under Section 19.1.1.10 and demand for the foregoing proof of coverage, IFA may, in addition to any other available remedy, without obligation or liability and without further inquiry as to whether such insurance is actually in force, (i) obtain such an Insurance Policy; and Developer shall reimburse IFA for the cost thereof upon demand, and (ii) suspend all or any portion of Work and close the East End Crossing until IFA receives from Developer such proofs of coverage in compliance with this Section 17.1 (or until IFA obtains an Insurance Policy, if it elects to do so).

17.1.2.5 Contractor Insurance Requirements

a. Developer's obligations regarding Contractors' insurance are contained in Exhibit 19 (Insurance Coverage Requirements).

b. If any Contractor fails to procure and keep in effect the insurance required of it under Exhibit 19 (Insurance Coverage Requirements) and IFA asserts the same as a Developer Default hereunder, Developer may, within the applicable cure period, cure such Developer Default by (i) causing such Contractor to obtain the requisite insurance and providing to IFA proof of insurance, (ii) procuring the requisite insurance for such Contractor and providing to IFA proof of insurance or (iii) terminating the Contractor and removing its personnel from the Site.

c. A consolidated insurance program is acceptable to satisfy all insurance requirements, provided that it otherwise meets all requirements described in this Section 17.1 and Exhibit 19 (Insurance Coverage Requirements).

17.1.2.6 East End Crossing-Specific Insurance

Except as expressly provided otherwise in Exhibit 19 (Insurance Coverage Requirements), all Insurance Policies required hereunder shall be purchased specifically and exclusively for the East End Crossing and extend to all aspects of the Work, with coverage limits devoted solely to the East End Crossing. Insurance coverages with dedicated East End Crossing-specific limits and identified premiums are acceptable, provided that they otherwise meet all requirements described in this Section 17.1 and Exhibit 19 (Insurance Coverage Requirements).

17.1.2.7 Policies with Insureds in Addition to Developer

All Insurance Policies that are required to insure additional insureds in addition to Developer shall comply or be endorsed to comply with the following provisions.

a. The Insurance Policy shall be written or endorsed so that no acts or omissions of an insured shall vitiate coverage of the other insureds. Without limiting the foregoing, any failure on the part of a named insured to comply with reporting provisions or other conditions of the Insurance Policies, any breach of warranty, any action or inaction of a named insured or others, or any change in ownership of all or any portion of the East End Crossing or Developer's Interest shall not affect coverage provided to the other named insureds or additional insureds (and their respective members, directors, officers, employees, agents and East End Crossing consultants).

b. The insurance shall apply separately to each named insured and additional insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

c. All endorsements adding additional insureds to required Insurance Policies shall contain no limitations, conditions, restrictions or exceptions to coverage in addition to those that apply under the Insurance Policy generally, and shall state that the interests and protections of each additional insured shall not be affected by any misrepresentation, act or omission of a named insured or any breach by a named insured of any provision in the policy which would otherwise result in forfeiture or reduction of coverage. Additional insured endorsements may exclude liability due to the sole negligence of the additional insured party. The commercial general liability shall include completed operations coverage.

17.1.2.8 Additional Terms and Conditions

a. Each Insurance Policy shall be endorsed to state that coverage cannot be canceled, voided, suspended, adversely modified, or reduced in coverage or in limits (including for non-payment of premium) except after thirty (30) days' prior Notice (or ten (10) days in the case of cancellation for non-payment of premium) by registered or certified mail, return receipt requested, has been given to IFA and each other insured or additional insured party; provided that Developer may obtain as comparable an endorsement as possible if it establishes unavailability of this endorsement as set forth in Section 17.1.8.1. Such endorsement shall not include any limitation of liability of the insurer for failure to provide such Notice.

b. If Developer's or any Contractor's activities involve transportation of materials (including Hazardous Materials) that require endorsement MCS 90 (as described below), the automobile liability Insurance Policy for Developer or such Contractor shall be endorsed to include for private, non-commercial vehicles Motor Carrier Act Endorsement-Hazardous Materials Clean up (MCS-90) and shall be endorsed to provide coverage for liability arising from release of pollutants (CA 99 48 – Pollution Liability – Broadened Coverage for Covered Autos – Business Auto, Motor Carrier and Truckers Coverage Form).

c. Each Insurance Policy shall provide coverage on an "occurrence" basis and not a "claims made" basis (with the exception of any professional liability Insurance Policies).

17.1.2.9 Waivers of Subrogation

IFA waives all rights against the Developer-Related Entities, and Developer waives all rights against the Indemnified Parties, for any claims to the extent covered and paid by insurance obtained pursuant to this Section 17.1, except such rights as they may have to the

proceeds of such insurance. If Developer is deemed to self-insure a claim or loss under Section 17.1.4.4, then Developer's waiver shall apply as if it carried the required insurance. Developer shall require all Contractors to provide similar waivers in writing each in favor of all other parties enumerated above. Subject to Section 17.1.6, each Insurance Policy, including workers' compensation if permitted under the applicable worker's compensation insurance Laws, shall include a waiver of any right of subrogation against the Indemnified Parties or a consent to the insured's waiver of recovery in advance of loss.

17.1.2.10 No Recourse

Except as may be inclusive within the MAP or as expressly provided otherwise in this Section 17.1, there shall be no recourse against IFA for payment of premiums or other amounts with respect to the Insurance Policies.

17.1.2.11 Support of Indemnifications

a. The commercial general liability Insurance Policy shall provide standard ISO contractual liability or greater coverage of Developer's indemnity liability under the PPA Documents.

b. Developer's indemnification and defense obligations under the PPA Documents are not limited to the type or amount of insurance coverage that Developer is required to provide hereunder.

17.1.2.12 Adjustments in Coverage Amounts

a. At least once every two (2) years during the Term (commencing initially on the Substantial Completion Date), IFA and Developer shall review and increase, as appropriate, the per occurrence and aggregate limits or combined single limits for the Insurance Policies that have stated dollar amounts set forth in Exhibit 19 (Insurance Coverage Requirements). At the same frequency IFA and Developer shall review and adjust, as appropriate, the deductibles for the Insurance Policies.

b. Developer shall retain a qualified and reputable insurance broker or independent, unaffiliated advisor not involved in the East End Crossing, experienced in insurance brokerage and underwriting practices for major bridge, highway or other relevant transportation facility projects, to analyze and recommend adjustments, if any, to such limits and adjustments to deductibles. Developer shall deliver to IFA, not later than ninety (90) days before each two-year adjustment date, a written report including such analysis and recommendations for IFA's approval. IFA shall have forty-five (45) days after receiving such report to approve or disapprove the proposed adjustments to limits and adjustments to deductibles or self-insured retentions.

c. In determining adjustments to limits and adjustments to deductibles, Developer and IFA shall take into account (i) claims and loss experience for the East End Crossing, provided that premium increases due to adverse claims experience shall not be a basis for justifying increased deductibles; (ii) the condition of the East End Crossing, including records of Asset Condition Scores, (iii) the Rehabilitation Work record for the East End Crossing, (iv) the Safety Compliance and Noncompliance Points record for the East End Crossing and (v) then-prevailing Good Industry Practice for insuring comparable transportation

projects.

d. Any Dispute regarding adjustments to limits or adjustments to deductibles or self-insured retentions shall be resolved according to the Dispute Resolution Procedures.

17.1.2.13 Defense Costs

No defense costs shall be included within or erode the limits of coverage of any of the Insurance Policies, except that litigation and mediation defense costs may be included within the limits of coverage of professional and pollution liability policies.

17.1.2.14 Contesting Denial of Coverage

If any insurance carrier under an Insurance Policy denies coverage with respect to any claims reported to such carrier, upon Developer's request, IFA and, to the extent necessary, the other Indemnified Parties shall cooperate in good faith to establish whether and to what extent to contest, and how to fund the cost of contesting, the denial of coverage; provided that if the reported claim is a matter covered by an indemnity in favor of an Indemnified Party, then Developer shall bear all costs of contesting the denial of coverage.

17.1.2.15 Bankrupt Insurer

If an Insurer providing any of the Insurance Policies becomes the subject of bankruptcy proceedings, becomes insolvent, or is the subject of an order or directive limiting its business activities given by any Governmental Entity, including the Indiana Department of Insurance or the Kentucky Department of Insurance, or has its rating lowered by A.M. Best below A-/ VIII as required in Section 17.1.2.1(a), then Developer shall exercise best efforts to promptly and at its own cost and expense secure alternative coverage in compliance with the insurance requirements contained in this Section 17.1 so as to avoid any lapse in insurance coverage.

17.1.3 Lender Insurance Requirements; Additional Insurance Policies

17.1.3.1 If under the terms of any Funding Agreement or Security Document Developer is obligated to, and does, carry insurance coverage with higher limits, lower deductibles, or broader coverage than required under this Agreement, Developer's provision of such insurance shall satisfy the applicable requirements of this Agreement provided such Insurance Policy meets all the other applicable requirements of this Section 17.1.

17.1.3.2 If Developer carries insurance coverage in addition to that required under this Agreement, then Developer shall include the Indemnified Parties as additional insureds thereunder, if and to the extent they have an insurable interest. The additional insured endorsements shall be as described in Section 17.1.2.7(c); and Developer shall provide to IFA and, upon request, the remaining additional insured parties in this Section 17.1.3.2, the proofs of coverage and copy of the policy described in Section 17.1.2.4. The provisions of Sections 17.1.2.4, 17.1.2.7, 17.1.2.9, 17.1.2.10 and 17.1.4 shall apply to all such policies of insurance coverage, as if they were within the definition of Insurance Policies.

17.1.4 Notice and Prosecution of Claims

17.1.4.1 IFA shall have the right, but not the obligation, to report directly

to insurers and process IFA's claims against applicable Insurance Policies. Unless otherwise directed by IFA in writing with respect to IFA's insurance claims, Developer shall be responsible for reporting and processing all potential claims by IFA or Developer against the Insurance Policies required hereunder. Developer agrees to report timely to the insurer(s) under such Insurance Policies any and all matters which may give rise to an insurance claim by Developer or IFA or another Indemnified Party and to promptly and diligently pursue such insurance claims in accordance with the claims procedures specified in such Insurance Policies, whether for defense or indemnity or both. Developer shall enforce all legal rights against the insurer under the applicable Insurance Policies and applicable Laws in order to collect thereon, including pursuing necessary litigation and enforcement of judgments, provided that Developer shall be deemed to have satisfied this obligation if a judgment is not collectible through the exercise of lawful and diligent means.

17.1.4.2 Developer shall immediately notify IFA, and thereafter keep IFA fully informed, of any incident, potential claim, claim or other matter of which Developer becomes aware that involves or could conceivably involve an Indemnified party as a defendant.

17.1.4.3 IFA agrees to promptly notify Developer of IFA's incidents, potential claims against IFA, and matters which may give rise to an insurance claim against IFA, and to tender to the insurer IFA's defense of the claim under such Insurance Policies. IFA shall cooperate with Developer as necessary for Developer to fulfill its duties hereunder, including providing Developer a copy of all written materials IFA receives asserting a claim against IFA that is subject to defense by an insurer under an Insurance Policy.

17.1.4.4 If in any instance Developer has not performed its obligations respecting insurance coverage set forth in this Agreement or is unable to enforce and collect any such insurance for failure to assert claims in accordance with the terms of the Insurance Policies or to prosecute claims diligently, then, for purposes of determining Developer's liability and the limits thereon or determining reductions in compensation due from IFA to Developer on account of available insurance, Developer shall be treated as if it has elected to self-insure up to the full amount of insurance coverage which would have been available had Developer performed such obligations and not committed such failure. In addition, if Developer elects under Section 20.2.4 to keep this Agreement in effect despite existence or occurrence of Insurance Unavailability, then, notwithstanding Section 17.1.8, for purposes of determining Developer's liability for harm and loss, including harm or loss to IFA and third parties, and the limits thereon, or determining reductions in compensation due from IFA to Developer on account of available insurance, Developer shall be treated as if it has elected to self-insure up to the full amount of insurance coverage which it would have been obligated to carry had such coverage been commercially available. Nothing in this Section 17.1.4 or elsewhere in this Section 17.1 shall be construed to treat Developer as electing to self-insure where Developer is unable to collect due to the bankruptcy or insolvency of any insurer which at the time the Insurance Policy is written meets the rating qualifications set forth in this Section 17.1.

17.1.5 Application of Insurance Proceeds

All insurance proceeds received for physical property damage to the East End Crossing under any Insurance Policies, other than any business interruption insurance maintained as part of such Insurance Policies, shall be first applied to repair, reconstruct, rehabilitate, restore, renew, reinstate and replace each part or parts of the East End Crossing in respect of which such proceeds were received.

17.1.6 Umbrella and Excess Policies

Developer shall have the right to satisfy the requisite insurance coverage amounts for liability insurance through a combination of primary policies and umbrella or excess policies. Umbrella and excess policies shall comply with all insurance requirements, terms and provisions set forth in this Agreement for the applicable type of coverage.

17.1.7 Inadequacy of Required Coverages

IFA makes no representation that the scope of coverage and limits of liability specified for any Insurance Policy to be carried pursuant to this Agreement or approved variances therefrom are adequate to protect Developer against its undertakings under this Agreement to IFA, or its liabilities to any third party. It is the responsibility of Developer and each Contractor to determine if any changes or additional coverages are required to adequately protect their interests. No such limits of liability or approved variances therefrom shall preclude IFA from taking any actions as are available to it under the PPA Documents, or otherwise at Law.

17.1.8 Unavailability of Required Coverages

17.1.8.1 If Developer demonstrates to IFA's reasonable satisfaction that it has used diligent efforts in the global insurance and reinsurance markets to procure the required Insurance Policy coverages, and if despite such diligent efforts and through no fault of Developer any Insurance Unavailability exists or occurs, IFA will consider in good faith alternative insurance packages and programs that provide coverage as comparable to that contemplated in this Section 17.1 as is possible under then-existing insurance market conditions.

17.1.8.2 If IFA approves modification or elimination of insurance requirements because of Insurance Unavailability, then:

a. IFA will act as the insurer of last resort to cover the unavailable Insurance Policy or portion thereof; and

b. IFA will be entitled to a reduction in the Maximum Availability Payment equal to one hundred percent (100%) of the insurance premiums that Developer avoids as a result of the modification or elimination of the insurance requirements. In determining Developer's avoided insurance premiums, the Parties shall calculate the amount of insurance premiums Developer would have been obligated to pay under this Section 17.1.8 (up to the Commercially Reasonable Insurance Rates) had there been no modification or elimination of insurance requirements; provided that (i) if no benchmarks are then applicable it shall be assumed that Developer would have been obligated to pay one hundred percent (100%) of the total avoided insurance premiums up to the greater of (A) the Commercially Reasonable Insurance Rates or (B) the premiums assumed in the Financial Model, and (ii) if the coverage is completely unavailable, the Parties shall reasonably estimate the premiums that would have been paid by Developer in the most recent market conditions under which the coverage was available.

17.1.8.3 If the required Insurance Policies are available from insurers meeting the financial requirements set forth in Section 17.1.2.1 but not at Commercially Reasonable Insurance Rates, then IFA may elect, at its sole option, exercisable by delivering

Notice to Developer, to not approve modification or elimination of insurance requirements and to pay one hundred percent (100%) of the premiums that exceed the Commercially Reasonable Rates.

17.1.8.4 In IFA's sole option exercisable by delivering to Developer a Notice of termination, in the event of Insurance Unavailability, IFA may elect not to proceed under either Section 17.1.8.2 or Section 17.1.8.3 and instead terminate this Agreement pursuant to Section 20.2.2.

17.1.8.5 If the required insurance coverage is available in the market, IFA's decision to approve or disapprove a variance from the requirements of this Section 17.1 shall be final and not subject to the Dispute Resolution Procedures.

17.1.8.6 If Insurance Unavailability exists or occurs, Developer shall review the global insurance and reinsurance markets quarterly (prior to the Operating Period) and annually thereafter no later than one hundred twenty (120) days prior to insurance program renewal, to track changes in market conditions and adjust insurance coverages as soon as the coverages become available at Commercially Reasonable Insurance Rates. Developer shall keep IFA currently informed of insurance market conditions and deliver to IFA the information obtained from such quarterly reviews.

17.1.9 Insurance Premium Benchmarking

This Section 17.1.9 allocates the risk between IFA and Developer of significant increases in insurance premiums for Insurance Policies required during the period commencing upon the Substantial Completion Date and ending at the end of the Term through an insurance benchmarking process. The benchmarking process will occur at each annual insurance renewal period according to the following provisions.

17.1.9.1 Increases in insurance premiums attributable to any of the following factors ("Excluded Premium Increases") shall not be considered in determining and comparing insurance premiums under the benchmarking process described in this Section 17.1.9:

a. Additional or extended coverages beyond those required under this Article 17 and Exhibit 19;

b. Deductibles less than the maximum deductibles set forth in this Article 17 and Exhibit 19;

c. Premium increases due to poor loss experience of Developer, defined as a loss ratio greater than fifty percent (50%) (which calculation shall exclude any claims made in connection with a Relief Event). The loss ratio will be based on three (3) completed years of data plus partial data from the most recent policy year (once available) and shall be calculated ninety (90) days before the policy anniversary date. The formula shall include paid and reserved claims valued one hundred twenty (120) days before the policy anniversary date in excess of any deductible or SIR divided by the appropriate premium for the same time period. Before the third year, all available data shall be used. Premiums shall not include any broker's fees and agent's commission. For purposes of this Section 17.1.9, "broker's fees and agent's commissions" means any fees paid to the broker by Developer, any commissions received and any indirect, incentive, or contingent commissions or other amounts received in relation to policies placed or services provided by the broker; or

d. Other variations from the requirements for Insurance Policies under this Article 17 and Exhibit 19.

17.1.9.2 Not later than 60 days after the end of each of the first three (3) full annual insurance periods after the Substantial Completion Date, Developer shall submit a report ("Insurance Review Report") to IFA that includes the following elements:

a. The written binders of insurance in the form and content required under this Article 17 and Exhibit 19 for the actual Insurance Policies required hereunder and thereunder for the subject annual insurance period ("Actual Benchmark Insurance Policies");

b. The premium invoices for the Actual Benchmark Insurance Policies;

c. If any of the Actual Benchmark Insurance Policies varies from the requirements under this Article 17 or Exhibit 19, then a comprehensive written analysis and explanation by Developer's independent insurance broker setting forth (i) the effect (if any) that factors described in Section 17.1.9.1(a) through (d) have had on the premiums, (ii) the Excluded Premium Increases, if any, and (iii) the increase, if any, in the insurance premiums that would have occurred absent the factors described in Section 17.1.9.1(a) through (d). If the loss ratio exceeds fifty percent (50%), Developer shall be given the opportunity to demonstrate that losses causing the poor loss experience are fortuitous and are not the responsibility of Developer, and if so demonstrated and accepted by IFA, the loss ratio calculation will be adjusted to ignore the value of the fortuitous portion of such claims; and

d. Detailed calculations of the final amount of the insurance premiums for the Actual Benchmark Insurance Policies, adjusted for surcharges, refunds, Excluded Premium Increases, and increases due to the factors described in Section 17.1.9.1(a) through (d).

17.1.9.3 Except as otherwise set forth in this Section 17.1.9.3, at 60 days prior to each annual insurance period thereafter, Developer shall submit an Insurance Review Report to IFA that includes the following elements:

a. 60 days after the end of the first three (3) full annual insurance periods after the Substantial Completion Date, and each fifth successive anniversary (or at such increased frequency as may be required by either Party, by Notice to the other Party) thereafter for the Term, or such earlier time when annual insurance premiums for the Actual Insurance Policies, as such premiums may be adjusted for Excluded Premium Increases as set forth in Section 17.1.9.9(b), are in excess of one hundred thirty percent (130%) of the applicable Insurance Premium Benchmark Amount, Developer shall include in its next timely Insurance Review Report firm quotes from established and recognized insurance providers for the Insurance Policies required under this Article 17 and Exhibit 19 for the upcoming annual insurance period, without any variation from such requirements ("Required Minimum Insurance Policies"). The quotes shall represent the current and fair market cost of providing the Required Minimum Insurance Policies; and

b. No less than every three (3) years, Developer shall obtain firm quotes from three (3) or more established and recognized insurance providers for the Insurance Policies required under this Article 17 and Exhibit 19 for the upcoming annual insurance period, without any variation from such requirements. The quotes shall represent the current and fair market cost of providing the Required Minimum Insurance Policies; and

c. A comprehensive written analysis and explanation by Developer's independent insurance broker setting forth (i) industry trends in premiums for the Required Minimum Insurance Policies, (ii) any claims (paid or reserved) since the last review period, with

claim date(s), description of incident(s), claims amount(s), and the level of deductibles provided, (iii) the effect (if any) that factors described in Section 17.1.9.1(a) through (d) have had on the premiums for the Required Minimum Insurance Policies, and (iv) a confirmation that there is no Excluded Premium Increase or the dollar amount of any Excluded Premium Increase and an explanation of the reason there is Excluded Premium Increase.

17.1.9.4 Thereafter, Developer shall place actual Insurance Policies required under Article 17 and Exhibit 19 for the subject annual insurance period (the "Actual Insurance Policies"). Not later than 60 days after the end of such annual insurance period, Developer shall provide an updated Insurance Review Report to IFA for the period just ended, with the information specified in Section 17.1.9.2 with respect to the Actual Insurance Policies. Developer shall be responsible for maintaining copies of the Actual Insurance Policies and the Insurance Review Report and making these documents available upon request of IFA or its designee for the entire Term plus ten (10) years.

17.1.9.5 IFA, at its sole discretion, may independently assess the accuracy of the information in any Insurance Review Report or update and retains the right to perform its own independent insurance review, which may include retaining advisors, obtaining independent quotes for the Required Minimum Insurance Policies or performing its own assessment as to the impact of factors described in Sections 17.1.9.1(a) through (d), the amount of Excluded Premium Increases, and the amount of increases in the insurance premiums for the Actual Benchmark Insurance Policies that would have occurred absent the factors described in Sections 17.1.9.1(a) through (d). If IFA elects to independently assess, then Developer shall cooperate in good faith with any reasonable requests for additional information from IFA or its insurance advisor.

17.1.9.6 The initial benchmark amount of insurance premiums for the Actual Benchmark Insurance Policies shall be equal to the greater of (a) the amount set forth for Insurance Policies as shown in the Financial Model and related Financial Modeling Data for the first year after the Substantial Completion Date or (b) the actual amount of the insurance premiums for such year (the "Starting Insurance Benchmarking Premiums").

17.1.9.7 The Starting Insurance Benchmarking Premiums shall be escalated for each annual insurance period based on the percentage change in CPI index value published immediately before the commencement of the annual insurance periods. The benchmark premium amount as so determined for each annual insurance period and as adjusted pursuant to Section 17.1.9(c) or, if IFA deems appropriate in its reasonable discretion, as adjusted based on information obtained pursuant to Section 17.1.9.5 above, is referred to as the "Escalated Benchmark Insurance Premiums." Broker's fees and agent's commissions will not be considered as part of the benchmarking exercise described in this Section 17.1.9, and are the exclusive responsibility of Developer.

17.1.9.8 The Escalated Benchmark Insurance Premiums for each annual insurance period shall be compared to the total amount of annual insurance premiums for Insurance Policies shown in the Financial Model and related Financial Modeling Data for the same annual insurance period, as such modelled premiums may have been adjusted due to Relief Events. The higher of the two figures shall be the "Insurance Premium Benchmark Amount" for such annual insurance period.

17.1.9.9 The Insurance Premium Benchmark Amount shall be used in

the benchmarking process for each annual insurance period during the remainder of the Term in accordance with the following procedures:

a. IFA will use the applicable Insurance Premium Benchmark Amount to measure the difference in premium costs for the applicable annual insurance period.

b. Developer may voluntarily choose to procure an insurance package which exceeds the Required Minimum Insurance Policies in scope of coverage or limits, has more additional insureds, or has lower deductibles. In such case, both Parties recognize that: the actual insurance premiums are to be reduced by the Excluded Premium Increases for the purpose of the insurance benchmarking process and the Maximum Availability Payment adjustment described in Section 17.1.9.10.

c. No later than thirty (30) days after Developer's submission of each updated Insurance Review Report pursuant to Section 17.1.9.4, IFA shall make its determination of the eligible premium increases subject to the Maximum Availability Payment adjustment described in Section 17.1.9.10. In the event of a dispute, the Department's determination shall be subject to the Dispute Resolution Procedures.

17.1.9.10 If the annual insurance premiums for the Actual Insurance Policies, as such premiums may be adjusted for Excluded Premium Increases as set forth in Section 17.1.9.9(b), are in excess of one hundred thirty percent (130%) of the applicable Insurance Premium Benchmark Amount, IFA shall increase the Maximum Availability Payment in an amount equal to eighty-five percent (85%) of such premiums that are in excess of one hundred thirty percent (130%) of the applicable Insurance Premium Benchmark Amount (subject to Section 17.1.9.11) until the next benchmarking period. If the annual insurance premiums for the Actual Insurance Policies, as such premiums may be adjusted for Excluded Premium Increases as set forth in Section 17.1.9.9(b) above, are less than seventy percent (70%) of the applicable Insurance Premium Benchmark Amount, IFA shall reduce the Maximum Availability Payment in an amount equal to eighty-five percent (85%) of the difference between such premiums and seventy percent (70%) of the applicable Insurance Premium Benchmark Amount until the next benchmarking period.

17.1.9.11 No adjustment shall be made to the Availability Payment unless Developer has demonstrated that it obtained firm quotes from three (3) or more established and recognized insurance providers for the Insurance Policies required under this Article 17 and Exhibit 19 and that all premium quotes are above the one hundred thirty percent (130%) threshold after adjustments for Excluded Premium Increases.

17.2 Payment and Performance Security

17.2.1 Design and Construction Security Requirements

17.2.1.1 As a further condition precedent to commencement of any Construction Work, Developer shall have obtained, delivered to IFA and maintain a separate Payment Bond in an amount equal to five percent (5%) of the Total Project Capital Cost and separate Performance Security in an amount equal to twenty-five percent (25%) of the Total Project Capital Cost, as are required prior to issuance of NTP2 pursuant to Section 5.6.1.2.

17.2.1.2 Developer may elect to (a) procure the Payment Bond and Performance Security directly, so that they are security for Developer's payment obligations to Contractors and laborers performing D&C Work and Developer's performance obligations under

the PPA Documents respecting the D&C Work, or (b) deliver multiple Payment Bonds and multiple Performance Security (i) from each Design-Build Contractor and (ii) from any other prime Contractor performing D&C Work, so that each such Payment Bond and Performance Security is security for payment to subcontractors and laborers and performance of the respective entity's obligations under its Contract. If Developer makes the election under clause (b) above, then Developer also may elect to provide Performance Security in the form of a bond from one such Contractor and Performance Security in the form of a letter of credit from another such Contractor.

17.2.1.3 The Payment Bond and, if chosen by Developer, a bond for the Performance Security shall be in the form set forth in Exhibits 20-A and 20-B (Form of Payment Bond, Form of Performance Bond). Each such bond must be issued by a Surety or an insurance company that is authorized to issue bonds in the State and is rated in the top two categories by two of the three (3) Rating Agencies or at least A-: VIII or better according to A.M. Best's Financial Strength Rating and Financial Size Category, except as otherwise approved in writing by IFA in its good faith discretion.

17.2.1.4 If Developer makes the election under Section 17.2.1.2(a), then a multiple obligee rider is not necessary, and the language of the bond form set forth in Exhibits 20-A and 20-B (Form of Payment Bond, Form of Performance Bond) shall be adjusted to reflect the election, but only as necessary to identify this Agreement as the bonded contract, to eliminate references to the Design-Build Contractor (or other prime Contractor), to change the obligee to IFA and KYTC, and to clarify that references to "Work" are limited to the Work to be performed until Final Acceptance.

17.2.1.5 If the Performance Security is in the form of a bond and Developer makes the election under Section 17.2.1.2(b), then:

a. The amount of each bond shall be in the same ratio to the total amount of Performance Security required under Section 17.2.1.1 as the relevant contract price bears to the Total Project Capital Cost; provided that the aggregate face amount of such bond and the other Performance Security must at least equal twenty-five percent (25%) of the Total Project Capital Cost;

b. Each such bond shall include a multiple obligee rider in which IFA and KYTC is named as an additional obligee, and the riders shall be in the respective forms set forth in Exhibits 20-C and 20-D (Forms of Multiple Obligee Rider for Payment and Performance Bonds); and

c. Such bond shall remain in full force and effect up to and including the date that is one (1) year following the Substantial Completion Date.

17.2.1.6 If the Performance Security is in the form of a letter of credit and Developer makes the election under Section 17.2.1.2(a), then:

a. The letter of credit must be in the form of Exhibit 20-E (Form of Performance Letter of Credit);

b. The letter of credit shall be subject to draw as and when provided in Section 19.2.7 due to breach or failure to perform Developer's obligations to Contractors

performing D&C Work or Developer's obligations under the PPA Documents respecting the D&C Work; and

c. Such letter of credit shall remain in full force and effect up to and including the date that is one (1) year following the Substantial Completion Date.

17.2.1.7 If the Performance Security is in the form of a letter of credit and Developer makes the election under Section 17.2.1.2(b), then:

a. The letter of credit form set forth in Exhibit 20-E (Form of Performance Letter of Credit) shall be adjusted to reflect this fact, but only as necessary to identify each applicable Contractor as the applicant in place of Developer and to identify the Contract between Developer and the Contractor rather than this Agreement;

b. The amount of each such letter of credit shall be in the same ratio to the total amount of Performance Security required under Section 17.2.1.1 as the relevant contract price bears to the Total Project Capital Cost; provided that the aggregate face amount of such letter of credit and the other Performance Security must at least equal twenty-five percent (25%) of the Total Project Capital Cost;

c. Each such letter of credit shall be subject to draw as and when provided in Section 19.2.7 due to the Contractor's breach or failure to perform its obligations under its Contracts for the D&C Work; and

d. Such letter of credit shall remain in full force and effect up to and including the date that is one (1) year following the Substantial Completion Date.

17.2.1.8 Regardless of which election Developer makes under Section 17.2.1.2, if the Performance Security is in the form of a letter of credit, then the provisions and requirements of Section 17.3.1 shall apply, except:

a. The letter of credit shall expressly provide an original expiry date not earlier than six (6) months after the Final Acceptance Date indicated in the Project Baseline Schedule;

b. The letter of credit shall expressly provide for successive automatic renewals of at least six (6) months each, taking effect no later than thirty (30) days prior to the expiry date, until the Final Acceptance Date; and

c. As permitted otherwise in Section 17.2.1.9.

17.2.1.9 If the Performance Security is in the form of a letter of credit, then notwithstanding Section 17.3.1.1(g), Developer may name the Collateral Agent as the beneficiary thereof instead of IFA, or may transfer the beneficiary's rights under the letter of credit from Developer to the Collateral Agent rather than IFA. However, the foregoing right is available to Developer only if (1) the Collateral Agent is restricted in making draws on such letter of credit solely for the purpose of causing Developer to perform its obligations to Contractors performing D&C Work or its obligations under the PPA Documents respecting the D&C Work (or, if Developer makes the election under Section 17.2.1.2(b), causing the Contractor to perform its performance obligations under its Contract respecting the D&C Work) and (2) Developer delivers to IFA, concurrently with the issuance of such letter of credit, documents

reasonably satisfactory to IFA:

a. Naming IFA as automatic and exclusive transferee beneficiary under such letter of credit upon the Final Acceptance of all Project Sections; and

b. Prior thereto, permitting IFA to become the transferee beneficiary under such letter of credit and to make drawings thereunder if IFA determines that

i. (A) Developer (or, if Developer makes the election under Section 17.2.1.2(b), the Contractor) has breached or failed to perform such obligations, (B) the letter of credit has become subject to IFA's right to draw thereon under Section 19.2.7 and (C) the Collateral Agent has failed to draw on such letter of credit for the purpose of causing the performance of such obligations by or on behalf of Developer (or, if Developer makes the election under Section 17.2.1.2(b), the Contractor) within ten (10) days after IFA delivers Notice of such breach to Developer and the Collateral Agent, or

ii. (A) The letter of credit will expire within thirty (30) days, (B) IFA has not received a certified copy of a replacement or extension of the letter of credit with required transfer documents, and (C) IFA has no actual knowledge of a prior, full draw on the expiring letter of credit by the Collateral Agent.

At a minimum, such transfer documents shall include a certified copy of the letter of credit and a present, executed transfer and assignment of the beneficiary rights from the Collateral Agent to IFA; and the letter of credit shall expressly authorize such transfer without condition and permit draw without presentation of the original letter of credit.

17.2.1.10 The Payment Bond shall be released upon Final Acceptance of all Project Sections; the Performance Security shall be released one (1) year after Substantial Completion.

17.2.1.11 The requirements of this Section 17.2.1 shall apply to new, reconstructed or rehabilitated improvements during the Term, and any other D&C Work Developer performs for which a bond is required under IC 8-23-9. Prior to commencing any such D&C Work after Final Acceptance, Developer shall obtain IFA's written approval of the form and amount of Payment Bond and Performance Security for such D&C Work.

17.2.2 Payment Certifications

17.2.2.1 As further security against stop notices, liens and claims for failure of Developer, any Design-Build Contractor, or any other prime Contractor for the Design Work and Construction Work to pay amounts due for work, services, materials, equipment and supplies, Developer shall deliver to IFA the items set forth in this Section.

17.2.2.2 Within twenty (20) days after the end of each calendar month until Final Acceptance of all Project Sections, Developer shall deliver to IFA:

a. A written certificate of Developer certifying as to all Design Work and Construction Work that each Design-Build Contractor, and all subcontractors, laborers, Suppliers, Utility Owners and other third parties, have been paid all amounts due to date under their respective Contracts or purchase agreements, except only for (i) services, materials and equipment provided in the immediately preceding month, (ii) retainage provided in the relevant

Contract, (iii) amounts in honest dispute, and any amounts in honest dispute shall be set forth in detail in an attachment to the certificate, and (iv) claims arising out of Relief Events which are either in process or for which the time periods for asserting such claims have not yet passed;

b. A written certificate and release signed by each Design-Build Contractor, each other prime Contractor for Design Work or Construction Work, and each subcontractor or Supplier that provided services, materials or equipment in the preceding month, certifying that it has received payment in full of all amounts due under their respective Contracts or purchase agreements, except only for (i) amounts not yet due and payable, (ii) retainage, (iii) amounts in dispute, stating any amounts in dispute, and (iv) claims arising out of Relief Events which are either in process or for which the time periods for asserting such claims have not yet passed, and waiving and releasing any and all claims, liens or security interests, known or unknown, suspected or unsuspected, for payment arising out of such services, materials or equipment against IFA, the State, the East End Crossing and any Payment Bonds provided to IFA under this Section 17.2; and

c. Certified payrolls submitted by each Design-Build Contractor, each other prime Contractor for Construction Work and each subcontractor to the Indiana Department of Labor certifying wages paid and compliance with applicable prevailing wage requirements.

17.2.2.3 If IFA does not receive any such certificate or certified payroll, it shall provide notice thereof to Developer, and if such certificate or certified payroll is not received within seven (7) days of such notice, it may require Developer to increase the amount of the Payment Bond and Performance Security to such amount as IFA determines is appropriate to protect its interests and the East End Crossing no later than seven (7) days from the receipt of Notice from IFA.

17.2.3 Operations and Maintenance Security

If Developer obtains security for payment and/or performance from any O&M Contractor, then Developer shall cause the issuer, maker or guarantor, as applicable, of such payment and/or performance security to deliver with such payment and/or performance security (a) in the case of a letter of credit, documentation naming IFA as a transferee beneficiary and providing for transfer of such facility to IFA in certain circumstances, on the same terms as permitted hereunder with respect to letters of credit pursuant to Section 17.2.1.9, (b) in the case of a bond, a dual-obligee rider naming IFA an additional obligee under the bond, on the same terms as permitted hereunder with respect to bonds pursuant to Section 17.2.1.5, or (c) in the case of a guaranty, the documentation set forth in Section 17.4, and, in each case, Developer shall deliver a certified copy thereof to IFA within ten (10) days after issuance.

17.3 Letters of Credit

17.3.1 General Provisions

Wherever in the PPA Documents Developer has the option or obligation to deliver to IFA a letter of credit, the following provisions shall apply except to the extent expressly provided otherwise in the PPA Documents:

17.3.1.1 The letter of credit shall:

a. Be a standby letter of credit;

b. Be issued by a financial institution that is not an Affiliate, has a credit rating for long-term, unsecured debt of not less than "A-/A3" from one of the Rating Agencies, and has an office in the United States at which the letter of credit can be presented for payment by facsimile or by electronic means. If the bank issuing the letter of credit fails to maintain such credit rating, Developer shall deliver a substitute letter of credit issued by a qualified financial institution within thirty (30) days of the date that the prior financial institution failed to maintain such credit rating or otherwise furnish additional security acceptable to IFA as may be required from time to time to protect the interests of IFA;

c. Be in form approved by IFA in its good faith discretion;

d. Be payable immediately, conditioned only on written presentment from IFA to the issuer of a sight draft drawn on the letter of credit and a certificate stating that IFA has the right to draw under the letter of credit in the amount of the sight draft, up to the amount due to IFA, without requirement to present the original letter of credit;

e. Be in place for the entire period of time for which the letter of credit is providing security. Letters of credit with an expiration date shall provide for automatic renewal unless the issuer provides notice to IFA and to Developer to the contrary no later than thirty (30) days prior to the expiration date;

f. Allow for multiple draws;

g. Name IFA and KYTC as beneficiaries, and not provide for any other dual or multiple beneficiaries; and

h. Be consistent with the requirements of this Section 17.3.

17.3.1.2 If Developer has failed to pay or perform when due the duty, obligation or liability under the PPA Documents for which the letter of credit is held, IFA shall have the right to draw on the letter of credit as and when provided in Section 19.2.7. If IFA makes such a draw on the letter of credit, IFA shall use and apply the proceeds as provided in this Agreement for such letter of credit.

17.3.1.3 IFA shall have the right to draw on the letter of credit, without prior Notice to Developer, if (a) for any reason Developer fails to deliver to IFA a new or replacement letter of credit, on the same terms, by not later than thirty (30) days before such expiration date, unless the applicable terms of the PPA Documents expressly require no further letter of credit with respect to the duty, obligation or liability in question, or (b) the financial institution issuing the letter of credit fails to meet the requirements set forth in Section 17.3.1.1(b) and Developer fails to provide a substitute letter of credit issued by a qualified financial institution within thirty (30) days before its expiration date. If IFA makes such a draw on the letter of credit, IFA shall be entitled to draw on the full face amount of the letter of credit and shall retain such amount as cash security to secure the obligations under the letter of credit, without payment of interest to Developer.

17.3.1.4 Draw on letters of credit shall not be conditioned on prior resort to Developer or any other security of Developer. For all draws conditioned on prior Notice from IFA to Developer, no such Notice shall be required if it would preclude draw before the expiration date of the letter of credit. IFA shall use and apply draws on letters of credit (or cash

security held from draws on letters of credit) toward satisfying the relevant obligation of Developer (or, if applicable, any other Person for which the letter of credit is performance security). Subject to IFA's rights under Sections 17.3.1.2 and 17.3.1.3, if IFA receives proceeds of a draw in excess of the relevant obligation, IFA shall promptly refund the excess to Developer (or such other Person) after all relevant obligations are satisfied in full.

17.3.1.5 Developer's sole remedy in connection with the improper presentment or payment of sight drafts drawn under letters of credit shall be to obtain from IFA a refund of the proceeds which are misapplied, and subject to Section 19.4.4, reimbursement of the reasonable costs Developer incurs as a result of such misapplication; provided that at the time of such refund Developer increases the amount of the letter of credit to the amount (if any) then required under applicable provisions of this Agreement. Developer acknowledges that the presentment of sight drafts drawn upon a letter of credit could not under any circumstances cause Developer injury that could not be remedied by an award of money damages, and that the recovery of money damages would be an adequate remedy. Accordingly, Developer covenants (a) not to request or instruct the issuer of any letter of credit to refrain from paying any sight draft drawn under the letter of credit and (b) not to commence or pursue any legal proceeding seeking, and Developer irrevocably waives and relinquishes any right, to enjoin, restrain, prevent, stop or delay any draw on any letter of credit.

17.3.1.6 Developer shall obtain and furnish all letters of credit and replacements thereof at its sole cost and expense, and shall pay all charges imposed in connection with IFA's presentment of sight drafts and drawing against letters of credit or replacements thereof.

17.3.1.7 If IFA makes a permitted assignment of its rights and interests under this Agreement, then Developer shall cooperate so that concurrently with the effectiveness of such assignment, either replacement letters of credit for, or appropriate amendments to, the outstanding letters of credit shall be delivered to the assignee naming the assignee as beneficiary, at no cost to Developer.

17.3.1.8 IFA acknowledges that if the letter of credit is performance security for a Person other than Developer (e.g., a Key Contractor), IFA's draw may only be based on the underlying obligations of such Person.

17.3.2 Special Letter of Credit Provisions

Any terms and conditions applicable to a particular letter of credit which Developer or a Lender is required to or may provide under this Agreement are set forth in the provisions of this Agreement describing such letter of credit.

17.4 Guarantees

17.4.1 If Developer, any Affiliate or any Lender receives from any Person a guaranty of payment or performance of any obligation(s) of a Key Contractor, then either (i) Developer shall cause such Person to (a) expressly include IFA as a guaranteed party under such guaranty, with the same protections and rights of Notice, enforcement and collection as are available to any other guaranteed party, and (b) deliver to IFA a duplicate original of such guaranty, which guaranty shall provide that the rights and protections of IFA shall not be reduced, waived, released or adversely affected by the acts or omissions of any other guaranteed party, other

than through the rendering of payment and performance to another guaranteed party or (ii) Developer shall deliver to IFA, concurrently with the issuance of such guaranty, a duplicate original of such guaranty and such other documents reasonably satisfactory to IFA permitting IFA, subject to the rights of the Collateral Agent set forth in Article 21 and any Direct Agreement, to become the transferee beneficiary under such guaranty and to enforce it, including enforcing the guaranty in favor of IFA or the East End Crossing, or both, if, subject to Section 17.4.2, IFA determines that (A) the relevant Key Contractor has breached or failed to perform such obligations under the relevant Key Contract, (B) such breach has caused, or with the passage of time reasonably may cause, a Developer Default and, if a Developer Default has occurred, the applicable cure period has expired without full and complete cure and (C) Developer or the Collateral Agent has failed to call upon or otherwise enforce such guaranty for the purpose of causing the performance of such obligations by or on behalf of the Contractor within ten (10) days after IFA delivers Notice of such breach or expected breach to Developer and the Collateral Agent, which transfer documents shall include a certified copy of the guaranty and a present, executed transfer and assignment of the beneficiary rights from Developer or Collateral Agent, as applicable, to IFA; and the guaranty shall expressly authorize such transfer without condition and permit draw without presentation of the original guaranty.

17.4.2 IFA agrees to forebear from exercising remedies under any such guaranty pursuant to which it is a beneficiary or exercising its right to become a beneficiary thereunder pursuant to Section 17.4.1(ii) so long as Developer or a Lender is diligently pursuing remedies thereunder.

17.5 Indemnity by Developer; No Indemnity by IFA

17.5.1 Subject to Section 17.5.2, Developer shall release, protect, defend, indemnify and hold harmless the Indemnified Parties from and against any and all claims, causes of action, suits, judgments, investigations, legal or administrative proceedings, demands and Losses, in each case if asserted or incurred by or awarded to any third party, arising out of, relating to or resulting from:

17.5.1.1 Developer's breach or alleged breach of its obligations under the PPA Documents;

17.5.1.2 The failure or alleged failure by any Developer-Related Entity to comply with the Governmental Approvals, any applicable Environmental Laws or other Laws (including Laws regarding Hazardous Materials Management) relating to the performance of the Work;

17.5.1.3 Any alleged patent or copyright infringement or other allegedly improper appropriation or use by any Developer-Related Entity of trade secrets, patents, proprietary information, know-how, copyright rights or inventions in performance of the Work, or arising out of any use in connection with the East End Crossing of methods, processes, designs, information, or other items furnished or communicated to IFA or another Indemnified Party pursuant to the PPA Documents; provided that this indemnity shall not apply to any infringement resulting from IFA's failure to comply with specific written instructions regarding use provided to IFA by Developer;

17.5.1.4 The actual or alleged fraud, bad faith, willful misconduct, gross negligence, breach of applicable Law or contract, or other culpable act of any Developer-

Related Entity in or associated with performance of the Work;

17.5.1.5 Any and all claims by any governmental or taxing authority claiming Taxes based on gross receipts, purchases or sales, the use of any property or income of any Developer-Related Entity with respect to any payment for the Work made to or earned by any Developer-Related Entity;

17.5.1.6 Any and all stop Notices, liens and claims filed in connection with the Work, including all expenses and attorneys', accountants' and expert witness fees and costs incurred in discharging any stop Notice, lien or claim, and any other liability to Contractors. laborers and Suppliers for failure to pay sums due for their work, services, materials, goods, equipment or supplies, provided that IFA is not in default in payments owing (if any) to Developer with respect to such Work;

17.5.1.7 Any actual or threatened Developer Release of Hazardous Materials relating to Developer's performance of the Work;

17.5.1.8 The claim or assertion by any other developer or contractor that any Developer-Related Entity interfered with or hindered the progress or completion of work being performed by the other contractor or developer, or failed to cooperate reasonably with the other developer or contractor, so as to cause inconvenience, disruption, delay or loss, except where the Developer-Related Entity was not in any manner engaged in performance of the Work;

17.5.1.9 Any dispute between Developer and a Utility Owner, or any Developer-Related Entity's performance of, or failure to perform, the obligations under any Utility Agreement;

17.5.1.10 (a) Any Developer-Related Entity's breach of or failure to perform an obligation that IFA owes to a third Person, including Governmental Entities, under Law or under any agreement between IFA and a third Person, where performance of the obligation is delegated to Developer under the PPA Documents or (b) the acts or omissions of any Developer-Related Entity which render IFA unable to perform or abide by an obligation that IFA owes to a third Person, including Governmental Entities, under any agreement between IFA and a third Person, where the agreement is previously disclosed or known to Developer;

17.5.1.11 Inverse condemnation, trespass, nuisance or similar taking of or harm to real property by reason of (a) the failure of any Developer-Related Entity to comply with Good Industry Practice, requirements of the PPA Documents, Project Management Plan or Governmental Approvals respecting control and mitigation of construction activities and construction impacts in connection with the performance of the Work, (b) the intentional misconduct or negligence of any Developer-Related Entity in connection with the performance of the Work, or (c) the actual physical entry onto or encroachment upon another's property by any Developer-Related Entity in connection with the performance of the Work;

17.5.1.12 If applicable, any violation of any federal or state securities or similar law by any Developer-Related Entity;

17.5.1.13 If applicable, the authorization, issuance, sale, trading, redemption or servicing of the PABs or any other bonds issued to finance the East End

Crossing (whether IFA or another entity is the issuer), or Developer's failure to comply with any requirement necessary to preserve the tax exempt status of interest paid on the PABs or other bonds; or

17.5.1.14 Any errors, inconsistencies or other Defects in the design or construction of the East End Crossing and/or of Utility Adjustments included in the D&C Work.

17.5.2 Subject to the releases and disclaimers herein, Developer's indemnity obligation shall not extend to any third-party Loss to the extent directly caused by:

17.5.2.1 The negligence, recklessness or willful misconduct, bad faith or fraud of the Indemnified Party;

17.5.2.2 IFA's breach of any of its material obligations under the PPA Documents;

17.5.2.3 An Indemnified Party's violation of any Laws or Governmental Approvals; or

17.5.2.4 Any material defect inherent in a prescriptive design, construction, operations or maintenance specification included in the Technical Provisions, but only where prior to occurrence of the third-party Loss Developer complied with such specification and did not actually know, or would not reasonably have known, while exercising reasonable diligence, that it was deficient or, if Developer actually knew of the deficiency, unsuccessfully sought IFA's waiver of or approval of a Deviation from such specification.

17.5.3 In claims by an employee of Developer, a Contractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section 17.5 shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for Developer or a Contractor under workers' compensation, disability benefit or other employee benefits laws.

17.5.4 For purposes of this Section 17.5, "third party" means any Person other than an Indemnified Party and Developer, except that a "third party" includes any Indemnified Party's employee, agent or contractor who asserts a claim that is (a) against an Indemnified Party, (b) within the scope of the indemnities and (c) not covered by the Indemnified Party's worker's compensation program.

17.5.5 IFA, the Department and the State shall have no obligation to indemnify Developer.

17.5.6 The requirement to provide an indemnity as specified in Section 17.5 and Section 5.9.10 is intended to provide protection to IFA with respect to third-party claims associated with the event giving rise to the indemnification obligation, and is not intended to provide IFA with an alternative cause of action against Developer for damages incurred directly by IFA with respect to the event giving rise to the indemnification obligation.

17.6 Defense and Indemnification Procedures

17.6.1 If IFA receives Notice of a claim or otherwise has actual knowledge of a claim that it believes is within the scope of the indemnities under Section 17.5, and if IFA gives Notice

thereof pursuant to Section 17.1.4.3, then IFA shall have the right to conduct its own defense unless either an insurer accepts defense of the claim within the time required by Law or Developer accepts the tender of the claim in accordance with Section 17.6.3.

17.6.2 If the insurer under any applicable Insurance Policy accepts the tender of defense, IFA and Developer shall cooperate in the defense as required by the Insurance Policy. If no insurer under potentially applicable Insurance Policies provides defense, then Section 17.6.3 shall apply.

17.6.3 If the defense is tendered to Developer, then within thirty (30) days after receipt of the tender it shall notify the Indemnified Party whether it has tendered the matter to an insurer and (if not tendered to an insurer or if the insurer has rejected the tender) shall deliver a Notice stating that Developer:

17.6.3.1 Accepts the tender of defense and confirms that the claim is subject to full indemnification hereunder without any "reservation of rights" to deny or disclaim full indemnification thereafter;

17.6.3.2 Accepts the tender of defense but with a "reservation of rights" in whole or in part; or

17.6.3.3 Rejects the tender of defense based on a determination that it is not required to indemnify against the claim under the terms of this Agreement.

17.6.4 If Developer accepts the tender of defense under Sections 17.6.3.1 and 17.6.3.2, Developer shall have the right to select legal counsel for the Indemnified Party, subject to reasonable approval by the Indemnified Party, and Developer shall otherwise control the defense of such claim, including settlement, and bear the fees and costs of defending and settling such claim. During such defense:

17.6.4.1 Developer shall fully and regularly inform the Indemnified Party of the progress of the defense and of any settlement discussions; and

17.6.4.2 The Indemnified Party shall fully cooperate in said defense, provide to Developer all materials and access to personnel it requests as necessary for defense, preparation and trial and which or who are under the control of or reasonably available to the Indemnified Party, and maintain the confidentiality of all communications between it and Developer concerning such defense.

17.6.5 If Developer responds to the tender of defense as specified in Section 17.6.3.3, the Indemnified Party shall be entitled to select its own legal counsel and otherwise control the defense of such claim, including settlement.

17.6.6 Notwithstanding Sections 17.6.3.1 and 17.6.3.2, the Indemnified Party may revocably assume its own defense at any time by delivering to Developer Notice of such election and the reasons therefor, if the Indemnified Party, at the time it gives Notice of the claim or at any time thereafter, reasonably determines that:

17.6.6.1 A conflict exists between it and Developer which prevents or potentially prevents Developer from presenting a full and effective defense;

17.6.6.2 Developer is otherwise not providing an effective defense in connection with the claim; or

17.6.6.3 Developer lacks the financial capacity to satisfy potential liability or to provide an effective defense.

17.6.7 If the Indemnified Party is entitled and elects to conduct its own defense pursuant hereto of a claim for which it is entitled to indemnification, Developer shall reimburse on a current basis all reasonable costs and expenses the Indemnified Party incurs in investigating and defending. If the Indemnified Party is entitled to and elects to conduct its own defense, then:

17.6.7.1 In the case of a defense that otherwise would be conducted under Section 17.6.3.1, the Indemnified Party shall have the right to settle or compromise the claim with each of Developer's and Developer's relevant insurer(s)' prior written consent, which, in each case, shall not be unreasonably withheld or delayed;

17.6.7.2 In the case of a defense that otherwise would be conducted under Section 17.6.3.2, the Indemnified Party and Developer shall consult with each other on a regular basis to determine whether settlement is appropriate and, subject to the rights of any insurer providing coverage for the claim under a policy required under this Agreement, and the Indemnified Party shall have the right to settle or compromise the claim with Developer's prior written consent without prejudice to the Indemnified Party's rights to be indemnified by Developer; and

17.6.7.3 In the case of a defense conducted under Section 17.6.3.3, the Indemnified Party shall, subject to the rights of any insurer providing coverage for the claim under a policy required under this Agreement, have the right to settle or compromise the claim without Developer's prior written consent and without prejudice to its rights to be indemnified by Developer.

17.6.8 A refusal of, or failure to accept, a tender of defense, as well as any Dispute over whether an Indemnified Party which has assumed control of defense is entitled to do so under Section 17.6.6, shall be resolved according to the Dispute Resolution Procedures. Developer shall be entitled to contest an indemnification claim and pursue, through the Dispute Resolution Procedures, recovery of defense and indemnity payments it has made to or on behalf of the Indemnified Party.

17.7 Disclaimer

Nothing in this Article 17 or elsewhere in the PPA Documents is intended to establish a standard of care owed to any member of the public or to extend to the public the status of a third-party beneficiary for any of the insurance or indemnifications described in this Article 17.

ARTICLE 18. REPRESENTATIONS AND WARRANTIES

18.1 Developer Representations and Warranties

Developer hereby represents and warrants to IFA as follows:

18.1.1 The Financial Model Formulas (a) were prepared by or on behalf of Developer in good faith, (b) are the same financial formulas that Developer utilized and is utilizing in the Financial Model, in making its decision to enter into this Agreement and in making disclosures to potential equity investors and Lenders under the Initial Funding Agreements, and (c) as of the Effective Date are mathematically correct and suitable for making reasonable projections.

18.1.2 The Financial Model (a) was prepared by or on behalf of Developer in good faith, (b) was audited and verified by an independent recognized model auditor immediately prior to the Effective Date and such audit will be updated within forty-eight (48) hours after the Effective Date, (c) fully discloses all cost, traffic, revenue and other financial assumptions and projections that Developer has used or is using in making its decision to enter into this Agreement and in making disclosures to potential equity investors and Lenders under the Initial Funding Agreements and (d) as of the Effective Date represents the projections that Developer believes in good faith are the most realistic and reasonable for the East End Crossing; provided, however, that such projections (i) are based upon a number of estimates and assumptions, (ii) are subject to significant business, economic and competitive uncertainties and contingencies and (iii) accordingly are not a representation or warranty that any of the assumptions are correct, that such projections will be achieved or that the forward-looking statements expressed in such projections will correspond to actual results.

18.1.3 Developer certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency or political subdivision of the State. For purposes of this Section 18.1.3, the term "principal" for purposes of this Agreement means an officer, director, owner, partner, Key Personnel, employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of Developer.

18.1.4 As of the Effective Date, Developer has reviewed all applicable Laws relating to Taxes, and has taken into account all requirements imposed by such Laws in preparing the Financial Model.

18.1.5 Developer, its employees and its Contractor(s) and its employees have maintained and complied with, and throughout the term of this Agreement will maintain and comply with, all required authority, license status, applicable licensing standards, certification standards, accrediting standards, professional ability, skills and capacity to perform the Work.

18.1.6 As of the Effective Date, based upon its Reasonable Investigation, Developer has evaluated the constraints affecting design and construction of the East End Crossing, including the Project Right of Way limits, the terms and conditions of the NEPA Approval, IFA-Provided Approvals obtained prior to the Setting Date, the surface and subsurface conditions discoverable through such Reasonable Investigation, and applicable Laws, and Developer has reasonable grounds for believing and does believe that the East End Crossing can be designed and built within such constraints.

18.1.7 Except as to parcels that IFA lacked title or access to prior to the Setting Date, Developer, in accordance with Good Industry Practice, conducted a Reasonable Investigation prior to the Setting Date, and as a result of such Reasonable Investigation, Developer is familiar

with and accepts the physical requirements of the Work, subject to IFA's obligations regarding Hazardous Materials under Section 5.9 and Developer's rights to seek relief under Article 15.

18.1.8 Prior to the Effective Date, Developer familiarized itself with the requirements of any and all applicable Laws and the conditions of any required Governmental Approvals. Except as specifically permitted under Article 15 or 16, Developer shall be responsible for complying with the foregoing at its sole cost and without any additional compensation or time extension on account of such compliance, regardless of whether such compliance would require additional time for performance or additional labor, equipment and/or materials not expressly provided for in the PPA Documents or would have an adverse affect on costs. As of the Effective Date, Developer has no reason to believe that any Governmental Approval required to be obtained by Developer will not be granted in due course and thereafter remain in effect so as to enable the Work to proceed in accordance with the PPA Documents.

18.1.9 Developer shall obtain and maintain, and all Work furnished by Developer will be performed by or under the supervision of Persons who hold, all necessary or required registrations, permits or approvals and valid licenses to practice in the State, by personnel who are skilled, experienced and competent in their respective trades or professions, who are professionally qualified to perform the Work in accordance with the PPA Documents and who shall assume professional responsibility for the accuracy and completeness of the Design Documents, Construction Documents and other documents prepared or checked by them.

18.1.10 As of the Effective Date, Developer is a limited liability company, duly organized and validly existing under the laws of Delaware, has the requisite power and all required licenses to carry on its present and proposed activities, and has full power, right and authority to execute and deliver the PPA Documents and the Principal Project Documents to which Developer is a party and to perform each and all of the obligations of Developer provided for herein and therein. Developer is duly qualified to do business, and is in good standing, in the State and in the Commonwealth of Kentucky, in each case, as of the Effective Date, and will remain duly qualified and in good standing throughout the Term and for as long thereafter as any obligations remain outstanding under the PPA Documents. Developer affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports with the Indiana Secretary of State.

18.1.11 The execution, delivery and performance of the PPA Documents and the Principal Project Documents to which Developer is (or will be) a party have been (or will be) duly authorized by all necessary corporate action of Developer; each person executing the PPA Documents and such Principal Project Documents on behalf of Developer has been (or at the time of execution will be) duly authorized to execute and deliver each such document on behalf of Developer; and the PPA Documents and such Principal Project Documents have been (or will be) duly executed and delivered by Developer.

18.1.12 Neither the execution and delivery by Developer of the PPA Documents and the Principal Project Documents to which Developer is (or will be) a party, nor the consummation of the transactions contemplated hereby or thereby, is (or at the time of execution will be) in conflict with or has resulted or will result in a default under or a violation of the governing instruments of Developer or any agreement, judgment or decree to which Developer is a party or is bound.

18.1.13 The execution and delivery by Developer of the PPA Documents and the Principal Project Documents to which Developer is (or will be) a party, and the performance by Developer of its obligations thereunder, will not conflict with any Laws applicable to Developer that are valid and in effect on the date of execution and delivery. As of the Effective Date, Developer is not in breach of any applicable Law that would have a material adverse effect on the Work or the performance of any of its obligations under the PPA Documents.

18.1.14 Each of the PPA Documents and the Principal Project Documents to which Developer is (or will be) a party constitutes (or at the time of execution and delivery will constitute) the legal, valid and binding obligation of Developer, enforceable against Developer and, if applicable, each Equity Member of Developer, in accordance with its terms, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and the general principles of equity.

18.1.15 As of the Effective Date, there is no action, suit, proceeding, investigation or litigation pending and served on Developer which challenges Developer's authority to execute, deliver or perform, or the validity or enforceability of, the PPA Documents and the Principal Project Documents to which Developer is a party, or which challenges the authority of the Developer official executing the PPA Documents or such Principal Project Documents; and Developer has disclosed to IFA prior to the Effective Date any pending and un-served or threatened action, suit, proceeding, investigation or litigation with respect to such matters of which Developer is aware. Developer has no current, pending or outstanding criminal, civil, or enforcement actions initiated by IFA or the State, and agrees that it will immediately notify IFA of any such actions.

18.1.16 As of the Proposal Due Date Developer disclosed to IFA in writing all organizational conflicts of interest of Developer and its Contractors of which Developer was actually aware; and between the Proposal Due Date and the Effective Date Developer has not obtained knowledge of any additional organizational conflict of interest, and there have been no organizational changes to Developer or its Contractors identified in its Proposal, which have not been approved in writing by IFA. For this purpose, organizational conflict of interest has the meaning set forth in the Request for Proposals.

18.1.17 To the extent the Design-Build Contractor, the Lead Engineering Firm and/or the Lead Operations and Maintenance Contractor is not Developer, Developer represents and warrants, as of the effective date of the relevant Key Contract, as follows: (a) each of the Design-Build Contractor(s), Lead Engineering Firm and Lead Operations and Maintenance Contractor is duly organized, validly existing and in good standing under the laws of the state of its organization and is duly qualified to do business, and is in good standing, in the State and in the Commonwealth of Kentucky, (b) the ownership interests of each of them that is a single purpose entity formed for the East End Crossing (including options, warrants and other rights to acquire ownership interests), is owned by the Persons whom Developer has set forth in a written certification delivered to IFA prior to the Effective Date; (c) each of them has the power and authority to do all acts and things and execute and deliver all other documents as are required to be done, observed or performed by it in connection with its engagement by Developer; (d) each of them has (i) ob tained and will maintain all necessary or required registrations, permits, licenses and approvals required under applicable Law and (ii) expertise, qualifications, experience, competence, skills and know-how to perform the Design Work, Construction Work and O&M Work, as applicable, in accordance with the PPA Documents; (e) each of them will comply with all health, safety and environmental Laws in the performance of

any work activities for, or on behalf of, Developer for the benefit of IFA; and (f) none of them is in breach of any applicable Law that would have a material adverse effect on any aspect of the Work.

18.1.18 Developer has no authority or right to impose any fee, toll, charge or other amount for the use of the East End Crossing.

18.1.19 Developer represents, warrants and certifies by entering into this Agreement, that neither it nor its principal(s) is presently in arrears in payment of Taxes, permit fees or other statutory, regulatory or judicially required payments to IFA, the State or the Commonwealth of Kentucky.

18.1.20 As required by IC 5-22-3-7: Developer and any principals of Developer certify that, (i) in accordance with IC 5-22-3-7 (A) Developer, except for *de minimis* and nonsystematic violations, has not violated the terms of (1) IC 24-4.7 (Telephone Solicitation Of Consumers), (2) IC 24-5-12 (Telephone Solicitations), or (3) IC 24-5-14 (Regulation of Automatic Dialing Machines) in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal Law; and (B) Developer will not violate the terms of IC 24-4.7 for the duration of this Agreement, even if IC 24-4.7 is preempted by federal Law; and (ii) an Affiliate or principal of Developer and any agent acting on behalf of Developer or on behalf of an Affiliate or principal of Developer (A) except for *de minimis* and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal Law; and (B) will not violate the terms of IC 24-4.7 for the duration of this Agreement, even if IC 24-4.7 is preempted by federal Law.

18.1.21 The individual signing this Agreement on behalf of Developer, subject to the penalties for perjury, that he/she is the properly authorized representative, agent, member or officer of Developer, that he/she has not, nor has any other member, employee, representative, agent or officer of Developer, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of this Agreement.

18.2 IFA Representations and Warranties

IFA hereby represents and warrants to Developer as follows:

18.2.1 As of the Effective Date, IFA has full power, right and authority to execute, deliver and perform the PPA Documents, the Milestone Agreement, the Use Agreement, the Project Trust Agreement and the Principal Project Documents to which IFA is (or will be) a party and to perform each and all of the obligations of IFA provided for herein and therein.

18.2.2 Each person executing on behalf of IFA the PPA Documents, the Milestone Agreement, the Use Agreement, the Project Trust Agreement and the Principal Project Documents to which IFA is (or will be) a party has been (or at the time of execution will be) duly authorized to execute and deliver each such document on behalf of IFA; and the PPA Documents, the Milestone Agreement, the Use Agreement, the Project Trust Agreement and such Principal Project Documents have been (or will be) duly executed and delivered by IFA.

18.2.3 The PPA Documents, the Milestone Agreement, the Use Agreement, the Project Trust Agreement and the Principal Project Documents to which IFA is (or will be) a party have each been duly authorized by IFA, and each constitutes (or at the time of execution and delivery will constitute) a legal, valid and binding obligation of IFA enforceable against IFA in accordance with its terms.

18.2.4 As of the date of the Effective Date, there is no action, suit, proceeding, investigation or litigation pending and served on IFA which challenges IFA's authority to execute, deliver or perform, or the validity or enforceability of, the PPA Documents, the Milestone Agreement, the Use Agreement, the Project Trust Agreement and the Principal Project Documents to which IFA is a party or which challenges the authority of the IFA official executing the PPA Documents, the Milestone Agreement, the Use Agreement, the Project Trust Agreement and such Principal Project Documents; and IFA has disclosed to Developer prior to the Effective Date any pending and un-served or threatened action, suit, proceeding, investigation or litigation with respect to such matters of which IFA is aware.

18.2.5 Neither the execution and delivery by IFA of the PPA Documents, the Milestone Agreement, the Use Agreement or the Project Trust Agreement, nor the consummation of the transactions contemplated thereby, is (or at the time of execution will be) in conflict with or has resulted or will result in a default under or a violation of the enabling legislation of IFA or any agreement, judgment or decree to which IFA is a party or is bound.

18.2.6 The execution and delivery by IFA of the PPA Documents, the Milestone Agreement, the Use Agreement or the Project Trust Agreement and the performance by IFA of its obligations thereunder, will not conflict with any Laws applicable to IFA that are valid and in effect on the date of execution and delivery. IFA is not in breach of any applicable Law that would have a material adverse effect on the performance of any of its obligations under the PPA Documents, the Milestone Agreement, the Use Agreement or the Project Trust Agreement.

18.2.7 No consent of any party and no Governmental Approval is required to be made in connection with the execution, delivery and performance of this Agreement, which as not already been obtained.

18.3 Survival of Representations and Warranties

The representations and warranties of Developer and IFA contained herein shall survive expiration or earlier termination of this Agreement.

18.4 Special Remedies for Mutual Breach of Warranty

Notwithstanding any other provision of this Agreement, if there exists or occurs any circumstance or event that constitutes or results in a concurrent breach of any of the parallel warranties set forth in this Article 18 by both Developer and IFA but does not also constitute or result in any other breach or default by either Party, then such breaches shall not form the basis for a Relief Event or damage claim by IFA against Developer. Instead, the only remedies shall be for the Parties to take action to rectify or mitigate the effects of such circumstance or event, to pursue severance and reformation of the PPA Documents as set forth in Section 25.13, or Termination by Court Ruling as set forth in Section 20.5 and Exhibit 22 (Early Termination Dates and Terms for Termination Compensation).

18.5 Certain Developer Representations and Warranties and "Bring-Down" of Certain IFA Representation and Warranties at Financial Close

18.5.1 On the date of Financial Close, Developer shall execute and deliver to IFA a certificate substantially in the form of Exhibit 2-S updating certain of Developer's representations and warranties in this Article 18 and effective as of the date of Financial Close (which date shall be the effective date of the Initial Funding Agreements) and making certain representations and warranties in respect of Financial Close. Failure to execute and deliver such certificate shall be a Developer Default hereunder.

18.5.2 On the date of Financial Close, IFA shall execute and deliver to Developer a certificate updating certain of IFA's representations and warranties in this Article 18 and effective as of the date of Financial Close. Failure to execute and deliver such certificate shall be an IFA Default hereunder.

ARTICLE 19. DEFAULT; REMEDIES; DISPUTE RESOLUTION

19.1 Default by Developer; Cure Periods

19.1.1 Developer Default

Subject to relief from its performance obligations pursuant to Section 15.12, Developer shall be in breach under this Agreement upon the occurrence of any one or more of the following events or conditions (each a "Developer Default"):

19.1.1.1 Developer (a) fails to begin Work within thirty (30) days following issuance of NTP1 or NTP2, (b) fails to satisfy all conditions to commencement of Design Work and to commence Design Work with diligence and continuity within thirty (30) days following issuance of NTP1, or (c) fails to satisfy all conditions to commencement of Construction Work and to commence Construction Work with diligence and continuity, within thirty (30) days following issuance of NTP2, in each case, as may be extended pursuant to this Agreement;

19.1.1.2 An Abandonment;

19.1.1.3 Developer fails to achieve (a) Substantial Completion by the Long Stop Date, or (b) Final Acceptance by the Final Acceptance Deadline;

19.1.1.4 [reserved];

19.1.1.5 Developer (a) fails to make any payment due IFA under the PPA Documents when due, or (b) fails to deposit funds to any custodial account, trust account or other reserve or account in the amount and within the time period required by the PPA Documents;

19.1.1.6 [reserved];

19.1.1.7 There occurs any use of the East End Crossing or Airspace or any portion thereof by any Developer-Related Entity in violation of this Agreement, the Technical Provisions, Governmental Approvals or Laws;

19.1.1.8 [reserved];

19.1.1.9 Subject to Section 18.4, any representation or warranty in the PPA Documents made by Developer, or any certificate, schedule, report, instrument or other document delivered by or on behalf of Developer to IFA pursuant to the PPA Documents is false, misleading or inaccurate in any material respect when made or omits material information when made;

19.1.1.10 Developer fails to obtain, provide, maintain and deliver originals, certificates or required evidence of any insurance, bonds, guarantees, letters of credit or other payment or performance security as and when required under this Agreement for the benefit of relevant parties, or fails to comply with any requirement of this Agreement pertaining to the amount, terms or coverage of the same;

19.1.1.11 Developer makes or attempts to make or suffers a voluntary or involuntary assignment or transfer of all or any portion of this Agreement, the East End Crossing or Developer's Interest, or there occurs an Equity Transfer or a Change of Control, in violation of Article 22;

19.1.1.12 Developer fails, within thirty (30) days of receipt of Notice from IFA that Developer has failed to timely observe or perform or cause to be observed or performed any other covenant, agreement, obligation, term or condition required to be observed or performed by Developer under the PPA Documents, including failure to pay for or perform the Design Work, Construction Work, O&M Work or any portion thereof in accordance with the PPA Documents, to cure any such failure identified in such IFA notice;

19.1.1.13 After exhaustion of all rights of appeal, there occurs any disqualification, suspension or debarment (distinguished from ineligibility due to lack of financial qualifications), or there goes into effect an agreement for voluntary exclusion, from bidding, proposing or contracting with any federal or State department or agency of (a) Developer, (b) any affiliate of Developer (as "affiliate" is defined in 29 CFR § 16.105 or successor regulation of similar import), (c) any Equity Member or (d) any Key Contractor whose work is not completed;

19.1.1.14 There occurs any Persistent Developer Default, IFA delivers to Developer Notice of the Persistent Developer Default, and either (a) Developer fails to deliver to IFA, within forty-five (45) days after such Notice is delivered, a remedial plan meeting the requirements for approval set forth in Section 19.2.6 or (b) Developer fails to fully comply with the schedule or specific elements of, or actions required under, the approved remedial plan;

19.1.1.15 Developer fails to comply with IFA's written suspension of Work order issued in accordance with Section 19.2.8 within the time reasonably allowed in such order;

19.1.1.16 Developer commences a voluntary case seeking liquidation, reorganization or other relief with respect to itself or its debts under any U.S. or foreign bankruptcy, insolvency or other similar Law now or hereafter in effect, seeks the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets; becomes insolvent, or generally does not pay its debts as they become due; admits in writing its inability to pay its debts; makes an assignment for the benefit of creditors; or takes any action to authorize any of the foregoing;

19.1.1.17 An involuntary case is commenced against Developer seeking liquidation, reorganization, dissolution, winding up, a composition or arrangement with creditors, a readjustment of debts or other relief with respect to Developer or Developer's debts under any U.S. or foreign bankruptcy, insolvency or other similar Law now or hereafter in effect; seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of Developer or any substantial part of Developer's assets; seeking the issuance of a writ of attachment, execution, or similar process; or seeking like relief, and such involuntary case shall not be contested by Developer in good faith or shall remain undismissed and unstayed for a period of 60 days;

19.1.1.18 Any voluntary or involuntary case or other act or event described in Sections 19.1.1.16 and 19.1.1.17 shall occur (and in the case of an involuntary case shall not be contested in good faith or shall remain undismissed and unstayed for a period of 60 days) with respect to (a) any Equity Member, partner or joint venture member of Developer with a material financial obligation owing to Developer for equity or loan contributions, (b) any Equity Member, partner or joint venture member of Developer for whom transfer of ownership or management authority would constitute a Change of Control, or (c) any Guarantor of material Developer obligations to IFA under the PPA Documents, unless another Guarantor of the same material Developer obligations then exists, is solvent, is not and has not been the debtor in any such voluntary or involuntary case, has not repudiated its guaranty and is not in breach of its guaranty; or

19.1.1.19 Developer draws against or makes a false or materially misleading representation in connection with a draw against any custodial account, trust account or other reserve or account (including the Relief Events Allowance Account) in violation of the terms and conditions of the PPA Documents.

19.1.2 Cure Periods

Subject to Section 19.2.2, for Developer breaches or failures listed in Attachment 1 of Exhibit 12 to this Agreement, the cure periods set forth therein shall exclusively govern for the sole purpose of assessing Noncompliance Points and Quarterly Payment Adjustments. For Category A breaches or failures listed in Attachment 1 of Exhibit 12 to this Agreement, the cure period set forth therein shall exclusively govern for the sole purpose of accumulation under clause (b) of the definition of Persistent Developer Default. For the purpose of IFA's exercise of other remedies, subject to Section 19.2.2 and subject to remedies that this Article 19 expressly states may be exercised before lapse of a cure period, Developer shall have the following cure periods with respect to the following Developer Defaults:

19.1.2.1 Respecting a Developer Default under Section 19.1.1.14(a), a period of five days after IFA delivers to Developer Notice of the Developer Default;

19.1.2.2 Respecting a Developer Default under Section 19.1.1.1, 19.1.1.5, 19.1.1.10, 19.1.1.11 or 19.1.1.19, a period of fifteen (15) days after IFA delivers to Developer Notice of the Developer Default; provided that IFA shall have the right, but not the obligation, to effect cure, at Developer's expense, if a Developer Default under Section 19.1.1.10 continues beyond five days after such Notice is delivered;

19.1.2.3 Respecting a Developer Default under Section 19.1.1.2, 19.1.1.7 or 19.1.1.14(b), a period of thirty (30) days after IFA delivers to Developer Notice of the

Developer Default;

19.1.2.4 Respecting a Developer Default under Section 19.1.1.9, 19.1.1.12 or 19.1.1.13, a period of thirty (30) days after IFA delivers to Developer Notice of the Developer Default; provided that (a) if the Developer Default, including a Developer Default under Section 19.1.1.12, is of such a nature that the cure cannot with diligence be completed within such time period and Developer has commenced immediately after receiving the default Notice meaningful steps to cure, Developer shall have such additional period of time, up to a maximum cure period of one hundred twenty (120) days, as is reasonably necessary to diligently effect cure, (b) as to Section 19.1.1.9, cure will be regarded as complete when the adverse effects of the breach are cured, and (c) as to Section 19.1.1.13, if the debarred, suspended or voluntarily excluded Person possesses such ownership or management authority that the transfer thereof would constitute a Change of Control, cure will be regarded as complete when Developer proves it has removed such Person from any position or ability to manage, direct or control the decisions of Developer or to perform Work and replaced such Person with one IFA first approves in writing as provided in Section 22.3, and if the debarred, suspended or voluntarily excluded Person is a Key Contractor cure will be regarded as complete when Developer replaces the Key Contractor with IFA's prior written approval in its good faith discretion as provided in Section 7.3.1;

19.1.2.5 Respecting a Developer Default under Section 19.1.1.3, there shall be no cure period, and there shall be no right to Notice of such Developer Default;

19.1.2.6 Respecting a Developer Default under Section 19.1.1.15, 19.1.1.16 or 19.1.1.17, there shall be no cure period, and there shall be no right to Notice of a Developer Default under Section 19.1.1.16 or 19.1.1.17; and

19.1.2.7 Respecting a Developer Default under Section 19.1.1.18, a period of ten (10) days from the date of the Developer Default to commence diligent efforts to cure, and thirty (30) days to effect cure of such default by providing a letter of credit or payment to IFA or the Collateral Agent for the benefit of the East End Crossing, in the amount of, as applicable, (a) the member's financial obligation for equity or shareholder loan contributions to or for the benefit of Developer or (b) the Guarantor's specified sum or specified maximum liability under its guaranty, or if none is specified, the reasonably estimated maximum liability of the Guarantor.

19.2 IFA Remedies for Developer Default

19.2.1 Termination

Subject to rights of Lenders pursuant to any Direct Agreement and Article 21 of this Agreement, if any Developer Default is or becomes a Default Termination Event set forth in Section 20.3.1, then IFA may terminate this Agreement as provided in Section 20.3. Such termination shall, among other things, automatically terminate all of Developer's rights under Article 2, whereupon Developer shall take all action required to be taken by Developer under Section 20.7.

19.2.2 Immediate IFA Entry and Cure of Wrongful Use or Closure

Without Notice and without awaiting lapse of the period to cure, in the event of any Developer Default under Section 19.1.1.7 (use of the East End Crossing in violation of the PPA Documents), IFA may enter and take control of the relevant portion of the East End Crossing to restore the permitted uses and reopen and continue traffic operations for the benefit of the public, until such time as such breach is cured or IFA terminates this Agreement. Developer shall pay to IFA on demand IFA's Recoverable Costs in connection with such action. So long as IFA undertakes such action in good faith, even if under a mistaken belief in the occurrence of such a Developer Default, such action shall not be deemed unlawful or a breach of this Agreement, shall not expose IFA to any liability to Developer and shall not entitle Developer to any other remedy except if IFA's action constitutes gross negligence, recklessness or willful misconduct. Developer acknowledges that IFA has a high priority, paramount public interest in maintaining the authorized uses of the East End Crossing and continuous public access to the East End Crossing. IFA's good faith determination that such action is needed shall be deemed conclusive in the absence of clear and convincing evidence to the contrary. Immediately following rectification of such Developer Default, as determined by IFA, acting reasonably, IFA shall relinquish control and possession of the relevant portion of the East End Crossing back to Developer.

19.2.3 Remedies for Failure to Meet Safety Standards or Perform Safety Compliance

19.2.3.1 If at any time Developer or its Surety under Payment Bonds and bonds for Performance Security fails to meet any Safety Standard or timely perform Safety Compliance or IFA and Developer cannot reach an agreement regarding the interpretation or application of a Safety Standard or the valid issuance of a Safety Compliance Order within a period of time acceptable to IFA, acting reasonably, IFA shall have the absolute right and entitlement to undertake or direct Developer to undertake any work required to ensure implementation of and compliance with Safety Standards as interpreted or applied by IFA or with the Safety Compliance Order. If at any time a condition or deficiency of the East End Crossing violates any Law respecting health, safety or right of use and access, including the Americans With Disabilities Act and regulations of the Occupational Safety and Health Administration (OSHA), IFA may take any immediate corrective actions required.

19.2.3.2 To the extent that any work done pursuant to Section 19.2.3.1 is undertaken by IFA and is reasonably necessary to comply with Safety Standards, perform validly issued Safety Compliance Orders or correct a violation of Law respecting health, safety or right of use and access, Developer shall pay to IFA on demand IFA's Recoverable Costs in connection with such work, and IFA (whether it undertakes the work or has directed Developer to undertake the work) shall have no obligation or liability to compensate Developer for any Losses Developer suffers or incurs as a result thereof.

19.2.3.3 To the extent that any work done pursuant to Section 19.2.3.1 is undertaken by IFA and is not reasonably necessary to comply with Safety Standards, perform validly issued Safety Compliance Orders or correct a violation of Law respecting health, safety or right of use and access, IFA shall compensate Developer only for Losses Developer suffers or incurs as a direct result thereof.

19.2.3.4 To the extent that any Safety Compliance Order work pursuant

to Section 19.2.3.1 is undertaken by Developer under written protest delivered prior to starting the work and it is finally determined that the Safety Compliance work was not necessary, the unnecessary work under the Safety Compliance Order shall be treated as an IFA Change.

19.2.3.5 Notwithstanding anything to the contrary contained in this Agreement, if in the good faith judgment of IFA Developer has failed to meet any Safety Standards or perform Safety Compliance and the failure results in an Emergency or danger to persons or property, and if Developer is not then diligently taking all necessary steps to rectify or deal with such Emergency or danger, IFA may (but is not obligated to), without Notice and without awaiting lapse of the period to cure any breach, and in addition and without prejudice to its other remedies, (a) immediately take such action as may be reasonably necessary to rectify the Emergency or danger, in which event Developer shall pay to IFA on demand the cost of such action, including IFA's Recoverable Costs, or (b) suspend Construction Work and/or close or cause to be closed any and all portions of East End Crossing affected by the Emergency or danger. So long as IFA undertakes such action in good faith, even if under a mistaken belief in the occurrence of such failure or existence of an Emergency or danger as a result thereof, such action shall not be deemed unlawful or a breach of this Agreement, shall not expose IFA to any liability to Developer and shall not entitle Developer to any other remedy, except if IFA's action constitutes gross negligence, recklessness or willful misconduct. Developer acknowledges that IFA has a high priority, paramount public interest in protecting public and worker safety at the East End Crossing and adjacent and connecting areas. IFA's good faith determination of the existence of such a failure, Emergency or danger shall be deemed conclusive in the absence of clear and convincing evidence to the contrary. Immediately following rectification of such Emergency or danger, as determined by IFA, acting reasonably, IFA shall allow the Construction Work to continue or such portions of the East End Crossing to reopen, as the case may be.

19.2.4 IFA Step-in Rights

19.2.4.1 Subject to the rights of the lenders under any Direct Agreement and Article 21, upon the occurrence of a Developer Default and expiration, without full and complete cure, of the cure period, if any, available to Developer, without waiving or releasing Developer from any obligations, IFA shall have the right, but not the obligation, for so long as such Developer Default remains uncured by IFA or Developer, to pay and perform all or any portion of Developer's obligations and the Work that are the subject of such Developer Default, as well as any other then-existing breaches or failures to perform for which Developer received prior Notice from IFA but has not commenced or does not continue diligent efforts to cure. Exercise of such cure rights is subject to the terms and conditions of this Section 19.2.4.

19.2.4.2 IFA may, to the extent reasonably required for or incident to curing the Developer Default or such other breaches or failures to perform and subject to the provisions of the Direct Agreement:

a. Perform or attempt to perform, or caused to be performed, such Work;

b. Employ security guards and other safeguards to protect the East End Crossing;

c. Spend such sums as IFA deems reasonably necessary to employ and pay such architects, engineers, consultants and contractors and obtain materials and equipment

as may be required to perform such Work, without obligation or liability to Developer or any Contractors for loss of opportunity to perform the same Work or supply the same materials and equipment;

d. In accordance with Section 19.2.7, draw on and use proceeds from the Payment Bond and Performance Security and any other available security to the extent such instruments provide recourse to pay such sums;

e. Execute all applications, certificates and other documents as may be required;

f. Make decisions respecting, assume control over and continue Work as may be reasonably required;

g. Modify or terminate any contractual arrangements in IFA's good faith discretion, without liability for termination fees, costs or other charges in accordance with the terms and conditions of those contractual arrangements, including the requirements of Section 7.3.2 of this Agreement;

h. Meet with, coordinate with, direct and instruct contractors and suppliers, process invoices and applications for payment from contractors and suppliers, pay contractors and suppliers, and resolve claims of contractors, subcontractors and suppliers, and for this purpose Developer irrevocably appoints IFA as its attorney-in-fact with full power and authority to act for and bind Developer in its place and stead;

i. Take any and all other actions it may in its sole discretion consider necessary to effect cure and perform the Work; and

j. Prosecute and defend any action or proceeding incident to the Work.

19.2.4.3 Developer shall reimburse IFA on demand IFA's Recoverable Costs in connection with the performance of any act or Work authorized by this Section 19.2.4.

19.2.4.4 In addition to its continuing ownership and rights of access and entry onto the East End Crossing and Project Right of Way, Project Specific Locations and Toll Collection System Locations throughout the Term, including under Section 3.5, IFA shall have and is hereby granted a perpetual, non-rescindable right of entry by IFA and its Authorized Representatives, contractors, subcontractors, vendors and employees onto all Project Specific Locations and Toll Collection System Locations, exercisable at any time or times without Notice, for the purpose of carrying out IFA's step-in rights under this Section 19.2.4. Neither IFA nor any of its Authorized Representatives, contractors, subcontractors, vendor and employees shall be liable to Developer in any manner for any inconvenience or disturbance arising out of its entry onto the East End Crossing, the Project Right of Way or Project Specific Locations in order to perform under this Section 19.2.4, unless caused by the gross negligence, recklessness or willful misconduct of such Person. If any Person exercises any right to pay or perform under this Section 19.2.4, it nevertheless shall have no liability to Developer for the sufficiency or adequacy of any such payment or performance, or for the manner or quality of design, construction, operation or maintenance, unless caused by the gross negligence, recklessness or willful misconduct of such Person.

19.2.4.5 IFA's rights under this Section 19.2.4 are subject to the right of

any Surety under Payment Bonds and bonds for Performance Security to assume performance and completion of all bonded work.

19.2.4.6 In the case of a Developer Default which would either immediately or, following the applicable grace period or the giving of Notice or both, constitute a Default Termination Event enabling IFA to terminate or suspend its obligations under this Agreement, IFA's rights under this Section 19.2.4 are subject to Lender rights to cure under Article 21; provided that IFA may continue exercise of its step-in rights until the Lender obtains possession and control and notifies IFA that it stands ready to commence good faith, diligent curative action. In the case of any other Developer Default, IFA's rights under this Section 19.2.4 are subject to the exercise of step-in rights by the Collateral Agent under the senior Security Documents, provided that the Collateral Agent (a) delivers to IFA Notice of the Collateral Agent's decision to exercise step-in rights, and commences the good faith, diligent exercise of such step-in rights, within the cure period available to Developer with respect to the Developer Default in question, and (b) thereafter continues such good faith, diligent exercise of remedies until the Developer Default is fully and completely cured.

19.2.4.7 If IFA takes action described in this Section 19.2.4 and it is later finally determined that IFA lacked the right to do so because there did not occur a Developer Default and expiration, without full and complete cure, of the cure period, if any, available to Developer, then IFA's action shall be treated as a Directive Letter for an IFA Change.

19.2.5 Damages; Offset

19.2.5.1 Subject to IFA's rights set forth in Sections 19.2.10 and 19.2.11, and subject to the limitation on IFA's rights set forth in Section 19.2.12, IFA shall be entitled to recover any and all damages available at Law on account of the occurrence of a Developer Default. Developer shall owe any such damages that accrue after the occurrence of the Developer Default regardless of when Notice thereof is given or whether the Developer Default is subsequently cured.

19.2.5.2 Where this Agreement is not terminated, such damages include (a) costs IFA incurs to complete the Design Work and Construction Work in excess of the Milestone Payment Amount, and amounts due under Change Orders, not previously paid to Developer, (b) compensation and reimbursements due but unpaid to IFA under the PPA Documents, (c) costs to remedy any defective part of the Work, and (d) costs to rectify any breach or failure to perform by Developer and/or to bring the condition of the East End Crossing to that required by the PPA Documents.

19.2.5.3 Where this Agreement is terminated, such damages include the present value of (a) any compensation and reimbursements due but unpaid to IFA under the PPA Documents on or prior to the Early Termination Date, (b) actual and projected costs to remedy any defective part of the Work, (c) actual and projected costs to rectify any breach or failure to perform by Developer and/or to bring the condition of the East End Crossing to the standard it would have been in if Developer had complied with its obligations to carry out and complete the Work in accordance with the PPA Documents, (d) actual and projected costs to IFA to terminate, take over the East End Crossing, re-procure and replace Developer, (e) actual and projected delay costs, (f) actual and projected increases in costs to IFA to complete the East End Crossing if not completed as of the Early Termination Date, and (g) actual and projected increases in costs to IFA to operate and maintain the East End Crossing over the

balance of the Term (as if termination had not occurred) following the Early Termination Date.

19.2.5.4 Damages owed IFA shall bear interest from and after the date any amount becomes due to IFA until paid at a floating rate equal to the LIBOR in effect from time to time plus four hundred (400) basis points or other rate specified therefor in this Agreement.

19.2.5.5 IFA may deduct and offset any damages owing to it under the PPA Documents from and against any amounts IFA may owe to Developer. Without limiting the foregoing:

a. The Milestone Payments are subject to deduction and offset for the amount of any damages attributable to any Developer Default that concerns the D&C Work and is the subject of a Notice delivered to Developer prior to the date for payment of the Milestone Payments; and

b. Except for damages liquidated by the Quarterly Payment Adjustments under Exhibit 10 (Payment Mechanism), the Availability Payments are subject to deduction and offset for the amount of any damages attributable to any Developer Default.

19.2.5.6 If the amount of damages owing IFA, including the amount of any Quarterly Payment Adjustment, is not liquidated or known with certainty at the time a payment is due from IFA to Developer, IFA may deduct and offset up to one hundred percent (100%) of the amount it reasonably estimates will be due and deposit such amount in dispute into the AP Disputed Amounts Fund or MP Disputed Amounts Fund, as applicable, which amount, or such lesser amount, if any, shall be paid by IFA to Developer as directed pursuant to the resolution of the dispute.

19.2.6 Remedial Plan Delivery and Implementation

19.2.6.1 Developer recognizes and acknowledges that a pattern or practice of continuing, repeated or numerous Noncompliance Events, whether such Noncompliance Events are cured or not, will undermine the confidence and trust essential to the success of the public-private arrangement under this Agreement and will have a material, cumulative adverse impact on the value of this Agreement to IFA. Developer acknowledges and agrees that measures for determining the existence of such a pattern or practice described in the definition of Persistent Developer Default are a fair and appropriate objective basis to conclude that such a pattern or practice will continue.

19.2.6.2 Upon the occurrence of a Persistent Developer Default (refer to the trigger points in Sections 2.1 and 2.2 of Exhibit 12 (Noncompliance Points System and Persistent Developer Default), Developer shall, within forty-five (45) days after Notice of the Persistent Developer Default, be required to prepare and submit a remedial plan for IFA approval in its good faith discretion. The remedial plan shall set forth a schedule and specific actions to be taken by Developer to improve its performance and reduce (a) Developer's cumulative number of Noncompliance Points assessed under Section 11.3 and cumulative number of breaches and failures to perform to the point that such Persistent Developer Default will not continue and (b) the cumulative number of Uncured Noncompliance Points outstanding by at least fifty percent (50%). IFA may require that such actions include improving Developer's quality management practices, plans and procedures, revising and restating Management

Plans, changing organizational and management structure, increasing monitoring and inspections, changing Key Personnel and other important personnel, replacement of Contractors, and delivering security to IFA.

19.2.6.3 If (a) Developer complies in all material respects with the schedule and specific elements of, and actions required under, the approved remedial plan, (b) as a result thereof Developer achieves the requirements set forth in Sections 19.2.6.2(a) and (b), and (c) as of the date it achieves such requirements there exist no other uncured Developer Defaults for which a Notice was given, then IFA shall reduce the number of cured Noncompliance Points that would otherwise then be counted toward Persistent Developer Default by twenty-five percent (25%). Such reduction shall be taken from the earliest assessed Noncompliance Points that would otherwise then be counted toward Persistent Developer Default.

19.2.6.4 Developer's failure to deliver to IFA the required remedial plan within such forty-five- (45)-day period shall constitute a material Developer Default, which may result in issuance of a Warning Notice triggering a five-day cure period. Failure to comply in any material respect with the schedule or specific elements of, or actions required under, the remedial plan shall constitute a material Developer Default which may result in issuance of a Warning Notice triggering a thirty- (30)-day cure period. Either such Warning Notice may trigger a Default Termination Event under Article 20 if such underlying Developer Default remains uncured after expiration of such five-day or 30-day cure period, as applicable.

19.2.7 Payment Bond and Performance Security

19.2.7.1 Subject to Sections 19.2.7.2 and 19.2.7.3, upon the occurrence of a Developer Default and expiration, without full and complete cure, of the applicable cure period, if any, under Section 19.1.2, without necessity for a Warning Notice, and without waiving or releasing Developer from any obligations, IFA shall be entitled to make demand upon and enforce any Payment Bond and bond provided as Performance Security, and make demand upon, draw on and enforce and collect any letter of credit, guaranty or other payment or performance security (including the Handback Requirements Reserve Account) available to IFA under this Agreement with respect to the Developer Default in question in any order in IFA's sole discretion. IFA will apply the proceeds of any such action to the satisfaction of Developer's obligations under this Agreement, including payment of amounts due IFA.

19.2.7.2 If IFA is an additional obligee under a Payment Bond or bond for Performance Security, or is a transferee beneficiary under any letter of credit, or is a guaranteed party (or has elected to become a guaranteed party pursuant to Section 17.4.1), then IFA shall forebear from exercising remedies as additional obligee or transferee beneficiary or guaranteed party so long as (a) Developer or the Collateral Agent as provided in the Direct Agreement commences the good faith, diligent exercise of remedies thereunder within ten (10) days after IFA delivers Notice to Developer and the Collateral Agent of its intent to make a claim thereunder, and (b) thereafter continues such good faith, diligent exercise of remedies until the default is cured. The foregoing obligation of IFA to forebear shall not apply, however: where access to a bond, letter of credit, guaranty or other payment or performance security is to satisfy damages owing to IFA, in which case IFA shall be entitled to make demand, draw, enforce and collect regardless of whether the Developer Default is subsequently cured.

19.2.7.3 No prior Notice from IFA shall be required if it would preclude

draw on the bond, letter of credit, guaranty or other payment or performance security before its expiration date; and in the case of an expiring letter of credit, the provisions of Section 17.3.1.3 shall apply.

19.2.7.4 For the avoidance of doubt, Payment Bonds and Performance Security provided by or on behalf of a Design-Build Contractor or other prime Contractor pursuant to Section 17.2 to secure its obligations will not be available with respect to a Developer Default (although it will be available for a corresponding breach, if any, by the Design-Build Contractor or other prime Contractor).

19.2.8 Suspension of Work

19.2.8.1 IFA shall have the right and authority, without obligation or liability, to suspend, in whole or in part, the Work by written order to Developer, due to any of the following, regardless of whether a Developer Default has been declared or any cure period (other than the cure period provided below) has not yet lapsed:

a. Failure to perform the Work in compliance with, or other breach of, the PPA Documents, except Noncompliance Events where no Persistent Developer Default exists where such failure is not substantially cured within fifteen (15) days after IFA delivers Notice thereof to Developer;

b. Failure to comply with any Law or Governmental Approval (including failure to implement protective measures for Endangered and Threatened Species, failure to handle, preserve and protect archeological, paleontological, cultural or historic resources, or failure to handle Hazardous Materials, in accordance with applicable Laws and Governmental Approvals);

c. Performance of Design Work prior to issuance of NTP1, or if NTP1 has been issued, performance of Design Work prior to all conditions precedent to commencement of Design Work being met (as prescribed under Section 5.3.2), or performance of Construction Work prior to issuance of NTP2;

d. Discovery of Nonconforming Work or of any activity that is proceeding or about to proceed that would constitute or cause Nonconforming Work where the Nonconforming Work or activity is not substantially cured within fifteen (15) days after IFA delivers Notice thereof to Developer or within such fifteen (15) days Developer provides and submits to IFA a plan for cure such plan to be diligently executed and completed no later than one hundred twenty (120) days after submission of such plan to IFA, unless Developer demonstrates to IFA's reasonable satisfaction that full and complete cure of the Nonconforming Work, and verification of such cure, will remain practicable despite continuation of Work without suspension;

e. Developer has failed to (i) pay in full when due sums owing any Contractor for services, materials or equipment, except only for retainage provided in the relevant Contract and amounts in dispute, or (ii) deliver any certificate, release or certified payroll required under Section 17.2.2.2 where the Nonconforming Work or activity is not substantially cured within fifteen (15) days after IFA delivers Notice thereof to Developer or within such fifteen (15) days Developer provides and submits to IFA a plan for cure, such plan to be diligently executed no later than one hundred twenty (120) days after submission of such plan to IFA;

f. Failure to provide proof of required insurance coverage as set forth in Section 17.1.2.4(which suspension is also available in the case of such failure following a written request rather than Notice of Developer Default, as set forth in Section 17.1.2.4);

g. Failure to deliver or maintain Payment Bonds and Performance Security;

h. The existence of conditions unsafe for workers, other East End Crossing personnel or the general public, including failures to comply with Safety Standards or perform Safety Compliance as set forth in Section 19.2.3 (and in any such case the order of suspension may be issued without awaiting any cure period); and

i. Failure to carry out and comply with Directive Letters where the Nonconforming Work or activity is not substantially cured within fifteen (15) days after IFA delivers Notice thereof to Developer or within such fifteen (15) days Developer provides and submits to IFA a plan for cure, such plan to be diligently executed no later than one hundred twenty (120) after submission of such plan to IFA.

19.2.8.2 In addition to the protections from liability under Section 19.2.3.5, IFA shall have no liability to Developer, and Developer shall have no right to Extra Work Costs, Delay Costs, time extension, extension of Project Schedule Deadlines, compensation for losses due to delays in commencement of Availability Payments or for additional interest costs due to delayed receipt of the Milestone Payment, or other relief, due to any suspension under Section 19.2.8.1.

19.2.8.3 IFA shall have the right and authority to suspend, in whole or in part, the Work for reasons other than those set forth in Section 19.2.8.1. If IFA purports to order suspension of Work under Section 19.2.8.1 but it is finally determined under the Dispute Resolution Procedures that there exist no grounds under Section 19.2.8.1 for such suspension, then it shall be deemed a suspension under this Section 19.2.8.3. If IFA orders (or is deemed to order) suspension of Work under this Section 19.2.8.3 and such suspension is an IFA-Caused Delay, then Developer shall be entitled to submit a Claim for Extra Work Costs, Delay Costs, compensation for losses due to delays in commencement of Availability Payments and for additional interest costs due to delayed receipt of the Milestone Payment, Project Schedule Deadline extensions and performance relief to the extent permitted under Article 15.

19.2.8.4 Developer shall promptly comply with any such written suspension order, even if Developer disputes the grounds for suspension. Developer shall promptly recommence the Work upon receipt of Notice from IFA directing Developer to resume work. IFA will lift the suspension order promptly after Developer fully cures and corrects the applicable breach or failure to perform or any other reason for the suspension order ceases to apply.

19.2.9 Warning Notices

19.2.9.1 Without prejudice to any other right or remedy available to IFA, IFA may deliver a Notice (a "Warning Notice") to Developer, with a copy to the Collateral Agent, stating explicitly that it is a "Warning Notice" of a material Developer Default and stating in reasonable detail the matter or matters giving rise to the Notice and, if applicable, amounts due from Developer, and reminding Developer of the implications of such Notice, whenever there occurs a Developer Default.

19.2.9.2 The issuance of a Warning Notice may trigger a Default Termination Event as provided in Section 20.3.1.

19.2.9.3 IFA may issue a Warning Notice at the same time it delivers a Notice of Developer Default, and a Notice of Developer Default may be issued as a Warning Notice. In either such case, the cure period available to Developer, if any, shall be as set forth in Section 19.1.2. If IFA issues a Warning Notice for any Developer Default after it issues a Notice of such Developer Default, then the remaining cure period available to Developer, if any, for such Developer Default before IFA may terminate this Agreement on account of such Developer Default shall be extended by the time period between the date the Notice of such Developer Default was issued and the date the Warning Notice is issued. However, this shall not affect the time when IFA may exercise any other remedy respecting such Developer Default.

19.2.10 Other Rights and Remedies

Subject to Sections 19.2.12 and 20.9, IFA shall also be entitled to exercise any other rights and remedies available under this Agreement, or available at Law or in equity.

19.2.11 Cumulative, Non-Exclusive Remedies

Subject to Sections 18.4, 19.2.12 and 20.9, and subject to the stipulated remedial measures for the breaches and failures to perform for which Noncompliance Points may be assessed, each right and remedy of IFA hereunder shall be cumulative and shall be in addition to every other right or remedy provided herein or now or hereafter existing at Law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by IFA of any one or more of any of such rights or remedies shall not preclude the simultaneous or later exercise by IFA of any or all other such rights or remedies.

19.2.12 Limitation on Consequential Damages

19.2.12.1 Notwithstanding any other provision of the PPA Documents and except as set forth in Section 19.2.12.2, to the extent permitted by applicable Law, Developer shall not be liable for punitive damages or special, indirect or incidental consequential damages, whether arising out of breach by Developer of this Agreement or any other PPA Document, tort (including negligence) or any other theory of liability, and IFA releases Developer from any such liability.

19.2.12.2 The foregoing limitation on Developer's liability for consequential damages shall not apply to or limit any right of recovery IFA may have respecting the following:

a. Losses (including defense costs) to the extent (i) covered by the proceeds of insurance required to be carried pursuant to Section 17.1, (ii) covered by the proceeds of insurance actually carried by or insuring Developer under policies solely with respect to the East End Crossing and the Work, regardless of whether required to be carried pursuant to Section 17.1, or (iii) Developer is deemed to have self-insured the Loss pursuant to Section 17.1.4.4;

b. Losses arising out of or relating to fraud, criminal conduct, intentional misconduct (which does not include any intentional Developer Default), recklessness, bad faith or gross negligence on the part of any Developer-Related Entity;

c. Developer's indemnities set forth in Sections 5.9.10 and 17.5 (only to the extent any such indemnities relate to claims, causes of action or Losses asserted by or awarded to third parties);

d. Developer's obligation to pay liquidated damages in accordance with the PPA Documents, including by way of the Quarterly Payment Adjustments;

e. Losses arising out of or relating to Developer Releases of Hazardous Materials;

f. Amounts Developer may owe or be obligated to reimburse to IFA under the express provisions of the PPA Documents, including, subject to any agreed scope of work and budget, IFA's Recoverable Costs;

g. Interest, late charges, fees, transaction fees and charges, penalties and similar charges that the PPA Documents expressly state are due from Developer to IFA; and

h. Any credits, deductions or offsets that the PPA Documents expressly provide to IFA against amounts owing Developer.

19.2.12.3 All insurance policies purchased shall be endorsed to provide coverage as if no limitation on Developer's liability for consequential damages exists.

19.2.13 Other Limitation on IFA's Remedies

IFA's remedies for certain breaches of warranties are limited as provided in Section 18.4.

19.3 Default by IFA; Cure Periods

19.3.1 IFA Default

IFA shall be in breach under this Agreement upon the occurrence of any one or more of the following events or conditions (each a "IFA Default"):

19.3.1.1 IFA fails to make any payment due Developer under this Agreement when due, provided that such payment is not subject to a Dispute;

19.3.1.2 Subject to Section 18.4, any representation or warranty made by IFA under Section 18.2 is false, misleading or inaccurate in any material respect when made or omits material information when made;

19.3.1.3 IFA fails to observe or perform any other covenant, agreement, term or condition required to be observed or performed by IFA under this Agreement; or

19.3.1.4 IFA, the Department or any other Governmental Entity confiscates, condemns or appropriates any material part of the Developer's Interest, excluding a Termination for Convenience or any other exercise of a right of termination set forth in this Agreement.

19.3.2 Cure Periods

IFA shall have the following cure periods with respect to the following IFA Defaults:

19.3.2.1 Respecting an IFA Default under Section 19.3.1.1, a period of forty-five (45) days after Developer delivers to IFA Notice of the IFA Default; and

19.3.2.2 Respecting an IFA Default under Section 19.3.1.2, 19.3.1.3 or 19.3.1.4, a period of ninety (90) days after Developer delivers to IFA Notice of the IFA Default; provided that (a) if the IFA Default is of such a nature that the cure cannot with diligence be completed within such time period and IFA has commenced meaningful steps to cure immediately after receiving the default Notice, IFA shall have such additional period of time, up to a maximum cure period of one hundred eighty (180) days, as is reasonably necessary to diligently effect cure, and (b) as to Section 19.3.1.2, cure will be regarded as complete when the adverse effects of the breach are cured.

19.4 Developer Remedies for IFA Default

19.4.1 Termination

Subject to Section 20.9, Developer will have the right to terminate this Agreement and recover termination damages as more particularly set forth in, and subject to the terms and conditions of, Section 20.4.

19.4.2 Damages and Other Remedies

Developer shall have and may exercise the following remedies upon the occurrence of an IFA Default and expiration, without cure, of the applicable cure period.

19.4.2.1 If Developer does not terminate this Agreement, then, subject to Section 19.4.4, Developer may treat the IFA Default as a Relief Event on the terms and conditions set forth in Article 15;

19.4.2.2 If the IFA Default is a failure to pay when due any undisputed portion of the Milestone Payment Amount under Section 10.1 or any undisputed portion of a progress payment owing under a Change Order and IFA fails to cure such IFA Default within forty-five (45) days after receiving from Developer Notice thereof, Developer shall be entitled to suspend Design Work and Construction Work, subject to the following terms and conditions:

a. Developer shall be responsible for safely securing and monitoring the Site and all materials and equipment;

b. Developer shall continue to provide traffic management in accordance with the Transportation Management Plan and Temporary Traffic Control Plan;

c. The right to suspend Work does not include the right to suspend or cancel Insurance Policies or any Payment Bond and Performance Security; and

d. The suspension of Work shall cease, and Developer shall resume performance of the Work, within ten (10) days after the default is cured.

19.4.2.3 Subject to Section 19.4.4 and except as specifically provided otherwise in this Agreement (including the first paragraph of Article 15 and Section 20.9), Developer also shall be entitled to exercise any other remedies available under this Agreement or at Law or in equity, including offset rights to the extent and only to the extent available under Section 19.4.3.

19.4.2.4 Subject to Section 19.4.4 and except as specifically provided otherwise in this Agreement (including the first paragraph of Article 15 and Section 20.9), each right and remedy of Developer hereunder shall be cumulative and shall be in addition to every other right or remedy provided herein or now or hereafter existing at Law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Developer of any one or more of any of such rights or remedies shall not preclude the simultaneous or later exercise by Developer of any or all other such rights or remedies.

19.4.3 Offset Rights

19.4.3.1 Developer may deduct and offset any Claim amount owing to it, provided such Claim amount is undisputed or has been fully and finally liquidated through Dispute Resolution Procedures or otherwise, from and against any amounts Developer may owe to IFA.

19.4.3.2 Except as specifically set forth in this Section, Developer shall have no rights of offset or deduction, whether available at Law or in equity, and Developer hereby irrevocably waives and releases any such rights.

19.4.4 Limitations on Remedies

19.4.4.1 Notwithstanding any other provision of the PPA Documents and except as forth in Section 19.4.4.2, to the extent permitted by applicable Law, IFA shall not be liable for punitive damages or special, indirect or incidental consequential damages, whether arising out of breach of this Agreement, tort (including negligence) or any other theory of liability, and Developer releases IFA from any such liability.

19.4.4.2 The foregoing limitation on IFA's liability for consequential damages shall not apply to or limit any right of recovery Developer may have respecting the following:

a. Losses arising out of fraud, criminal conduct, intentional misconduct (which does not include any intentional IFA Default), recklessness, bad faith or gross negligence on the part of IFA;

b. IFA's liabilities set forth in Section 5.9.6.3;

c. Losses arising out of IFA Release(s) of Hazardous Materials;

d. Any amounts IFA may owe or be obligated to reimburse under the express provisions of this Agreement for Relief Events or events of termination;

e. Amounts IFA may owe or be obligated to reimburse to Developer under the express provisions of the PPA Documents;

f. Interest and charges that the PPA Documents expressly state are due from IFA to Developer; and

g. Any credits, deductions or offsets that the PPA Documents expressly provide to Developer against amounts owing IFA.

19.4.4.3 The measure of compensation available to Developer as set forth in this Agreement for an event of termination shall constitute the sole and exclusive monetary relief and damages available to Developer from IFA arising out of or relating to such event; and Developer irrevocably waives and releases any right to any other or additional damages or compensation from IFA. No award of compensation or damages shall be duplicative.

19.4.4.4 Developer shall have no right to seek, and irrevocably waives and relinquishes any right to, non-monetary relief against IFA, except (a) for any sustainable action for relief in the nature of that formerly available in *mandamus*, (b) for any sustainable action to stop, restrain or enjoin use, reproduction, duplication, modification, adaptation or disclosure of Proprietary Intellectual Property in violation of the licenses granted under Section 23.4, or to specifically enforce IFA's duty of confidentiality under Section 23.4.6, (c) for declaratory relief pursuant to the Dispute Resolution Procedures declaring the rights and obligations of the Parties under the PPA Documents, or (d) declaratory relief pursuant to the Dispute Resolution Procedures declaring specific terms and conditions that shall bind the Parties, but only where this Agreement expressly calls for such a method of resolving a Dispute.

19.4.4.5 Without limiting the effect of Section 19.4.4.3 and notwithstanding Section 19.4.4.4, if IFA wrongfully withholds an approval or consent required under this Agreement, or wrongfully issues an objection to or disapproval of a Submittal or other matter under this Agreement, then Developer's sole remedies against IFA shall be compensation and extensions of time to the extent provided in Article 15.

19.4.4.6 Without limiting the effect of Section 19.4.4.3, Developer shall have no right to suspend Work except as set forth in Section 19.4.2.2.

19.4.4.7 Developer's remedies for certain breaches of warranties are limited as provided in Section 18.4.

19.5 Partnering

19.5.1 The provisions of this Section 19.5 are not part of the Informal Resolution Procedures or the Dispute Resolution Procedures contemplated under this Agreement. Compliance with the provisions of this Section 19.5 or the terms of any partnering charter is not required as a condition precedent to any Party's right to initiate a claim or seek resolution of any Dispute under the relevant procedures specified in Section 19.6.

19.5.2 IFA and Developer have developed and intend to continue fostering a cohesive relationship to carry out their respective responsibilities under this Agreement through a voluntary, non-binding "partnering" process drawing upon the strengths of each organization to identify and achieve reciprocal goals.

19.5.3 The objectives of the partnering process are (a) to identify potential problem areas, issues and differences of opinion early, (b) to develop and implement procedures for

resolving them in order to prevent them from becoming Claims and Disputes, (c) to achieve effective and efficient performance and completion of the Work in accordance with the PPA Documents, and (d) to create mutual trust and respect for each Party's respective roles and interests in the East End Crossing while recognizing the respective risks inherent in those roles.

19.5.4 In continuance of their existing partnering process, within ninety (90) days after the Effective Date IFA and Developer shall attend a team-building workshop and through such workshop negotiate and sign a mutually acceptable non-binding partnering charter to govern the process of partnering for the East End Crossing. The charter shall include non-binding rules and guidelines for engaging in free and open communications, discussions and partnering meetings between them, in order to further the goals of the partnering process. The charter shall call for the formation and meetings of a partnering panel, identify the Key Personnel of Developer and key representatives of IFA who shall serve on the partnering panel, and set the location for meetings. The charter also shall include non-binding rules and guidelines on whether and under what circumstances to select and use the services of a facilitator, where and when to conduct partnering panel meetings, who should attend such meetings, and, subject to Section 19.6.5, exchange of statements, materials and communications during partnering panel meetings. In any event, the partnering charter shall recognize and be consistent with the obligations of IFA and Developer contained in this Agreement with respect to communications, cooperation, coordination and procedures for resolving Claims and Disputes.

19.5.5 Under the non-binding procedures, rules and guidelines of the partnering charter, the Parties will address at partnering meetings specific interface issues, oversight interface issues, division of responsibilities, communication channels, application of alternative resolution principles and other matters.

19.5.6 If Developer and IFA succeed in resolving a Claim or Dispute through the partnering procedures, they shall memorialize the resolution in writing, including execution of Change Orders as appropriate, and promptly perform their respective obligations in accordance therewith.

19.6 Dispute Resolution Procedures

19.6.1 General Provisions

19.6.1.1 Disputes Governed by These Procedures

a. Any Claim or Dispute arising out of, relating to, or in connection with this Agreement that is not resolved by partnering per Section 19.5, including the question as to whether such dispute is subject to nonbinding arbitration, shall be resolved pursuant to this Section 19.6.

b. Resolutions of Claims and Disputes pursuant to this Section 19.6 shall be final, binding, conclusive and enforceable as set forth in this Section 19.6.

c. FAILURE OF DEVELOPER TO CONFORM TO THE DISPUTE RESOLUTION PROCEDURES IN ALL MATERIAL RESPECTS AS TO ANY DISPUTE OR CLAIM SUBJECT THERETO SHALL CONSTITUTE A FAILURE TO PURSUE DILIGENTLY AND EXHAUST THE ADMINISTRATIVE PROCEDURES IN THE PPA DOCUMENTS AND SHALL OPERATE AS A BAR TO THE DISPUTE OR CLAIM. THIS SECTION 19.6.1.1(C)

SHALL NOT BAR A CLAIM OR DISPUTE IF THE FAILURE TO MEET APPLICABLE DEADLINES IS DUE TO CONDUCT ON BEHALF OF IFA OR ITS REPRESENTATIVES.

d. The Parties adopt these expedited methods for resolving disputes between or among IFA, Developer, and units of local government that contain any part of the East End Crossing, all of whom are proper parties to these dispute resolution procedures.

19.6.1.2 Burden of Proof

The Party bringing a Claim or Dispute shall bear the burden of proving the same.

19.6.2 Informal Resolution as Condition Precedent

As a condition precedent to the right to have any Dispute resolved pursuant to the Dispute Resolution Procedures or by the Marion County, Indiana Circuit/Superior Court located in Marion County, Indiana, the claiming Party must first attempt to resolve the Dispute directly with the responding Party through the Informal Resolution Procedures described in Section 19.6.3. Time limitations set forth for those Informal Resolution Procedures may be changed by mutual written agreement of the Parties. Changes to the time limitations for the Informal Resolution Procedures agreed upon by the Parties shall pertain to the particular Dispute only and shall not affect the time limitations for Informal Resolution Procedures applicable to any other or subsequent Disputes.

19.6.3 Informal Resolution Procedures

19.6.3.1 Notice of Dispute to Designated Agent

a. A Party desiring to pursue a Dispute against the other Party shall initiate the informal resolution procedures by serving a Notice on the other Party's designated agent. Unless otherwise indicated by Notice from one Party to the other Party, each Party's designated agent shall be its Authorized Representative. The Notice shall contain a concise statement describing:

i. The date of the act, inaction or omission giving rise to the Dispute;

ii. An explanation of the Dispute, including a description of its nature, circumstances and cause;

iii. A reference to any pertinent provision(s) from the PPA Documents;

iv. If applicable, the estimated dollar amount of the Dispute, and how that estimate was determined (including any cost and revenue element that has been or may be affected);

v. If applicable, an analysis of the Project Schedule and Project Schedule Deadlines showing any changes or disruptions (including an impacted delay analysis reflecting the disruption in the manner and sequence of performance that has been or will be caused, delivery schedules, staging, and adjusted Project Schedule Deadlines);

vi. If applicable, the claiming Party's plan for mitigating the amount claimed and the delay claimed;

vii. The claiming Party's desired resolution of the Dispute; and

viii. Any other information the claiming Party considers relevant.

b. The Notice shall be signed by the Authorized Representative of the claiming Party, and shall contain a written certification by the claiming Party that:

i. The Notice of Dispute is served in good faith;

ii. Except as to specific matters stated in the Notice as being unknown or subject to discovery, all supporting information is reasonably believed by the claiming Party to be accurate and complete;

iii. The Dispute accurately reflects the amount of money or other right, remedy or relief to which the claiming Party reasonably believes it is entitled; and

iv. The Authorized Representative is duly authorized to execute and deliver the Notice and such certification on behalf of the claiming Party.

c. The Parties shall attempt in good faith to resolve such Dispute within fifteen (15) days of delivery of the Notice of Dispute to the responding Party. If the responding Party agrees with the claiming Party's position and desired resolution of the Dispute, it shall so state in a written response. The Notice of the Dispute and such response shall suffice to evidence the Parties' resolution of the subject Dispute unless either Party requests further documentation. Upon either Party's request, within five Business Days after the claiming Party's receipt of the responding Party's response in agreement, the Parties' designated representatives shall state the resolution of the Dispute in writing.

19.6.3.2 Public Finance Director Meetings

If the Dispute is not resolved pursuant to Section 19.6.3.1(c), then commencing within ten (10) Business Days after the Notice of Dispute is served and concluding ten (10) Business Days thereafter, the Chief Executive Officer of Developer and the Public Finance Director or the Public Finance Director's designee whose rank is not lower than the first tier of officers below that of Public Finance Director, shall meet and confer, in good faith, to seek to resolve the Dispute raised in the claiming Party's Notice of Dispute. If they succeed in resolving the Dispute, Developer and IFA shall memorialize the resolution in writing.

19.6.3.3 Failure to Resolve Dispute with Informal Resolution Procedures

a. If a Dispute is not timely resolved under the Informal Resolution Procedures, then the Parties may mutually agree to initiate mediation.

b. If a Dispute is not timely resolved under the Informal Resolution Procedures or by mediation, or the Parties do not mutually agree to initiate mediation or other alternative dispute resolution process, either Party may:

i. As a condition precedent to the right to have any Dispute within the jurisdiction of the Arbitrator pursuant to Section 19.6.4.2(a) resolved by the Marion County, Indiana Circuit/Superior Court located in Marion County, Indiana, refer the Dispute to the Arbitrator for an Arbitrator Decision; or

ii. With respect to all other Disputes, as well as Disputes submitted to but not finally resolved through the Arbitrator, pursue any other relief that may be available in the Marion County, Indiana Circuit/Superior Court located in Marion County, Indiana, pursuant to Section 19.6.4.2.

19.6.4 Formal Resolution Procedures

19.6.4.1 Non-binding Arbitration

a. It is the intent of the Parties to resolve the Dispute between them whenever possible by mutual and voluntary settlement rather than through any binding dispute resolution process. In support of this, the Parties acknowledge that, except as otherwise provided herein, if the Dispute cannot be settled through the Informal Resolution Procedures set forth in Section 19.6.3, the Parties agree first to submit their Dispute to non-binding arbitration as a condition precedent to filing litigation under Section 19.6.4.2. The Parties recognize that non-binding arbitration is a process to assist them in resolving their disputes by making their own free and informed choices and that the neutral Arbitrator will have no authority to impose a binding award on any Party but only to issue an advisory decision. The non-binding award cannot be entered as a judgment in any court, except on mutual consent of the Parties, nor can it be cited as evidence or precedent with any preclusive effect in any court or other proceeding.

b. A Party shall initiate the non-binding arbitration process by serving a written demand for arbitration on the other Party's designated agent. Unless otherwise indicated by Notice from one Party to the other Party, each Party's designated agent shall be its Authorized Representative. The arbitration demand shall contain a concise statement of the following:

i. The date of the act, inaction or omission giving rise to the Dispute;

ii. An explanation of the Dispute, including a description of its nature, circumstances and cause;

iii. A reference to any pertinent provision(s) from the PPA Documents; and

iv. If applicable, the estimated dollar amount of the Dispute, and how that estimate was determined (including any cost and revenue element that has been or may be affected).

c. The receiving Party may respond to the demand for arbitration within ten (10) days of receipt thereof.

d. The Parties shall attempt in good faith to select an arbitrator to which they mutually agree within ten (10) days of the Notice of non-binding arbitration. If the Parties are unable to agree on an arbitrator, the Parties agree to select from the most current list of arbitrators as maintained by the Indiana Supreme Court Division of State Court Administration.

If the Parties cannot agree, the arbitrator shall be selected through a striking process by which the initiating Party shall strike first. The Parties shall proceed with the striking process until only one arbitrator remains on the list. If the remaining arbitrator does not serve, then the arbitrator's whose name was stricken immediately before shall be selected. This procedure shall be repeated, if necessary, until an arbitrator who agrees to serve is selected. Unless mutually agreed otherwise, the Parties shall complete the process of selecting an arbitrator within twenty (20) days of the Notice initiating non-binding arbitration.

e. The cost of the arbitration shall be equally divided between the Parties, regardless of outcome.

f. Unless otherwise agreed, the arbitration hearing shall take place in Indianapolis, Indiana, at a location to be mutually agreed upon or determined by the Arbitrator. The hearing shall be scheduled for a date no later than ninety (90) days after the demand for arbitration is sent.

g. The rules of discovery shall apply. Unless agreed otherwise, each Party shall be entitled to take no more than two depositions.

h. No later than thirty (30) days before the hearing, each Party shall provide the Arbitrator and the opposing Party with a listing of witnesses and documentary evidence to be considered. The listing of witnesses shall designate those to be called in person, by deposition and/or by written report.

i. Unless otherwise agreed, all documents the Parties desire to be considered in the arbitration process shall be filed with the Arbitrator and exchanged between the Parties no later than fifteen (15) days prior to the arbitration hearing. In addition, no later than five (5) days prior to hearing, each Party may file with the Arbitrator a pre-arbitration brief setting forth the factual and legal positions as to the issues being arbitrated.

j. Unless agreed otherwise, the arbitration hearing shall be limited to three (3) days, and the Arbitrator shall issue its written determination within twenty (20) days of the close of the hearing and shall serve a copy of this determination on the Parties who participated in the arbitration.

k. If the non-binding arbitration is not completed and the Parties do not reach a mutually agreeable settlement within one hundred twenty (120) days after initiation of the non-binding arbitration, either Party may continue to pursue the Dispute by filing a complaint in the Marion County, Indiana Circuit/Superior Court located in Marion County, Indiana, or the Parties may mutually agree to extend the time for non-binding arbitration.

l. If neither Party rejects the Arbitrator's non-binding determination within thirty (30) days of its being issued by the Arbitrator, such decision shall become final and binding as between the Parties, and shall be enforceable in any court of competent jurisdiction.

m. If one Party rejects the Arbitrator's determination, then it shall send a Notice of its objection/rejection to the other Party within thirty (30) days of such decision and either Party may proceed with state court litigation as provided in Section 19.6.4.2.

n. The non-binding arbitration proceedings shall be considered as settlement negotiations and shall be governed by Section 19.6.5.1.

o. If the amount at issue in the Dispute is greater than $15,000,000, then at IFA's sole discretion the Dispute may proceed directly from the Informal Resolution Procedures in Section 19.6.3 to state court litigation per Section 19.6.4.2. IFA shall advise Developer of its decision to forgo the non-binding arbitration procedures by Notice submitted no later than the date by which the response to an arbitration demand is due. For clarification, if there is no arbitration hearing and decision under the paragraph, then the attorneys' fees provisions in Section 19.6.4.2(b) shall not apply.

19.6.4.2 State Court Litigation

a. If a Party rejects the Arbitrator's determination in accordance with Section 19.6.4.1(m), or IFA determines to forego non-binding arbitration in accordance with Section 19.6.4.1(o), then either Party may thereafter file a lawsuit in the Marion County, Indiana Circuit/Superior Court located in Marion County, Indiana.

b. If the Party that rejected to the Arbitrator's decision does not obtain a more favorable result at the trial court level in the state court litigation, that Party shall be responsible to pay for the litigation costs, including the attorneys' fees, incurred by the other Party in the state court litigation.

19.6.5 Confidentiality of Settlement Negotiations and Other Documents Used in Dispute Resolution Process

19.6.5.1 All discussions, negotiations, Informal Resolution Procedures described in Section 19.6.3 and non-binding arbitration proceedings described in Section 19.6.4 between the Parties to resolve a Dispute, and all documents and other written materials furnished to a Party or exchanged between the Parties during any such discussions, negotiations, procedures or proceedings shall be considered confidential and not subject to disclosure by either Party.

19.6.5.2 During any arbitration, alternative dispute resolution or judicial proceeding regarding a Dispute, all information that has been deposited in an Intellectual Property Escrow pursuant to Section 23.5 shall be available as evidence but treated as confidential and subject to a protective order issued by the Arbitrator or court to protect the information from public disclosure.

19.6.5.3 The Parties may also request a protective order in any arbitration, alternative dispute resolution or judicial proceeding to prohibit the public disclosure of any other information they believe is confidential. Determinations of such requests by the Arbitrator or court shall be governed by the standards in the Indiana Rules of Evidence and Indiana Rules of Trial Procedure and/or Indiana's Administrative Rules, as applicable.

19.6.6 Administrative Hearings; Venue and Jurisdiction

19.6.6.1 IFA acknowledges that Developer Claims are not subject to the jurisdiction of any Indiana administrative agency, and IFA agrees that no defense based on failure to exhaust administrative remedies not otherwise set forth in this Agreement may be raised in any court proceeding arising out of or relating to the East End Crossing.

19.6.6.2 The Parties agree that the exclusive original jurisdiction and venue for any legal action or proceeding, at Law or in equity, that is permitted to be brought by a

Party in court arising out of the PPA Documents shall be the Marion County, Indiana Circuit/Superior Court located in Marion County, Indiana.

19.6.7 Continuation of Disputed Work and Payments

19.6.7.1 At all times during Dispute Resolution Procedures, Developer and all Contractors shall continue with the performance of the Work and their obligations, including any disputed Work or obligations, diligently and without delay, in accordance with this Agreement, except to the extent enjoined by order of a court or otherwise approved by IFA in its sole discretion. Developer acknowledges that it shall be solely responsible for the results of any delaying actions or inactions taken during the course of Dispute Resolution Procedures relating to the disputed Work even if Developer's position in connection with the Dispute ultimately prevails.

19.6.7.2 During the course of any Dispute Resolution Procedures, the Parties shall continue to comply with all provisions of the PPA Documents, the Project Management Plan, the Governmental Approvals and applicable Law.

19.6.7.3 Throughout the course of any disputed Work, Developer shall keep complete records that provide a clear distinction between the incurred direct and indirect costs of disputed Work and that of undisputed Work. Developer shall provide IFA access to all East End Crossing-related Books and Records on an Open Book Basis as IFA desires to evaluate the Dispute. The Arbitrator shall have similar access to all such records. These records shall be retained for a period of not less than one (1) year after the date of resolution of the Dispute pertaining to such disputed Work (or for any longer period required under any other applicable provision of the PPA Documents).

19.6.7.4 During the course of any Dispute Resolution Procedures, IFA shall continue to pay to Developer when due all undisputed amounts owing under this Agreement.

ARTICLE 20. TERMINATION

20.1 Termination for Convenience

20.1.1 IFA may terminate this Agreement in whole, but not in part, if IFA determines, in its sole discretion, that termination is in IFA's best interest (a "Termination for Convenience"). Termination of this Agreement shall not relieve Developer or any Guarantor or Surety of its obligation for any claims arising prior to termination.

20.1.2 IFA may exercise Termination for Convenience by delivering to Developer a Notice of Termination for Convenience specifying the election to terminate. Termination for Convenience shall be effective as and when provided in Section 1 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation).

20.1.3 In the event of a Termination for Convenience, Developer will be entitled to compensation determined in accordance with Section 1 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation). Payment will be due and payable as and when provided in Section 1 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation).

20.1.4 If IFA terminates this Agreement on grounds or in circumstances beyond IFA's termination rights specifically set forth in this Agreement, such termination shall be deemed a Termination for Convenience for the purpose of determining the amount of Termination Compensation due (but not for any other purpose).

20.2 Termination for Extended Relief Event, Extended Permitted Closure or Insurance Unavailability

20.2.1 Notice of Conditional Election to Terminate – Extended Relief Event or Extended Permitted Closure

Either Party may deliver to the other Party Notice of its conditional election to terminate this Agreement under the following circumstances:

20.2.1.1 One or both of the following have occurred:

a. One or more Relief Events occur before the Substantial Completion Date and the resulting Relief Event Delays exceed two hundred twenty (220) days in the aggregate, except that in the case of a Relief Event under clause (s) of the definition thereof (court order prohibits prosecution of any portion of the Work), in which case IFA may elect to deliver such Notice if the resulting Relief Event Delay exceeds, or IFA establishes to a high degree of certainty that the resulting Relief Event Delays will exceed one hundred eighty (180) days in the aggregate, even if such date arrives or would arrive before two hundred twenty (220) days of aggregate Relief Event Delays; or

b. A Permitted Closure affecting all or substantially all of the lanes of travel through the East End Crossing persists for a consecutive period of two hundred twenty (220) days or more, provided that IFA may elect to deliver such Notice before such time period elapses if IFA establishes to a high degree of certainty that such a Permitted Closure will persist for a consecutive period of two hundred twenty (220) days or more, provided such Permitted Closure has persisted for a consecutive period of ninety (90) days;

20.2.1.2 The Notice sets forth:

a. The notifying Party's intent to terminate this Agreement;

b. In reasonable detail the Relief Event or Permitted Closure;

c. A description of the direct result and its duration;

d. In the case of Notice from IFA given before the applicable period of time has elapsed, facts and analysis establishing the high degree of certainty required; and

e. In the case of a Notice from Developer, an estimate (with supporting documentation) of the compensation that would be paid or reimbursed to Developer under Section 20.2.4.1.

20.2.1.3 Except as specifically provided above, the Notice is delivered after such result has occurred, and such result is continuing at the time of delivery of the Notice; and

20.2.1.4 Developer could not have mitigated or cured, or will not be able to mitigate or cure, such result through the exercise of diligent efforts.

20.2.2 Notice of Election to Terminate – Insurance Unavailability

IFA may deliver to Developer Notice of its conditional election to terminate this Agreement in the event of Insurance Unavailability.

20.2.3 Developer Options upon IFA Notice

20.2.3.1 If IFA gives Notice of conditional election to terminate, Developer shall have the option either to accept such Notice or to continue this Agreement in effect by delivering to IFA Notice of Developer's choice not later than thirty (30) days after IFA delivers its Notice. If Developer desires to dispute IFA's right to terminate, then it shall include in its Notice both Developer's choice and a Notice of protest and dispute, in which case Developer's choice will be effective contingent upon resolution of the protest and dispute in favor of IFA. If Developer does not deliver such Notice within such thirty- (30)-day period, then it shall be conclusively deemed to have accepted IFA's election to terminate this Agreement.

20.2.3.2 In the case of a conditional election to terminate under Section 20.2.1, if Developer delivers timely Notice choosing to continue this Agreement in effect, then:

a. IFA shall have no obligation to compensate Developer for any costs of restoration and repair arising out of the Relief Event or Permitted Closure, as applicable;

b. IFA shall have no obligation to compensate Developer for any loss of Availability Payments or for any other Extra Work Costs or Delay Costs arising out of the continuation of the Relief Event or Closure beyond the applicable time period set forth in Section 20.2.1, and for this purpose the Closure shall not qualify as a Permitted Closure beyond two hundred seventy (270) consecutive days;

c. If the Relief Event occurs prior to the Final Acceptance Date and results in a Relief Event Delay, Developer shall be entitled to an extension of the applicable Project Schedule Deadlines in accordance with the PPA Documents; provided that IFA may require delivery and implementation of a logic-based critical path recovery schedule for reducing further delay in the D&C Work; and

d. This Agreement shall continue in full force and effect and IFA's election to terminate shall not take effect.

20.2.3.3 In the case of existence or occurrence of Insurance Unavailability, if Developer delivers timely Notice choosing to continue this Agreement in effect, then:

a. IFA shall have no liability for harm or loss from the risks that are the subject of Insurance Unavailability, except to the extent caused by IFA's fraud, criminal conduct, intentional misconduct, recklessness, bad faith or breach of the PPA Documents;

b. Developer shall be irrevocably deemed to self-insure all such harm and loss, including harm or loss to IFA and third parties, as provided in Section 17.1.4.4, except to the extent caused by IFA's fraud, criminal conduct, intentional misconduct, recklessness, bad

faith or breach of the PPA Documents;

c. Developer shall solely bear and pay all insurance premiums in excess of the Commercially Reasonable Insurance Rates during the period of Insurance Unavailability;

d. Developer shall promptly and diligently repair and restore all damage and destruction to the East End Crossing arising out of occurrence at any time during Insurance Unavailability of the risks that are the subject of the Insurance Unavailability, in order to put the East End Crossing in a safe, good and sound condition in compliance with all applicable provisions of the PPA Documents; and

e. This Agreement shall continue in full force and effect and IFA's election to terminate shall not take effect.

20.2.4 IFA Options upon Developer Notice

If Developer gives Notice of conditional election to terminate as provided in Section 20.2.1 IFA shall have the option either to accept such Notice or to continue this Agreement in effect by delivering to Developer Notice of IFA's choice not later than thirty (30) days after Developer delivers its Notice. If IFA desires to dispute Developer's right to terminate, then it shall include in its Notice both IFA's choice and a Notice of protest and dispute, in which case IFA's choice will be effective contingent upon resolution of the protest and dispute in favor of Developer. If IFA does not deliver such Notice within such thirty- (30)-day period, then it shall be conclusively deemed to have accepted Developer's election to terminate this Agreement. If IFA delivers timely Notice choosing to continue this Agreement in effect, then the following provisions shall apply.

20.2.4.1 IFA shall pay or reimburse Developer an amount equal to (without duplicative counting):

a. Only as to Relief Event Delays under Section 20.2.1.1(a), the Extra Work Costs to repair and restore any physical damage or destruction to the East End Crossing and Delay Costs, if any, directly caused by the Relief Event which are not excluded under Section 15.7.9 and are incurred after the date Developer delivers its Notice of conditional election to terminate; plus

b. Compensation calculated and paid in accordance with Sections 15.2 and 15.3, provided that if Developer delivers its Notice of conditional election to terminate prior to Substantial Completion, then the two hundred twenty (220)-day limitation in Sections 15.2.4 and 15.3.3 shall not apply; minus

c. The sum of (i) the greater of (A) the proceeds of insurance (including casualty insurance and business interruption insurance) that is required to be carried pursuant to Section 17.1 and provides coverage to pay, reimburse or provide for any of the foregoing costs and losses or (B) the proceeds of insurance (including casualty insurance and business interruption insurance) that is actually carried by or insuring Developer under policies solely with respect to the East End Crossing and the Work, regardless of whether required to be carried pursuant to Section 17.1, and that provides coverage to pay, reimburse or provide for any of the foregoing costs and losses, and (ii) the foregoing costs and losses that Developer is deemed to have self-insured pursuant to Section 17.1.4.4.

20.2.4.2 Developer's rights to delay and relief from performance obligations under Article 15 shall continue to apply to the Relief Event.

20.2.4.3 This Agreement shall continue in full force and effect and Developer's election to terminate shall not take effect.

20.2.5 Unconditional Right to Terminate

If either the Relief Event Delay or Closure described in Section 20.2.1.1 continues for twelve (12) months or more from its inception, either Party may deliver to the other Party a new Notice of its unconditional election to terminate this Agreement, in which case neither Party shall have any further option to continue this Agreement in effect.

20.2.6 No Waiver

No election by IFA under Section 20.2.4 to continue this Agreement in effect shall prejudice or waive IFA's right to thereafter give a Notice of conditional election to terminate with respect to the same or any other Relief Event Delay, Permitted Closure or Insurance Unavailability.

20.2.7 Concurrent Notices

If IFA and Developer deliver concurrent Notices of conditional election to terminate under this Section 20.2, Developer's Notice shall prevail. Notices shall be deemed to be concurrent if each Party sends its Notice before actually receiving the Notice from the other Party. Knowledge of the other Party's Notice obtained prior to actual receipt of the Notice shall have no effect on determining whether concurrent Notice has occurred.

20.2.8 Early Termination Date and Amount

If either Party accepts the other Party's conditional election to terminate, or if either Party delivers Notice of its unconditional election to terminate under Section 20.2.5, then this Agreement shall be deemed terminated on an Early Termination Date as described in Section 2 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation); and Developer will be entitled to compensation determined in accordance with Section 2 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation). Payment will be due and payable as and when provided in Section 2 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation).

20.3 Termination for Developer Default

20.3.1 Developer Defaults Triggering IFA Termination Rights

Developer agrees, acknowledges and stipulates that any of the following Developer Defaults would result in material and substantial harm to IFA's rights and interests under this Agreement and therefore constitute a material Developer Default justifying termination if not cured within the applicable cure period, if any. After expiration of the applicable cure period (if any) provided to Developer under this Agreement, the following Developer Defaults (each a "Default Termination Event") shall, subject to the provisions of Article 21 and any Direct Agreement, entitle IFA, at its sole election, to terminate this Agreement and the other PPA Documents by delivering Notice of termination to Developer and the Collateral Agent under the

Security Documents and the Direct Agreement other than Subordinated Security Documents. Termination shall be effective as and when provided in Section 3 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation).

20.3.1.1 There occurs any Developer Default under Section 19.1.1.1, 19.1.1.2, 19.1.1.3(a), 19.1.1.5 (but only for a material failure to pay or deposit), 19.1.1.7 (but only for a material violation of this Agreement, the Technical Provisions, Governmental Approvals or Laws, as determined by IFA in its good faith discretion), 19.1.1.11, 19.1.1.14, 19.1.1.15, 19.1.1.16, 19.1.1.17, or 19.1.1.18; or

20.3.1.2 There occurs any other Developer Default for which IFA issues a Warning Notice under Section 19.2.9 and such Developer Default is not fully and completely cured within the applicable cure period, if any, set forth in Section 19.2.2 or available to Lenders under Article 21 or a Direct Agreement, provided that this provision shall have no effect in the circumstances governed by Section 18.4.

20.3.1.3 Notwithstanding anything herein to the contrary,

a. IFA shall not have the right to terminate this Agreement solely due to Developer's failure to achieve Substantial Completion by the Baseline Substantial Completion Date; and

b. IFA shall not have the right to terminate this Agreement solely due to Developer's failure to achieve Final Acceptance by the Final Acceptance Deadline.

20.3.2 Compensation to Developer

If IFA issues Notice of termination of this Agreement due to a Default Termination Event, or if Developer terminates this Agreement on grounds or in circumstances beyond Developer's termination rights specifically set forth in this Agreement, Developer will be entitled to compensation to the extent (if any), and only to the extent, provided in Section 3 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation). Payment (if any) shall be due and payable as and when provided in Section 3 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation).

20.3.3 Finality

If IFA issues Notice of termination of this Agreement due to a Default Termination Event, termination shall be effective and final regardless of whether IFA is correct in determining that it has the right to terminate for Developer Default. If it is determined that IFA lacked such right, then such termination shall be treated as a Termination for Convenience as provided in Section 20.1.4 for the purpose of determining the Termination Compensation due.

20.4 Termination for IFA Default, Suspension of Work or Delayed Notice to Proceed

20.4.1 In the event of a material IFA Default under Section 19.3.1.1 or Section 19.3.1.4 that, in either case, remains uncured following Notice and expiration of the applicable cure period under Section 19.3.2, Developer may deliver to IFA a further Notice setting forth such IFA Default and warning IFA that Developer may elect to terminate this Agreement if IFA does not cure such IFA Default within thirty (30) days after the delivery of such Notice. IFA may avoid termination by effecting cure within such thirty- (30)-day period. Failing such cure, Developer

shall have the right to terminate this Agreement, effective as and when provided in Section 4 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation).

20.4.2 In the event of an IFA Default under Section 19.3.1.3 that remains uncured following Notice and expiration of the applicable cure period under Section 19.3.2, Developer shall have the right to terminate this Agreement, effective immediately upon delivery of Notice of termination to IFA.

20.4.3 If IFA orders Developer to suspend Work on all or any material portion of the East End Crossing for a reason other than those set forth in Section 19.2.8.1 and such suspension of Work continues for a period of two hundred seventy (270) days or more, Developer shall have the right to terminate this Agreement, effective immediately upon delivery of Notice of termination to IFA.

20.4.4 In the event of termination under Section 20.4.1, 20.4.2 or 20.4.3, Developer will be entitled to compensation determined in accordance with Section 4 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation). Payment shall be due and payable as and when provided in Section 4 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation). Any Dispute arising out of the determination of such compensation shall be resolved according to the Dispute Resolution Procedures. This provision shall have no effect, however, where, at the time such right to terminate would arise, circumstances exist entitling either Party to terminate under Section 20.2, 20.3 or 20.5.

20.4.5 If IFA for any reason does not issue NTP1 or NTP2 within 60 days after satisfaction of the conditions set forth in Sections 5.3.1 and 5.6.1, respectively, Developer shall have the right to terminate this Agreement, effective immediately upon delivery of Notice of termination to IFA. In the event of such termination, Developer will be entitled to compensation determined in accordance with Section 4 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation). Payment shall be due and payable as and when provided in Section 4 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation). Any Dispute arising out of the determination of such compensation shall be resolved according to the Dispute Resolution Procedures.

20.4.6 If Developer issues Notice of termination of this Agreement under this Section 20.4, termination shall be effective and final immediately upon delivery of such Notice regardless of whether Developer is correct in determining that it has the right to terminate. If it is determined that Developer lacked such right, then such termination shall be treated as a termination due to material Developer Default and Section 20.3.2 shall govern the measure of the Termination Compensation (if any).

20.5 Termination by Court Ruling

20.5.1 Termination by Court Ruling becomes effective as and when provided in Section 5 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation).

20.5.2 Once Termination by Court Ruling becomes effective, IFA and Developer shall cooperate to implement Sections 20.7, 20.8, 20.9 and 20.10.

20.5.3 Notwithstanding Section 20.5.2, if a Termination by Court Ruling occurs, Developer shall be entitled to compensation to the extent, and only to the extent, provided in

Section 5 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation). Payment shall be due and payable as and when provided in Section 5 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation). Any Dispute arising out of the determination of such compensation shall be resolved according to the Dispute Resolution Procedures.

20.6 Termination for Failure of Financial Close

20.6.1 Developer or IFA may terminate this Agreement without fault or penalty if Financial Close does not occur by the Financial Close Deadline and such failure is directly attributable to any of the contingencies set forth in Section 13.7.7. However, Notice of termination shall obligate IFA and Developer to engage in good faith negotiations for a minimum period of thirty (30) days before such termination is effective. Termination shall take effect at the end of such thirty- (30)-day period unless the Parties otherwise agree in writing. In the event of such a termination:

20.6.1.1 All the PPA Documents shall be deemed terminated;

20.6.1.2 IFA and Developer shall take all actions specified to occur on or about the Termination Date set forth in Section 20.7; and

20.6.1.3 Developer shall be entitled to compensation to the extent, and only to the extent, provided in Section 6 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation). Payment shall be due and payable as and when provided in Section 6 of Exhibit 22 (Early Termination Dates and Terms for Termination Compensation). Any Dispute arising out of the determination of such compensation shall be resolved according to the Dispute Resolution Procedures.

20.6.2 If Developer fails to achieve Financial Close by the Financial Close Deadline, such failure is not directly attributable to any of the contingencies set forth in Section 13.7.7, and neither Party is then entitled to terminate this Agreement under Section 20.5, then the following terms and conditions shall apply.

20.6.2.1 IFA shall have the right to terminate this Agreement upon five days' prior Notice to Developer, without need for Warning Notice or any other Notice and without any additional cure period, unless Developer achieves Financial Close in accordance with the conditions set forth in Section 13.7.5 within such five-day period.

20.6.2.2 In the event of such termination, Developer shall be liable for and pay to IFA liquidated damages for such failure in the amount of the Financial Close Security. Such liquidated damages shall constitute IFA's sole right to damages on account of such failure.

20.6.2.3 Upon or after the effective date of termination, IFA shall be entitled to collect the liquidated damages owing under this Section 20.6 through a draw on or forfeiture of the Financial Close Security, as applicable, without prior Notice to or demand upon Developer for such liquidated damages.

20.6.3 Developer acknowledges that the time period IFA has provided to Developer to achieve Financial Close is ample and reasonable, and that such liquidated damages are reasonable in order to compensate IFA for damages it will incur as a result of the lost

opportunity to IFA represented by the PPA Documents. Such damages include the harm from the difficulty, and substantial additional expense, to IFA, to procure and deliver, operate and maintain the Project through other means, loss of or substantial delay in use, enjoyment and benefit of the Project by the general public, and injury to the credibility and reputation of IFA's transportation improvement program, with policy makers, other Governmental Entities and the general public who depend on and expect availability of service. Developer further acknowledges that these damages are incapable of accurate measurement because of, among other things, the unique nature of the East End Crossing and the unavailability of a substitute for it.

20.7 Termination Procedures and Duties

Upon expiration of the Term, the provisions of this Section 20.7 shall apply. Developer shall timely comply with such provisions independently of, and without regard to, the timing for determining, adjusting, settling and paying any amounts due Developer or IFA on account of termination. If Developer fails to timely comply with the provisions of this Section 20.7, as judged by IFA in its sole discretion, then upon Notice from IFA to Developer making reference to this Section 20.7, Developer hereby stipulates that, and shall be deemed to have, surrendered its access rights under the Project Right of Entry and otherwise under the PPA.

20.7.1 Performance of Work Pending Early Termination Date

In any case where Notice of termination precedes the effective Early Termination Date, Developer shall continue performing the Work in accordance with, and without excuse from, all the standards, requirements and provisions of the PPA Documents, and without curtailment of services, quality and performance.

20.7.2 Transition Plan

20.7.2.1 Not later than ninety (90) days prior to expiration of the Term, or, if applicable, within three (3) days after Developer receives or delivers a Notice of termination, Developer shall meet and confer with IFA for the purpose of developing a transition plan for the orderly transition of Work, demobilization and transfer of East End Crossing management, maintenance, operation and control to IFA. The Parties shall use diligent efforts to complete preparation of the transition plan not later than thirty (30) days prior to expiration of the Term or, if applicable, within fifteen (15) days after the date Developer receives or delivers the Notice of termination.

20.7.2.2 The transition plan shall include a plan to promptly deliver to IFA or its designee possession of all the property, data and documents described in Sections 20.7.6.1 and 20.7.6.2.

20.7.2.3 The transition plan shall include an estimate of costs and expenses to be incurred by both Parties in connection with implementation of the transition plan. Neither Party shall be liable for the other Party's transition costs and expenses, regardless of the reason for termination.

20.7.2.4 The transition plan shall be in form and substance acceptable to IFA in its good faith discretion and shall include and be consistent with the other provisions and procedures set forth in this Section 20.7, all of which procedures Developer shall

immediately follow, regardless of any delay in preparation or acceptance of the transition plan.

20.7.3 Relinquishment and Possession of East End Crossing

20.7.3.1 Subject to Developer's limited rights of access pursuant to Section 20.7.3.4, on the Termination Date, or as soon thereafter as is possible or as is provided in the approved transition plan, Developer shall relinquish and surrender all management, custody and control of the East End Crossing, including the TCS, and Project Right of Way to IFA or IFA's Authorized Representative, and shall cause all persons and entities claiming under or through Developer to do likewise, in at least the condition required by the Handback Requirements.

20.7.3.2 On the later of the Termination Date or the date Developer relinquishes all management, custody and control (having fully performed its obligations under this Section 20.7), IFA shall have the exclusive right to, and shall assume responsibility at its expense for, management, custody and control of the East End Crossing and the Project Right of Way, including all components of the TCS, subject to any rights to damages against Developer where the termination is due to a Default Termination Event.

20.7.3.3 On the Termination Date or as soon thereafter as is possible or as is provided in the approved transition plan, Developer shall execute, acknowledge and deliver to IFA a Notice, in form and substance acceptable to IFA, acting reasonably, acknowledging that Developer relinquishes, as of the Termination Date, Developer's right and license given by IFA pursuant to Section 2.1.2 with respect to the East End Crossing and the Project Right of Way.

20.7.3.4 On the Termination Date, or such later date as is agreed in the approved transition plan, IFA grants to Developer a right to access the Project ROW for the limited purpose of carrying out Developer's obligations contemplated by this Section 20.7, including without limitation, execution of the transition plan contemplated in Section 20.7.2. This right of access shall automatically expire upon Developer's fulfillment of such obligations.

20.7.4 Continuance or Termination of Key Contracts Prior to Work Completion

20.7.4.1 If as of the Termination Date Developer has not completed the Work, in whole or in part, IFA shall elect, by Notice to Developer not later than thirty (30) days after the Termination Date, to continue in effect the relevant Key Contracts or to require their termination. IFA may elect to keep certain Key Contracts in effect and require termination of other Key Contracts. If IFA does not deliver Notice of election within such time period, IFA shall be deemed to elect to require termination of the applicable Key Contract(s). If IFA elects to continue any Key Contracts, then Developer shall execute and deliver to IFA a written assignment, in form and substance acceptable to IFA, acting reasonably, of all Developer's right, title and interest in and to such Key Contracts, and IFA shall assume in writing Developer's obligations thereunder that arise from and after the later of the Termination Date or the effective date of assignment.

20.7.4.2 If IFA elects (or is deemed to elect) to require termination of any Key Contracts, then Developer shall:

a. Take such steps as are necessary to terminate the relevant Key

Contracts, including notifying each Key Contractor that its Key Contract is being terminated and that each of them is to immediately stop work and stop and cancel orders for materials, services or facilities unless otherwise authorized in writing by IFA;

b. Immediately demobilize and secure in a safe manner Project Specific Locations, Toll Collection System Locations and any other staging, lay down and storage areas used by such Key Contractors for the East End Crossing in a manner satisfactory to IFA, and remove all debris and waste materials (including Hazardous Materials that are in the process of removal) except as otherwise approved by IFA in writing;

c. Take such other actions as are necessary or appropriate to mitigate further cost;

d. Subject to IFA's reasonable prior written approval, settle all outstanding liabilities and all claims arising out of such Key Contracts;

e. As a condition to Developer receiving all payments required to be paid by IFA under Article 20 and pursuant to the requirements of the transition plan, cause each of the Key Contractors to execute and deliver to IFA a written assignment, in form and substance acceptable to IFA, acting reasonably, of all of their right, title and interest in and to (i) all Governmental Approvals, Utility Agreements and other third-party agreements and permits pertaining to the East End Crossing or the Work, including for the TCS or Toll Collection System Locations, except subcontracts for performance of the Work, provided IFA assumes in writing all of the Key Contractor's obligations thereunder that arise after the Termination Date, and (ii) all warranties, to the extent assignable, claims and causes of action held by each of them against subcontractors and other third parties pertaining to the East End Crossing or the Work; and

f. As a condition to Developer receiving all payments required to be paid by IFA under Article 20 and pursuant to the requirements of the transition plan, carry out such other directions as IFA may give for termination of the Work in accordance with the transition plan.

20.7.5 [reserved]

20.7.6 Other Close-Out Activities

20.7.6.1 Not later than ninety (90) days prior to the expiration of the Term, or within thirty (30) days after any earlier Notice of termination is delivered, Developer shall provide IFA with a true and complete list of all materials, goods, machinery, equipment, hardware, parts, supplies and other tangible property in inventory or storage (whether held by Developer or any Person on behalf of or for the account of Developer) for use in or respecting the Work or the East End Crossing, including the TCS, or on order or previously completed but not yet delivered from Suppliers for use in or respecting the Work or the East End Crossing, including the TCS. In addition, on or about the Termination Date or as soon thereafter as is possible or as is provided in the approved transition plan, Developer shall transfer title through bills of sale or other documents of title, as directed by IFA, and deliver to IFA or IFA's Authorized Representative, all such materials, goods, machinery, equipment, hardware, parts, supplies and other property, provided IFA assumes in writing all of Developer's obligations under any contracts relating to the foregoing that arise after the later of the Termination Date or the effective date of the transfer.

20.7.6.2 Not later than ninety (90) days prior to the expiration of the Term, or within thirty (30) days after any earlier Notice of termination is delivered, Developer shall provide IFA with a true and complete list of all the data and documents identified in this Section 20.7.6.2. On or about the Termination Date or as soon thereafter as is possible or as is provided in the approved transition plan, Developer shall deliver to IFA the following, together with an executed bill of sale or other written instrument, in form and substance acceptable to IFA, acting reasonably, assigning and transferring to IFA all right, title and interest of Developer and its Contractors in and to the following:

a. All completed or partially completed drawings (including plans, elevations, sections, details and diagrams), specifications, designs, Design Documents, Record Drawings, plans, surveys, and other documents and information pertaining to the design or construction of the East End Crossing or the Utility Adjustments, free of any intellectual property rights or claims of Developer or any Contractor;

b. All samples, borings, boring logs, geotechnical data and similar data and information relating to the East End Crossing or Project Right of Way;

c. All Books and Records, reports, test reports, studies and other documents of a similar nature relating to the Work, the East End Crossing or the Project Right of Way; and

d. All other work product and other Intellectual Property used or owned by Developer or any Affiliate relating to the Work, the East End Crossing or the Project Right of Way, provided that the transfer of any such Intellectual Property shall be subject to Sections 23.4 and 23.5.

20.7.6.3 Developer shall take all action that may be necessary, or that IFA may direct, for the protection and preservation of the East End Crossing, the Work and such materials, goods, machinery, equipment, hardware, parts, supplies, data, documentation and other property.

20.7.6.4 If applicable, on the Termination Date or as soon thereafter as is possible or as is provided in the approved transition plan, Developer shall transfer to IFA the amount in the Handback Requirements Reserve Account due IFA in accordance with Section 6.13.4.

20.7.6.5 On or about the Termination Date or as soon thereafter as is possible or as is provided in the approved transition plan, Developer shall execute and deliver to IFA a written assignment, in form and substance acceptable to IFA, acting reasonably, all of Developer's right, title and interest in and to any Intellectual Property Escrows or similar arrangements for the protection source code or source code documentation of others used for or relating to the East End Crossing or the Work.

20.7.6.6 On or about the Termination Date or as soon thereafter as is possible or as is provided in the approved transition plan, Developer shall execute and deliver to IFA a written assignment, in form and substance acceptable to IFA, acting reasonably, of all Developer's right, title and interest in and to all warranties, claims and causes of action held by Developer against third parties in connection with the East End Crossing or the Work, including claims under casualty and business interruption insurance.

20.7.6.7 Developer shall otherwise assist IFA in such manner as IFA may require prior to and for a reasonable period following the Termination Date to ensure the orderly transition of management, maintenance, operation and control of the East End Crossing, including the TCS, to IFA, and shall, if appropriate and if requested by IFA, take all steps as may be necessary to enforce the provisions of the Key Contracts pertaining to the surrender of East End Crossing management, maintenance, operation and control.

20.7.6.8 For a period of four (4) years following the Termination Date, Developer shall maintain a secure archive copy of all electronic data transferred to IFA.

20.7.6.9 All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by Developer prior to execution of this Agreement, but specifically developed under this Agreement shall be considered "work for hire" and Developer transfers any ownership claim to IFA and all such materials will be the property of IFA. Use of these materials, other than related to contract performance by Developer, without the prior written consent of IFA, is prohibited. During the performance of this Agreement, Developer shall be responsible for any loss of or damage to these materials developed for or supplied by IFA and used to develop or assist in the services provided while the materials are in the possession of Developer. Any loss or damage thereto shall be restored at Developer's expense. Developer shall provide full, immediate, and unrestricted access to the work product during the term of this Agreement.

20.7.7 Compensation; Proration of Costs

20.7.7.1 From and after the Termination Date, even though Developer may be continuing services temporarily pursuant to a transition plan, Developer shall cease to have any right to (a) Availability Payments except for those accrued and owing prior to the Termination Date (and subject to proration as provided in Section 10.2.7.2) and (b) any beneficial interests under the Project Trust Agreement except with respect to compensation that remains due to Developer under this Agreement, if any.

20.7.7.2 Within ninety (90 days after the Termination Date, the Parties shall adjust and prorate as of the Termination Date costs of operation and maintenance of the East End Crossing, including utility costs and deposits. If the Parties do not have complete or accurate information by such date, they shall make the adjustment and proration using a good faith estimate, and thereafter promptly readjust when the complete and accurate information is obtained. The Parties acknowledge that certain adjustments or readjustments may depend on receipt of bills, invoices or other information from a third party, and that the third party may delay in providing such information. Any readjustment necessary only because of error in calculation and not due to lack of complete and accurate information shall be irrevocably waived unless the Party seeking readjustment delivers written request therefor to the other Party not later than one hundred eighty (180) days following the Termination Date.

20.8 Effect of Termination

20.8.1 Cessation of Developer's Interest and Liens and Encumbrances

20.8.1.1 Except as provided in Sections 20.7.3.4 and 20.11 and the Project Trust Agreement, termination of this Agreement under any provision of this Article 20 shall automatically cause, as of the Termination Date, the cessation of any and all rights or

interest of Developer, tangible and intangible, in or with respect to the East End Crossing, the Project Right of Way, the Project Right of Entry and the Handback Requirements Reserve Account, which thereupon shall be and remain free and clear of any lien or encumbrance created, permitted or suffered by Developer or anyone claiming by, through or under Developer, including the liens, pledges, assignments, collateral assignments, security interests and encumbrances of any and all Funding Agreements and Security Documents.

20.8.1.2 In order to confirm the foregoing, at IFA's request, Developer shall promptly obtain and deliver to IFA recordable reconveyances, releases and discharges of all Security Documents, executed by the Lenders, but no such reconveyances, releases and discharges shall be necessary to the effectiveness of the foregoing.

20.8.2 Right of Developer to Payments

Except as provided otherwise in Section 20.11 and the Project Trust Agreement, Developer's interests in the right to receive payments from the AP Payment Fund and the MP Payment Fund shall cease and terminate at the end of the Term, at which time the Project Trustee shall distribute all funds remaining in each account as solely directed by IFA.

20.8.3 Contracts and Agreements

Regardless of IFA's prior actual or constructive knowledge thereof, and except for the Project Trust Agreement, no Contract or agreement, including agreements regarding TCS Locations and equipment, to which Developer is a party as of the Termination Date shall bind IFA, unless IFA elects to assume such Contract or agreement in writing. Except in the case of IFA's express written assumption, no such Contract or agreement shall entitle the contracting party to continue performance of work or services respecting the East End Crossing following Developer's relinquishment to IFA of East End Crossing management, custody and control, or to any claim, legal or equitable, against IFA.

20.9 Liability after Termination; Final Release

20.9.1 No termination of this Agreement shall excuse either Party from any liability arising out of any default as provided in this Agreement that occurred prior to termination. Notwithstanding the foregoing, any termination of this Agreement under Section 20.2, 20.3, 20.5 or 20.6 shall automatically extinguish any Claim of Developer to payment of Compensation Amounts for adverse cost and revenue impacts accruing after the Early Termination Date from Relief Events that occurred prior to termination.

20.9.2 [reserved].

20.9.3 Subject to Section 20.9.1, if this Agreement is earlier terminated for any reason, then IFA's payment to Developer of the amounts required under this Agreement (if any) shall constitute full and final satisfaction of, and upon payment IFA shall be forever released and discharged from, any and all Claims, causes of action, suits, demands and Losses, known or unknown, suspected or unsuspected, that Developer may have against IFA arising out of or relating to this Agreement or termination thereof, the other PPA Documents, or the East End Crossing, except for specific Claims and Disputes that are asserted by Developer in accordance with Section 19.6.3.1 not later than thirty (30) days after the effective date of termination, are unresolved at the time of such payment and are not related to termination or Termination

Compensation. Upon such payment, Developer shall execute and deliver to IFA all such releases and discharges as IFA may reasonably require to confirm the foregoing, but no such written release and discharge shall be necessary to give effect to the foregoing satisfaction and release.

20.10 Exclusive Termination Rights

This Article 20, together with the express provisions on termination set forth in Sections 19.2.1, 19.4.1 and Article 21 and in Exhibit 22 (Early Termination Dates and Terms for Termination Compensation), contain the entire and exclusive provisions and rights of IFA and Developer regarding termination of this Agreement, and any and all other rights to terminate at Law or in equity are hereby waived to the maximum extent permitted by Law.

20.11 Payment of Termination Compensation

20.11.1 If there exists as of the expiration of the Term, any outstanding unpaid amount owing from IFA to Developer, or any outstanding, unsatisfied Claim for sums owing from IFA to Developer, including any unpaid Termination Compensation, then the terms and conditions of this Section 20.11 shall apply, and shall survive termination.

20.11.2 Termination Compensation due after the Substantial Completion Date is payable from amounts held in the AP Relief Event and Termination Compensation Fund until such Termination Compensation amount is paid in full or any lesser balance in the AP Relief Event and Termination Compensation Fund is exhausted and then from the General Reserve Fund as necessary to pay the remaining balance of the Termination Compensation.

20.11.3 IFA hereby covenants and agrees to use its best efforts to cause the General Assembly of the State to appropriate amounts that will be sufficient to enable IFA to pay the Termination Compensation owed by IFA to Developer under this Agreement, including exhausting all available reviews and appeals if such amounts are not approved for appropriation. Further, IFA hereby covenants that it will do all things lawfully within its power to obtain and maintain funds from which to pay the Termination Compensation (including any interest thereon) owed by IFA to Developer under this Agreement, including, but not limited to requesting an appropriation in an amount sufficient to pay the Termination Compensation (including interest thereon) owed by IFA to Developer under this Agreement in writing submitted to the General Assembly at a time sufficiently in advance of the date for payment thereof so that an appropriation from the General Assembly may be made in the normal State budgetary process, using its bona fide best efforts to have such request approved, and exhausting all available reviews and appeals if such request is not approved. The Termination Compensation is a limited obligation of IFA, payable solely from amounts held by the Project Trustee under the Project Trust Agreement for this purpose. The obligation of IFA to pay Termination Compensation does not constitute an indebtedness of the State or any political subdivision thereof within the meaning or application of any constitutional provision or limitation. The obligation of IFA to pay Termination Compensation does not constitute a pledge of the faith, credit or taxing power of the State or any political subdivision thereof within the meaning or application of any constitutional provision or limitation. IFA has no taxing power. Developer has no right to have taxes levied or compel appropriations by the General Assembly for any payment of the Termination Compensation.

20.12 [reserved]

20.13 Access to Information

Developer shall conduct all discussions and negotiations to determine any Termination Compensation, and shall share with IFA all data, documents and information pertaining thereto, on an Open Book Basis.

ARTICLE 21. LENDERS' RIGHTS

21.1 Conditions and Limitations Respecting Lenders' Rights

21.1.1 No Security Document (including those respecting a Refinancing) shall be valid or effective, and no Lender shall be entitled to the rights, benefits and protections of this Article 21 or the Direct Agreement, unless the Security Document, other related Security Documents and related Funding Agreements strictly comply with Section 13.3.

21.1.2 No Security Document relating to any Refinancing shall be valid or effective, and no Lender shall be entitled to the rights, benefits and protections of this Article 21 or the Direct Agreement, where the Refinancing violates or causes violation of Section 13.4.

21.1.3 No Funding Agreement or Security Document shall affect IFA in the enforcement of its rights and remedies as provided herein and by Law, and no Lender shall be entitled to the rights, benefits and protections of this Article 21 or the Direct Agreement, unless and until (a) a copy (certified as true and correct by the Collateral Agent) of the original thereof bearing, if applicable, the date and instrument number or book and page of recordation or filing thereof, including a copy of a specimen bond, note or other obligation (certified as true and correct by the Collateral Agent) secured by such Security Document, has been delivered to IFA and (b) IFA has received Notice of the address of the Collateral Agent to which Notices may be sent. In the event of an assignment of any such Funding Agreement or Security Document, such assignment shall not be binding upon IFA unless and until IFA has received a certified copy thereof, which copy shall, if required to be recorded, bear the date and instrument number or book and page of recordation thereof, and IFA has received Notice of the assignee thereof to which Notices may be sent. In the event of any change in the identity of the Collateral Agent, such change shall not be binding upon IFA unless and until IFA has received a Notice thereof signed by the replaced and substitute Collateral Agent and setting forth the address of the substitute Collateral Agent to which Notices may be sent.

21.1.4 No Lender shall be entitled to the rights, benefits and protections of this Article 21 unless the Funding Agreements in favor of the Lender are secured by senior or first tier subordinate Security Documents (including the Security Documents relating to any TIFIA Loan), and the Department shall only enter into Direct Agreements with such Lenders. For avoidance of doubt, no Lender holding Subordinate Debt or Subordinated Security Document shall have any rights, benefits or protections under this Article 21.

21.1.5 A Lender shall not, by virtue of its Funding Agreement or Security Document, acquire any greater rights to or interest in the East End Crossing or Toll Revenues than Developer has at any applicable time under this Agreement, other than the provisions in this Article 21 for the specific protection of Lenders.

21.1.6 All rights acquired by Lenders under any Funding Agreement or Security Document shall be subject to the provisions of this Agreement and the other PPA Documents and to the rights of IFA hereunder and thereunder.

21.1.7 The provisions of this Article 21 that are binding on IFA shall inure only to the benefit of such Lenders, and create no rights in favor of Developer.

21.1.8 To further evidence the rights, benefits and protections afforded to Lenders, IFA will enter into a Direct Agreement at a Lender's request.

21.2 Effect of Amendments

While any Security Document is in effect, no agreement between IFA and Developer for the modification or amendment of this Agreement shall be binding without the Collateral Agent's consent, except to the extent expressly provided otherwise in this Agreement (e.g. Sections 16.1, 16.2 and 16.3).

21.3 Notices to Collateral Agent

As long as any Security Document shall remain unsatisfied of record, IFA shall promptly provide the Collateral Agent with a copy of any Notice it sends to Developer concerning an actual or potential breach of this Agreement or an actual or potential Developer Default, including any Warning Notice.

21.4 Opportunity to Cure and Step-In

As long as any Security Document shall remain unsatisfied of record, the following provisions shall apply with respect to any such Security Document and the related Lender or Lenders and Funding Agreements.

21.4.1 Should any Developer Default occur which would either immediately or, following the applicable grace period or the giving of Notice or both, constitute a Default Termination Event enabling IFA to terminate this Agreement, IFA shall not terminate this Agreement until it first delivers to the Collateral Agent a Notice and provides the Collateral Agent a reasonable opportunity to cure such Developer Default, as provided in the Direct Agreement. The Lender shall have the right (but not the obligation) to remedy such Developer Default or cause the same to be remedied by its Substituted Entity as provided in the Direct Agreement; and IFA shall accept such performance by or at the instigation of the Lender or Substituted Entity as if Developer had done the same.

21.4.2 If Developer fails to achieve Substantial Completion by the Baseline Substantial Completion Date, then the Collateral Agent shall have until the Long Stop Date, as the same may be extended pursuant to this Agreement, to achieve or cause Developer to achieve Substantial Completion. If Substantial Completion is not achieved by such date, then it shall constitute a material Developer Default and IFA may proceed to terminate this Agreement without further Notice to, or opportunity to cure by, the Lender.

21.4.3 If the Developer Default is under Sections 19.1.1.11, 19.1.1.16 or 19.1.1.17, then IFA may terminate this Agreement without providing a cure period to any Lender.

21.4.4 New Agreements.

21.4.4.1 The provisions of this Section 21.4.4 shall apply only if:

a. There occurs an Incurable Developer Default under clause (a) or (c) of the definition of Incurable Developer Default; or

b. there occurs a Developer Default governed by clause (c) of the definition of Cure Period, (ii) the Collateral Agent pursues with good faith, diligence and continuity lawful processes and steps to obtain the appointment of a court receiver for the East End Crossing and possession, custody and control of the East End Crossing, (iii) despite such efforts the Collateral Agent is unable to obtain such possession, custody and control of the East End Crossing within the one hundred eighty- (180)-day Cure Period set forth in clause (c) of the definition of Cure Period and (iv) no Step-out Notice has been given.

21.4.4.2 If this Section 21.4.4 is applicable and either (i) IFA terminates this Agreement or (ii) IFA receives notice that this Agreement is otherwise terminated, rejected, invalidated or rendered null and void by order of a bankruptcy court, then (a) IFA shall deliver Notice of such event to the Collateral Agent, and (b) the Collateral Agent or other Step-in Party, to the extent then permitted by Law, shall have the option to obtain from IFA agreements to replace the PPA Documents, and, to the extent necessary, new ancillary agreements (e.g. escrow agreements) (together the "New Agreements") in accordance with and upon the terms and conditions of this Section 21.4.4.

21.4.4.3 In order to exercise such option, the Collateral Agent or other Step-in Party must deliver to IFA, within 60 days after IFA delivers its Notice of termination, a Step-in Notice, which must contain (a) a request for New Agreements, (b) a written commitment that the Collateral Agent or other Step-in Party will enter into the New Agreements and pay all the amounts described in Sections 21.4.4.5(a) and (c) below, and be accompanied by originals of such New Agreements, duly executed and acknowledged by the Collateral Agent or other Step-in Party. If any of the foregoing is not delivered within such 60-day period, the option in favor of the Collateral Agent and all other Step-in Parties shall automatically expire. IFA shall have the unconditional right to rely upon any Step-in Notice purported to be signed and delivered by or for the Collateral Agent, without IFA obligation or liability to ascertain or investigate its authenticity, truth or accuracy.

21.4.4.4 Within thirty (30) days after timely receipt of the conforming Step-in Notice and duly executed New Agreements, IFA shall enter into the New Agreements to which IFA is a party with the Collateral Agent or other Step-in Party, subject to any extension of such thirty- (30)-day period as IFA deems necessary to clear any claims of Developer to continued rights and possession.

21.4.4.5 Upon the execution by all parties and as conditions to the effectiveness of the New Agreements, the Collateral Agent or other Step-in Party shall perform all of the following:

a. Pay to IFA:

i. Any and all sums which would, at the time of the execution of the New Agreements, be due under the PPA Documents but for such termination; and

ii. The amount of any Termination Compensation previously paid by IFA to Developer, with interest thereon at a floating rate equal to the LIBOR in effect from time to time plus two hundred (200) basis points from the date the termination compensation was paid until so reimbursed;

b. Otherwise fully remedy any existing Developer Defaults under the PPA Documents (provided, however, that Incurable Developer Defaults need not be remedied and with respect to any Developer Default which cannot be cured until the Collateral Agent or other Step-in Party obtains possession, it shall have such time, after it obtains possession, as is necessary with the exercise of good faith, diligence and continuity to cure such default, in any event not to exceed one hundred twenty (120) days after the date it obtains possession);

c. Without duplication of amounts previously paid by Developer, pay to IFA all reasonable costs and expenses, including IFA's Recoverable Costs, incurred by IFA in connection with (i) such default and termination, (ii) the assertion of rights, interests and defenses in any bankruptcy or related proceeding, (iii) the recovery of possession of the East End Crossing, (iv) all IFA activities during its period of possession of, and respecting, the East End Crossing, including permitting, design, acquisition, construction, equipping, maintenance, operation and management activities, minus the lesser of (A) the foregoing clause (iv) amount and (B) the amount of Availability Payments, if any, that would have been paid during such period had this Agreement not been terminated and had there been no adjustments to such Availability Payments, and (v) the preparation, execution, and delivery of such New Agreements. Upon request of the Collateral Agent or other Step-in Party, IFA will provide a written, documented statement of such costs and expenses; and

d. Deliver to IFA a new Payment Bond and Performance Security and new letters of credit and guarantees to the extent then required hereunder.

21.4.4.6 Upon execution of the New Agreements and payment of all sums due IFA, IFA shall:

a. Assign and deliver to the Collateral Agent or other Step-in Party, without warranty or representation, all the property, contracts, documents and information that Developer may have assigned and delivered to IFA upon termination of this Agreement; and

b. If applicable, transfer into a new Handback Requirements Reserve Account established by the Collateral Agent or other Step-in Party in accordance with this Agreement, all funds IFA received from the Handback Requirements Reserve Account pursuant to Section 6.13.3 (or from draw on a Handback Requirements Letter of Credit) less so much thereof that IFA spent or is entitled to as reimbursement for costs of Rehabilitation Work IFA performed prior to the effectiveness of the New Agreements.

21.4.4.7 The New Agreements shall be effective as of the date of termination of this Agreement and shall run for the remainder of the Term. The New Agreements shall otherwise contain the same covenants, terms and conditions and limitations as the PPA Documents and ancillary agreements and documents that were binding on IFA and Developer (except for any requirements which have been fulfilled by Developer prior to termination and except that Section 18.1 (and any equivalent provisions of the other PPA Documents) shall be revised to be particular to the Collateral Agent or other Step-in Party).

21.4.4.8 If the holders of more than one Security Document make written requests upon IFA for New Agreements in accordance with this Section 21.4.4, IFA shall grant the New Agreements to, as applicable, the holder whose Security Documents have the most senior priority of record. Priority shall be established as follows.

a. IFA shall submit a written request to the Collateral Agent to designate the Security Documents having the most senior priority of record. IFA shall have the right to conclusively rely on the Collateral Agent's written designation, without duty of further inquiry by IFA and without liability to any Lender; and thereupon the written requests of each holder of any other Security Document shall be deemed to be void.

b. If IFA does not receive the Collateral Agent's written designation within ten (10) days after delivering written request, then IFA may conclusively rely, without further inquiry and without liability to any Lender, on the seniority indicated by a then-current title report that IFA obtains from one of the four (4) largest title insurance companies doing business in the State of Indiana (unless otherwise agreed in writing by the most senior holder so indicated); and thereupon the written requests of each holder of any other Security Document shall be deemed to be void.

c. If the holders of more than one Security Document share *pari passu* senior lien priority as indicated pursuant to clause (a) or (b) above and make written requests upon IFA for New Agreements in accordance with this Section 21.4.4, IFA shall grant the New Agreement to such holders jointly (unless otherwise agreed in writing by such holders); and thereupon the written requests of each holder of any other Security Documents shall be deemed to be void.

21.4.5 Noncompliance Points assessed for Noncompliance Events occurring prior to the date the Collateral Agent or its Substituted Entity obtains management, custody and control of the East End Crossing shall not be counted during the period available to the Collateral Agent or its Substituted Entity to cure the Noncompliance Events for the purpose of determining Persistent Developer Default. Once all such Noncompliance Events have been cured, IFA shall cancel any Noncompliance Points assessed with respect to such Noncompliance Events. The foregoing shall not, however, excuse the Collateral Agent or its Substituted Entity from any obligation to cure prior uncured breaches or failures to perform under the PPA Documents, and except for determination of Persistent Developer Default shall not affect any rights and remedies available to IFA respecting uncured breaches or failures to perform.

21.4.6 Any curing of any Default Termination Event by the Collateral Agent shall not be construed as an assumption by the Collateral Agent of any obligations, covenants or agreements of Developer under the PPA Documents or any Principal Project Documents, except with respect to the work, services or actions taken or performed by or on behalf of the Collateral Agent.

21.4.7 Nothing in this Section 21.4 shall preclude or delay IFA from exercising any remedies other than termination of this Agreement due to Developer Default, including, subject to IFA's express covenants to forebear and as otherwise provided in the Direct Agreement, IFA's rights to cure the Developer Default at Developer's expense and to remove and replace Developer.

21.5 Forbearance

21.5.1 To the extent IFA has rights to enforce any Design-Build Contract or any O&M Contract, whether as assignee of Developer's rights or otherwise, so long as this Agreement remains in effect IFA shall forbear from exercising remedies against the Design-Build Contractor or O&M Contractor if (a) Developer or the Collateral Agent commences the good faith, diligent exercise of remedies available to Developer under the Design-Build Contract or O&M Contract within thirty (30) days after IFA delivers Notice to Developer and the Collateral Agent of default by the Design-Build Contractor or O&M Contractor, and (b) thereafter continues such good faith, diligent exercise of remedies until the default is cured.

21.5.2 At IFA's request from time to time, Developer shall provide to IFA written reports on the status of any such default, cure and exercise of remedies.

21.6 Substituted Entities

21.6.1 Any payment to be made or action to be taken by the Collateral Agent as a prerequisite to keeping this Agreement in effect shall be deemed properly to have been made or taken by the Collateral Agent if a Substituted Entity proposed by the Collateral Agent and approved by IFA makes such payment or takes such action. IFA shall have no obligation to recognize any claim to the Developer's Interest by any person or entity that has acquired the Developer's Interest by, through, or under any Security Document or whose acquisition shall have been derived immediately from any holder thereof, unless such person or entity is a Substituted Entity.

21.6.2 Notwithstanding the foregoing, any entity that is wholly owned by a Lender or group of Lenders shall be deemed a Substituted Entity, without necessity for IFA approval, upon delivery to IFA of documentation proving that the entity is duly formed, validly existing and wholly owned by such Lender or group of Lenders, including a certificate signed by a duly authorized officer of each such Lender in favor of IFA certifying, representing and warranting such ownership.

21.6.3 IFA shall have no obligation to approve a person or entity as a Substituted Entity unless the Lender demonstrates that:

21.6.3.1 The proposed Substituted Entity and its contractors collectively have the financial resources, qualifications and experience to timely perform Developer's obligations under the PPA Documents and Principal Project Documents; and

21.6.3.2 The proposed Substituted Entity and its contractors are in compliance with IFA's rules, regulations and adopted written policies regarding organizational conflicts of interest.

21.6.4 IFA will approve or disapprove a proposed Substituted Entity within thirty (30) days after it receives from the Lender a request for approval together with (a) such information, evidence and supporting documentation concerning the identity, financial resources, qualifications, experience and potential conflicts of interest of the proposed Substituted Entity and its contractors as IFA may request, and (b) such evidence of organization, authority, incumbency certificates, certificates regarding debarment or suspension, and other certificates, representations and warranties as IFA may reasonably request. If for any reason IFA does not

act within such thirty- (30)-day period, or any extension thereof by mutual agreement of IFA and the Lender, IFA shall be deemed to disapprove.

21.6.5 IFA will request information on, and evaluate, the financial resources, qualifications, experience and potential conflicts of interest of the proposed Substituted Entity and its contractors using the same standards and criteria that it is then currently applying, or if there is no current application, then the same standards and criteria it most recently applied, to the evaluation of Persons responding to IFA requests for qualifications for concession or similar agreements for comparable projects and facilities.

21.6.6 Lender may request approval of more than one Substituted Entity. A Lender may request approval at any time or times. Any approval by IFA of a Substituted Entity shall expire one (1) year after the approval is issued, unless IFA approves an extension in its sole discretion or unless within such one-year period (or any approved extension thereof) the Substituted Entity has succeeded to the Developer's Interest.

21.6.7 IFA may revoke an approval if at any time prior to succeeding to the Developer's Interest:

21.6.7.1 The Substituted Entity ceases to be in compliance with IFA's rules and regulations regarding organizational conflicts of interest; or

21.6.7.2 There occurs, after exhaustion of all rights of appeal, any suspension or debarment of the Substituted Entity or any managing member, general partner or controlling investor of the Substituted Entity from bidding, proposing or contracting with any federal or State department or agency.

21.7 Receivers

21.7.1 The appointment of a receiver at the behest of Developer shall be subject to IFA's prior written approval in its sole discretion. The appointment of a receiver at the behest of any Lender shall be subject to the following terms and conditions:

21.7.1.1 IFA's prior approval shall not be required for the appointment of the receiver or the selection of the person or entity to serve as receiver;

21.7.1.2 Whenever any Lender commences any proceeding for the appointment of a receiver, it shall serve on IFA not less than five (5) days' prior Notice of the hearing for appointment and of the Lender's pleadings and briefs in the proceeding;

21.7.1.3 IFA may appear in any such proceeding to challenge the selection of the person or entity to serve as receiver, but waives any other right to oppose the appointment of the receiver; and

21.7.1.4 IFA may at any time seek an order for replacement of the receiver by a different receiver.

21.7.2 No receiver appointed at the behest of Developer or any Lender shall have any power or authority to replace any Design-Build Contractor or any O&M Contractor except by reason of default or unless the replacement is a Substituted Entity approved by IFA.

21.8 Other Lender Rights

21.8.1 In addition to all other rights herein granted, the Lender shall have the right to be subrogated to any and all rights of Developer under this Agreement with respect to curing any Developer Default. IFA shall permit the Collateral Agent and its Substituted Entity the same access to the East End Crossing and Project Right of Way as is permitted to Developer hereunder. IFA hereby consents to Developer constituting and appointing any Collateral Agent as Developer's authorized agent and attorney-in-fact with full power, in Developer's name, place and stead, and at Developer's sole cost and expense, to enter upon the East End Crossing and Project Right of Way and to perform all acts required to be performed herein, and in any Principal Project Document, but only in the event of a Developer Default or a default under the Lender's Funding Agreement or Security Document. IFA shall accept any such performance by the Collateral Agent as though the same had been done or performed by Developer.

21.8.2 The creating or granting of a Security Document shall not be deemed to constitute an assignment or transfer of this Agreement, the Project Right of Entry or the Developer's Interest, nor shall any Lender, as such, be deemed to be an assignee or transferee of this Agreement, the Project Right of Entry or the Developer's Interest so as to require such Lender, as such, to assume the performance of any of the terms, covenants or conditions on the part of Developer to be performed hereunder or thereunder. No Lender, nor any owner of the Developer's Interest whose ownership shall have been acquired by, through, or under any Security Document or whose ownership shall have been derived immediately from any holder thereof, shall become personally liable under the provisions of this Agreement unless and until such time as the Lender or such owner becomes the owner of the Developer's Interest.

21.8.3 Upon any permitted assignment of this Agreement, the Project Right of Entry and the Developer's Interest by a Lender or any owner of the Developer's Interest whose ownership shall have been acquired by, through, or under any Security Document or whose ownership shall have been derived immediately from any holder thereof, the assignor shall be relieved of any further liability which may accrue hereunder or thereunder from and after the date of such assignment, provided that the assignee is a Substituted Entity and executes and delivers to IFA a recordable instrument of assumption as required under Section 22.5.

21.8.4 A Lender or the Collateral Agent may exercise its rights and remedies under its Security Documents with respect to all, but not less than all, of the Developer's Interest.

21.8.5 The exercise by a Lender of its rights with respect to the Developer's Interest under its Security Documents, this Article 21, the Direct Agreement, or otherwise, whether by judicial proceedings or by virtue of any power contained in the Security Documents, or by any conveyance from Developer to the Lender in lieu of foreclosure thereunder, or any subsequent transfer from the Lender to a Substituted Entity, shall not require the consent of IFA or constitute a breach of any provision of or a default under the PPA Documents. The foregoing does not affect the obligation to obtain approval of persons or entities as Substituted Entities pursuant to Section 21.6 (and the definition of Substituted Entity).

21.8.6 Whenever IFA or Developer obtains knowledge of any condemnation proceedings by a third party affecting the East End Crossing or Project Right of Way, it shall promptly give Notice thereof to each Lender. Each Lender shall have the right to intervene and be made a party to any such condemnation proceedings, and IFA and Developer do hereby consent that each Lender may be made such a party or an intervener.

21.9 Consents and Estoppel Certificates

21.9.1 At any time and from time to time, within fifteen (15) days after written request of any Lender or proposed Lender entitled to the rights, benefits and protections of this Article 21, IFA, without charge, shall consent to:

21.9.1.1 The exercise by any Lender of its rights under and in accordance with this Article 21 in the event of a Developer Default; and

21.9.1.2 A pledge and hypothecation by Developer of the Developer's Interest to any Lender or proposed Lender.

21.9.2 At any time and from time to time, within fifteen (15) days after written request of any Lender or proposed Lender entitled to the rights, benefits and protections of this Article 21, IFA, without charge, shall certify to its best knowledge by written instrument duly executed and acknowledged, to any Lender or proposed Lender as follows:

21.9.2.1 As to whether this Agreement has been supplemented or amended, and if so, the substance and manner of such supplement or amendment, attaching a copy thereof to such certificate;

21.9.2.2 As to the validity and force and effect of this Agreement, in accordance with its terms;

21.9.2.3 As to the existence of any Developer Default;

21.9.2.4 As to the existence of events which, by the passage of time or Notice or both, would constitute a Developer Default;

21.9.2.5 As to the then accumulated amount of Noncompliance Points;

21.9.2.6 As to the existence of any claims by IFA regarding this Agreement;

21.9.2.7 As to the Effective Date and the commencement and expiration dates of the Term;

21.9.2.8 As to whether a specified acceptance, approval or consent of IFA called for under this Agreement has been granted;

21.9.2.9 Whether the Lender and its Funding Agreements and Security Documents, or the proposed Lender and its proposed Funding Agreements and Security Documents, meet the conditions and limitations set forth in Sections 13.3 and 21.1; and

21.9.2.10 As to any other matters of fact within IFA's knowledge about the PPA Documents, Developer, the East End Crossing or the Work as may be reasonably requested.

21.9.3 IFA shall deliver the same certified, written instrument to a Substituted Entity or proposed Substituted Entity within fifteen (15) days after receiving its written request, provided that the request is delivered to IFA either before the Substituted Entity or proposed Substituted

Entity succeeds to the Developer's Interest or within sixty (60) days after the Substituted Entity has succeeded to the Developer's Interest.

21.9.4 Any such certificate may be relied upon by, and only by, the Lender, proposed Lender, Substituted Entity or proposed Substituted Entity to whom the same may be delivered, and the contents of such certificate shall be binding on IFA.

21.10 No Surrender

No mutual agreement to cancel or surrender this Agreement shall be effective unless consented to in writing by the Collateral Agent, which consent Developer shall be solely responsible to obtain, or unless the Senior Debt Termination Amount is paid in full in connection with such cancellation or surrender.

21.11 Lenders as Third-Party Beneficiaries of the Provisions of Article 21

The Lenders are expressly recognized as being intended, direct third-party beneficiaries under the provisions of this Article 21 and may enforce any rights, remedies or claims conferred, given or granted thereunder.

ARTICLE 22. ASSIGNMENT AND TRANSFER

22.1 Restrictions on Assignment and Other Transfers of Developer's Interest

22.1.1 Developer shall not voluntarily or involuntarily sell, assign, convey, transfer, pledge, mortgage or otherwise encumber the Developer's Interest or any portion thereof without IFA's prior written approval in accordance with Section 22.3, except:

22.1.1.1 To Lenders for security as permitted by this Agreement, provided Developer retains responsibility for the performance of Developer's obligations under the PPA Documents;

22.1.1.2 To any Lender affiliate that is a Substituted Entity or to any other Substituted Entity approved by IFA; provided that such Substituted Entity assumes in writing full responsibility for performance of the obligations of Developer under this Agreement, the other PPA Documents, and the Principal Project Documents arising from and after the date of assignment; or

22.1.1.3 To any entity in which the organizations signing this Agreement for Developer, or the shareholder(s), general partner(s) or member(s) that exercise management control over such organizations, hold and exercise effective management control and hold at least 50 percent of the equity interest.

22.1.2 Developer shall not grant any special right of entry onto, use of, or right to manage and control the East End Crossing to any other Person that is not in the ordinary course of Developer performing the Work, without IFA's prior written approval in accordance with Section 22.3.

22.1.3 Any purported voluntary or involuntary sale, assignment, conveyance, transfer, pledge, mortgage, encumbrance, grant of right of entry, or grant of other special use, management or control of the East End Crossing in violation of this Section 22.1 shall be null

and void *ab initio* and IFA, at its option, may declare any such attempted action to be a material Developer Default.

22.2 Restrictions on Equity Transfers and Change of Control

22.2.1 Except as provided in Section 22.2.3, no voluntary or involuntary Equity Transfers by or among Equity Members are allowed from the Effective Date to the second anniversary of the Substantial Completion Date, unless Developer obtains IFA's approval as provided in Section 22.3.

22.2.2 Except as provided in Section 22.2.3, from and after the second anniversary of the Substantial Completion Date, any voluntary or involuntary Change of Control of Developer, including any Equity Transfer that would result in a Change of Control, shall be subject to IFA's prior written approval in accordance with Section 22.3.

22.2.3 Transfers and transactions within any of the exceptions described in clauses (a) through (g) of the definition of Change of Control are allowed at any time without necessity for IFA's approval but, in the case of exceptions described in clauses (a) through (e), subject to the condition that Developer deliver to IFA, within ten (10) days prior to the effectiveness of the transfer or transaction, Notice describing the transfer or transaction and (if applicable) the names of the transferor and transferee, together with documentation demonstrating that the transfer or transaction is within such an exception.

22.2.4 Any purported voluntary or involuntary Equity Transfer or Change of Control in violation of this Section 22.2 shall be null and void *ab initio*, and IFA, at its option, may declare it to be a material Developer Default.

22.3 Standards and Procedures for IFA Approval

22.3.1 Where IFA's prior approval is required for a proposed sale, assignment, conveyance, transfer, pledge, mortgage, encumbrance, grant of right of entry, or grant of other special use, management or control, or for any proposed Equity Transfer or Change of Control (each a "transaction"), and such transaction is proposed at any time during the period ending two (2) years after the Substantial Completion Date, IFA may withhold or condition its approval in its sole discretion. Any such decision of IFA to withhold consent shall be final, binding and not subject to the Dispute Resolution Procedures.

22.3.2 Thereafter, IFA shall not unreasonably withhold its approval of such a transaction. Among other reasonable factors and considerations, it shall be reasonable for IFA to withhold its approval if:

22.3.2.1 Developer fails to demonstrate to IFA's reasonable satisfaction that the proposed assignee, grantee or transferee, or the proposed transferee of rights and/or equity interests that would amount to a Change of Control (collectively the "transferee"), and its proposed contractors (a) have the financial resources, qualifications and experience to timely perform Developer's obligations under the PPA Documents and Principal Project Documents and (b) are in compliance with IFA's rules, regulations and adopted written policies regarding organizational conflicts of interest;

22.3.2.2 Less than all of Developer's Interest is proposed to be assigned, conveyed, transferred, pledged, mortgaged, encumbered or granted; or

22.3.2.3 At the time of the proposed transaction, there exists any uncured Developer Default or any event or circumstance that with the lapse of time, the giving of Notice or both would constitute a Developer Default, unless IFA receives from the proposed transferee assurances of cure and performance acceptable to IFA in its good faith discretion.

22.3.3 For transactions subject to IFA's prior reasonable approval, IFA will approve or disapprove within thirty (30) days after it receives from Developer:

22.3.3.1 A request for approval;

22.3.3.2 A reasonably detailed description of the proposed transaction;

22.3.3.3 Such information, evidence and supporting documentation as IFA may request concerning the identity, financial resources, qualifications, experience and potential conflicts of interest of the proposed transferee and its proposed contractors; and

22.3.3.4 Such evidence of organization and authority, and such incumbency certificates, certificates regarding debarment or suspension, and other certificates, representations and warranties as IFA may reasonably request.

22.3.4 For transactions subject to IFA's prior reasonable approval, IFA will evaluate the identity, financial resources, qualifications, experience and potential conflicts of interest using the same standards and criteria that it is then currently applying, or if there is no current application, then the same standards and criteria it most recently applied, to the evaluation of Persons responding to IFA requests for qualifications for concession or similar agreements for comparable projects and facilities.

22.3.5 If for any reason IFA does not act within such thirty- (30)-day period, or any extension thereof by mutual agreement of the Parties, then the proposed assignment shall not be permitted, subject to Developer's right, in the case of a proposed assignment governed by Section 22.3.2, to submit a Dispute for resolution according to the Dispute Resolution Procedures.

22.3.6 Notwithstanding the foregoing, prior to the period ending two (2) years after the Substantial Completion Date, initial Equity Members whose role is restricted solely to financial matters and who have no role in the performance of the Work (other than performance of the administrative or management services to Developer not involving direct technical supervision over the Work) may assign, sell or transfer their interest (whether direct or indirect) in Developer. Any such assignment, sale, transfer or Equity Transfer prior to the period ending two (2) years after the Substantial Completion Date shall be subject to IFA's prior reasonable approval unless such assignment, sale, transfer or Equity Transfer constitutes a Change in Control (in which case it shall be subject to IFA's approval in its good faith discretion); provided, any assignment, sale, transfer or Equity Transfer to an infrastructure fund that is affiliated with or under common ownership, management or control with an Equity Member shall not be subject to IFA's prior written approval, subject to the condition that Developer deliver to IFA, within ten (10) days prior to the effectiveness of the transfer or transaction, Notice describing the transfer or transaction and the names of the transferor and transferee, together with documentation demonstrating that the transfer or transaction is to such an infrastructure fund. In determining whether to give its consent, IFA will evaluate the financial qualifications and potential conflicts of interest of the transferee using the same standards and criteria that it

applied to the evaluation of Developer in its response to IFA's requests for qualifications to develop, design, construct, finance, operate and maintain the Project. Any such assignment, sale, transfer or Equity Transfer after the period ending two (2) years after the Substantial Completion Date shall not be subject to IFA's prior written approval unless such assignment, sale, transfer or Equity Transfer constitutes a Change in Control (in which case it shall be subject to IFA's approval in accordance with Sections 22.3.2 through 22.3.5).

22.4 Assignment by IFA

22.4.1 IFA may assign all or any portion of its rights, title and interests in and to the East End Crossing, Project Right of Way, Toll Revenues, appropriations, PPA Documents, Payment Bonds and Performance Security, guarantees, letters of credit and other security for payment or performance, (a) without Developer's consent, to any other Governmental Entity of the State that (i) succeeds to the governmental powers and authority of IFA, including the power and authority to request an appropriation from the General Assembly of the State, (ii) has (A) the sources of funding for the Milestone Payments and Availability Payments that are at least as adequate and secure as IFA's at the time of the assignment and (B) an unsecured long-term debt credit rating equal to or better than the unsecured long-term debt credit rating of IFA at the time of the assignment, as measured by two Rating Agencies, and (iii) in case of an assignment of all of IFA's interests in the PPA Documents, assumes all of the rights and obligations of IFA under the Milestone Payment Agreement, the Use Agreement and the Project Trust Agreement, and (b) to others with the prior written consent of Developer.

22.4.2 IFA also may assign, without Developer's consent, all or any portion of its rights, title and interests in and to funds in the General Reserve Fund, and IFA's rights to enforce the transfer and deposit of funds into the General Reserve Fund in accordance with the Project Trust Agreement, to any trustee, credit enhancer or swap counterparty with respect to bonds or other indebtedness issued by IFA or a related entity or instrumentality as security for repayment of the bonds or other indebtedness.

22.4.3 IFA may assign to KYTC all or any portion of its rights to assert claims for breach of express or implied warranty or suitability for fitness or any Developer Default relating to the design, construction, installation or acquisition of the Drumanard Tunnel or any equipment or machinery therein.

22.5 Notice and Assumption

22.5.1 Assignments and transfers of the Developer's Interest permitted under this Article 22 (other than pursuant to Section 22.1.1.1) or otherwise approved in writing by IFA shall be effective only upon IFA's receipt of Notice of the assignment or transfer and a written instrument executed by the transferee, in form and substance acceptable to IFA, in which the transferee, without condition or reservation, assumes all of Developer's obligations, duties and liabilities under this Agreement, the other PPA Documents and the Principal Project Documents then in effect and agrees to perform and observe all provisions thereof applicable to Developer.

22.5.2 Each transferee of Developer's Interest, including any Person who acquires the Developer's Interest pursuant to foreclosure, transfer in lieu of foreclosure or similar proceeding, shall take the Developer's Interest subject to, and shall be bound by, the Project Management Plan, including the Design QA/QC Plan and Construction QA/QC Plan, the Key Contracts, the Utility Agreements, the Governmental Approvals, all agreements between the transferor and

third parties, and all agreements between the transferor and Governmental Entities with jurisdiction over the East End Crossing or the Work, except to the extent otherwise approved by IFA in writing in its good faith discretion.

22.5.3 Except with respect to assignments and transfers pursuant to foreclosure, transfer in lieu of foreclosure or similar proceeding, the transferor and transferee shall give IFA Notice of the assignment not less than thirty (30) days prior to the effective date thereof.

22.6 Change of Organization or Name

22.6.1 Developer shall not change the legal form of its organization in a manner that adversely affects IFA's rights, protections and remedies under the PPA Documents without the prior written approval of IFA, which consent may be granted or withheld in IFA's sole discretion.

22.6.2 If either Party changes its name, such Party agrees to promptly furnish the other Party with Notice of change of name and appropriate supporting documentation.

ARTICLE 23. RECORDS AND AUDITS; INTELLECTUAL PROPERTY

23.1 Maintenance and Inspection of Records

23.1.1 Developer shall keep and maintain in Indianapolis, Indiana, or in another location IFA approves in writing in its sole discretion, all Books and Records relating to the East End Crossing, Project Right of Way, Utility Adjustments and Work, including copies of all original documents delivered to IFA. Developer shall keep and maintain such Books and Records in accordance with applicable provisions of the PPA Documents, including the Technical Provisions, applicable provisions of the Project Management Plan, and in accordance with Good Industry Practice. Developer shall notify IFA where such records and documents are kept.

23.1.2 Without limiting the foregoing, Developer shall maintain accurate and complete all such Books and Records, as set forth in the Technical Provisions.

23.1.3 Developer shall make all its Books and Records available for inspection by IFA and its Authorized Representatives, designees and legal counsel. Developer shall make the same available at Developer's principal offices in Indiana, or pursuant to each Intellectual Property Escrow, at all times during normal business hours, or at other reasonable times, in each case, without charge, through the term of the PPA Documents until the time set forth in Section 23.1.6. Developer shall furnish copies at no cost to IFA, if requested. Developer shall provide to IFA, or make available to IFA for review pursuant to each Intellectual Property Escrow, copies thereof as and when reasonably requested by IFA, without charge. IFA may conduct any such inspection upon forty-eight (48) hours' prior Notice, or unannounced and without prior Notice where there is good faith suspicion of fraud. The right of inspection includes the right to make extracts and take notes. To avoid confusion, this paragraph shall remain in full force and effect regardless of whether either Party or both of the Parties have invoked the Dispute Resolution Procedures herein.

23.1.4 Developer shall retain all Books and Records for a minimum of three (3) years after the date of final payment under the PPA Documents; provided that if the PPA Documents specify any different time period for retention of particular records, such time period shall control, and if applicable Law specifies any longer period, such time period shall control. Any provision of the PPA Documents establishing a stated period for records retention means the

period of time, as stated, after the date the record or document is generated, unless specifically provided otherwise. Notwithstanding the foregoing, all records which relate to Claims and Disputes being processed or actions brought under the Dispute Resolution Procedures shall be retained and made available until any later date that such Claims, Disputes and actions are finally resolved.

23.1.5 Developer shall permit IFA, upon ten (10) days prior Notice to Developer (which Notice shall identify the persons IFA requests to be present for an interview and describe with reasonable specificity the subject matter to be raised in the interview), to discuss the obligations of Developer under this Agreement with any of the directors, chief executive officer and chief financial officer of Developer or its Representatives, for the purpose of enabling IFA to determine whether Developer is in compliance with this Agreement and applicable Law. To avoid confusion, this paragraph shall remain in full force and effect regardless of whether either Party or both of the Parties have invoked the Dispute Resolution Procedures herein.

23.1.6 Refer to Attachment 1 to Exhibit 23 (Federal Requirements) regarding applicable federal requirements in respect of maintenance and inspection of Books and Records, with which Developer shall comply.

23.1.7 The provisions of Section 3.5.3 apply to those Books and Records that Developer deems confidential or proprietary.

23.2 Audits

23.2.1 IFA shall have such rights to review and audit Developer, its Contractors and their respective Books and Records as and when IFA deems necessary for purposes of verifying compliance with the PPA Documents and applicable Law and verifying Claims. Without limiting the foregoing:

23.2.1.1 IFA shall have the right to audit Developer's Project Management Plan and compliance therewith, including the right to inspect Work and/or activities and to verify the accuracy and adequacy of the Project Management Plan and its component parts, plans and other documentation;

23.2.1.2 The audits may be performed by employees of IFA or by an auditor under contract with IFA;

23.2.1.3 Developer, Contractors or their agents shall provide adequate facilities, acceptable to IFA, for the audits;

23.2.1.4 Developer shall allow auditor(s) access to such Books and Records during normal business hours, allow interviews of any employee who might have information related to such Books and Records, and otherwise cooperate with the auditors; and

23.2.1.5 Developer shall cause each Contract to include a similar right of the State to audit records and interview staff of the Contractor, and a similar covenant to cooperate with the auditors.

Refer to Section 1.5.2.5 of the Technical Provisions regarding audits of performance of the activities set forth in the Project Management Plan, including the Public Involvement Plan.

23.2.2 IFA may conduct any such audit of Books and Records as follows:

23.2.2.1 In the case of an audit of a Claim, at any time following the filing of the Claim, without Notice for an audit commenced any time before 60 days after the expiration of the Term, and with five (5) days' prior Notice to Developer, any Contractors or their respective agents for an audit commenced thereafter; and

23.2.2.2 In the case of any other audit, upon forty-eight (48) hours' prior Notice, or unannounced and without prior Notice where there is good faith suspicion of fraud.

23.2.3 Failure of Developer, Contractors or their agents to maintain and retain sufficient Books and Records to allow the auditors to verify all or a portion of a Claim or to permit the auditor access to its Books and Records to verify a Claim shall constitute a waiver of the Claim and shall bar any recovery thereunder. At a minimum, the auditors shall have available to them the following documents relating to the Claim:

23.2.3.1 Daily time sheets and supervisor's daily reports;

23.2.3.2 Union agreements;

23.2.3.3 Insurance, welfare, and benefits records;

23.2.3.4 Payroll registers;

23.2.3.5 Earnings records;

23.2.3.6 Payroll tax forms;

23.2.3.7 Material invoices and requisitions;

23.2.3.8 Material cost distribution work sheet;

23.2.3.9 Equipment records (list of company equipment, rates, etc.);

23.2.3.10 Contractors' (including Suppliers') invoices;

23.2.3.11 Contractors' and agents' payment certificates;

23.2.3.12 Canceled checks (payroll and Suppliers);

23.2.3.13 Job cost report;

23.2.3.14 Job payroll ledger;

23.2.3.15 General ledger;

23.2.3.16 Cash disbursements journal;

23.2.3.17 All documents that relate to each and every Claim together with all documents that support the amount of damages as to each Claim; and

23.2.3.18 Work sheets used to prepare the Claim establishing (a) the cost components of the Claim, including labor, benefits and insurance, materials, equipment, Contractors, all documents that establish the time periods, individuals involved, the hours for the individuals, and the rates for the individuals, and (b) the lost revenue components of the Claim.

23.2.4 Full compliance by Developer with the provisions of Section 23.2.3 is a contractual condition precedent to Developer's right to seek relief on a Claim under Section 19.6.

23.2.5 Any rights of the federal government and any agency thereof, including FHWA, to review and audit Developer, its Contractors and their respective Books and Records are set forth in Exhibit 23 (Federal Requirements) and applicable Law. Without limiting the foregoing, the U.S. Comptroller General and his/her representatives shall have the authority to:

23.2.5.1 Examine any records of Developer or any of its Contractors, or any State or local government agency administering this Agreement, that directly pertain to and involve transactions relating to this Agreement or any Contract; and

23.2.5.2 Interview any officer or employee of Developer or any of its Contractors, or of any State or local government agency administering this Agreement, regarding such transactions.

23.2.6 IFA's rights of audit include the right to observe the business operations of Developer and its Contractors to confirm the accuracy of Books and Records.

23.2.7 Developer shall include in the Project Management Plan internal procedures to facilitate review and audit by IFA and, if applicable, FHWA.

23.2.8 Developer represents and warrants the completeness and accuracy of all information it or its agents provides in connection with IFA audits, and shall cause all Contractors to warrant the completeness and accuracy of all information such Contractors provide in connection with IFA audits.

23.2.9 Developer's internal and third-party quality and compliance auditing responsibilities shall be set forth in the Project Management Plan, consistent with the audit requirements referred to in Section 3.2.7 and described in Section 2.2 of the Technical Provisions. In addition, Developer shall perform Performance Inspections as set forth in Section 22 of the Technical Provisions.

23.2.10 Nothing in the PPA Documents shall in any way limit the constitutional and statutory powers, duties and rights of elected State officials, including the independent rights of the Indiana Auditor of State, in carrying out his or her legal authority. Developer understands and acknowledges that:

23.2.10.1 The Indiana Auditor of State may conduct an audit or investigation of any entity receiving funds from the State directly under this Agreement or indirectly through a Contract;

23.2.10.2 Acceptance of funds directly under this Agreement or indirectly through a Contract acts as acceptance of the authority of the Indiana Auditor of State, under the direction of the legislative audit committee, to conduct an audit or investigation in connection

with those funds; and

23.2.10.3 An entity that is the subject of an audit or investigation must provide the Indiana Auditor of State with access to any information the Indiana Auditor of State considers relevant to the investigation or audit.

23.3 Public Records Act; Confidential IFA Information

23.3.1 Developer acknowledges and agrees that all Submittals, records, documents, drawings, plans, specifications and other materials in IFA's possession, including materials submitted by Developer to IFA, are subject to the provisions of the Public Records Act. If Developer believes information or materials submitted to IFA constitute trade secrets, proprietary information or other information that is exempt from disclosure under the Public Records Act pursuant to IC 5-14-3-4, Developer shall be solely responsible for specifically and conspicuously designating that information by placing "CONFIDENTIAL" in the center header of each such document or page affected, as it determines to be appropriate. Any specific proprietary information, trade secrets or confidential commercial and financial information shall be clearly identified as such, and shall be accompanied by a concise statement of reasons supporting the claim including the specific Law that authorizes the confidentiality and the specific Law that exempts the material from disclosure under the Public Records Act. Nothing contained in this Section 23.3 shall modify or amend requirements and obligations imposed on IFA by the Public Records Act or other applicable Law, and the provisions of the Public Records Act or other Laws shall control in the event of a conflict between the procedures described above and the applicable Law. Developer is advised to contact legal counsel concerning such Law and its application to Developer.

23.3.2 If IFA receives a request for public disclosure of materials marked "CONFIDENTIAL," IFA will use reasonable efforts to notify Developer of the request and give Developer an opportunity to assert, in writing and at its sole expense, a claimed exception under the Public Records Act or other applicable Law within the time period specified in the Notice issued by IFA and allowed under the Public Records Act. Under no circumstances, however, will IFA be responsible or liable to Developer or any other Person for the disclosure of any such labeled materials, whether the disclosure is required by Law, or court order, or occurs through inadvertence, mistake or negligence on the part of IFA or its officers, employees, contractors or consultants.

23.3.3 In the event of any proceeding or litigation concerning the disclosure of any material submitted by Developer to IFA, IFA's sole involvement will be as a stakeholder retaining the material until otherwise ordered by a court or such other authority having jurisdiction with respect thereto, and Developer shall be fully responsible for otherwise prosecuting or defending any action concerning the materials at its sole cost and risk; provided, however, that IFA reserves the right, in its sole discretion, to intervene or participate in the litigation in such manner as it deems necessary or desirable. Developer shall pay and reimburse IFA within thirty (30) days after receipt of written demand and reasonable supporting documentation for all costs and fees, including attorneys' fees and costs, IFA incurs in connection with any litigation, proceeding or request for disclosure.

23.4 Intellectual Property

23.4.1 Subject to Section 23.5, Developer shall deliver to IFA copies of all Proprietary Intellectual Property owned by Developer which it uses in providing the Work. Except as provided otherwise in Section 20.7.6.2 or elsewhere in the PPA Documents, all Proprietary Intellectual Property, including with respect to Technology Enhancements, source code and source code documentation, shall remain exclusively the property of Developer or its Affiliates or Contractors that supply the same, notwithstanding any delivery of copies thereof to IFA.

23.4.2 IFA shall have and is hereby granted a perpetual, nonexclusive, transferable, royalty-free, irrevocable, worldwide, fully paid-up right and license to use, reproduce, modify, adapt and disclose, and sublicense others to use, reproduce, modify, adapt and disclose, the Proprietary Intellectual Property of Developer, including with respect to Technology Enhancements, source code and source code documentation, solely in connection with the East End Crossing and any other transportation facility, tolled or not tolled, owned and operated by IFA or a State or regional Governmental Entity; provided that IFA shall have the right to exercise such license only at the following times:

23.4.2.1 From and after the expiration or earlier termination of the Term for any reason whatsoever;

23.4.2.2 During any time that IFA is exercising its step-in rights pursuant to Section 19.2.2 or 19.2.4, in which case IFA may exercise such license only in connection with the East End Crossing;

23.4.2.3 During any time that a receiver is appointed for Developer, or during any time that there is pending a voluntarily or involuntary proceeding in bankruptcy in which Developer is the debtor; and

23.4.2.4 During any time that Developer has been replaced.

23.4.3 IFA shall have no right to sell any Proprietary Intellectual Property of Developer or use, reproduce, modify, adapt and disclose, or allow any party to use, reproduce, modify, adapt and disclose, any such Proprietary Intellectual Property for any purpose other than as set forth in Section 23.4.2.

23.4.4 The right to transfer the license is limited to any Governmental Entity that succeeds to IFA's interests in all or any portion of the East End Crossing, or to the power and authority of IFA generally or with respect to all or any portion of the East End Crossing. The license is divisible in the event of a transfer of or with respect to a portion of the East End Crossing.

23.4.5 The right to sublicense is limited to State or regional Governmental Entities that own or operate a transportation facility, tolled or not tolled, and to the concessionaires, contractors, subcontractors, employees, attorneys, consultants and agents that are retained by or on behalf of IFA or any such State or regional Governmental Entity in connection with the East End Crossing or another transportation facility, tolled or un-tolled. All such sublicenses shall be subject to Section 23.4.6.

23.4.6 Subject to Section 23.3, IFA shall:

23.4.6.1 Not disclose any Proprietary Intellectual Property of Developer to any Person other than authorized transferees and sublicensees who agree to be bound by any confidentiality obligations of IFA relating thereto;

23.4.6.2 Enter into a commercially reasonable confidentiality agreement if requested by Developer with respect to the licensed Proprietary Intellectual Property; and

23.4.6.3 Include, or where applicable require such State or regional Governmental Entity to include, in the contract with the sublicensee its covenant to employ sound business practices no less diligent than those used for its own confidential information, and no less diligent than required by commercially reasonable standards of confidentiality, to protect all Proprietary Intellectual Property of Developer and other materials provided under the sublicense against disclosure to third parties not in receipt of a sublicense, and to use the sublicense only for the permitted purposes.

23.4.7 Notwithstanding any contrary provision of this Agreement, in no event shall IFA or any of its directors, officers, employees, consultants or agents be liable to Developer, any Affiliate or any Contractor for any damages, including loss of profit, arising out of breach of the duty of confidentiality set forth in Section 23.4.6 unless such breach is the result of gross negligence or intentional misconduct. Developer hereby irrevocably waives all claims to any such damages. The foregoing provisions do not limit Developer's equitable remedies set forth in Section 19.4.4.4.

23.4.8 Developer shall continue to have a full and complete right to use any and all duplicates or other originals of its Proprietary Intellectual Property in any manner it chooses.

23.4.9 The following provisions shall apply with respect to any Proprietary Intellectual Property, including with respect to Technology Enhancements, source code and source code documentation, owned by a Person other than Developer, including any Affiliate, except for mass-marketed software products (sometimes referred to as "shrink wrap software") owned by such a Person where such a license cannot be extended to IFA using commercially reasonable efforts.

23.4.9.1 Developer shall obtain from such owner, concurrently with execution of any contract, subcontract or purchase order with such owner or with the first use or adaptation of the Proprietary Intellectual Property in connection with the East End Crossing, both for Developer and IFA, perpetual, nonexclusive, transferable, royalty-free, irrevocable, worldwide, fully paid-up licenses to use, reproduce, modify, adapt and disclose such Proprietary Intellectual Property solely in connection with the East End Crossing and any transportation facility, tolled or not tolled, owned and operated by IFA or a State or regional Governmental Entity.

23.4.9.2 Each such license shall be of at least identical scope, purpose, duration and applicability as the license granted under Section 23.4.2.

23.4.9.3 The limitations on sale, transfer, sublicensing and disclosure by IFA set forth in Sections 23.4.3 through 23.4.6 shall also apply to IFA's licenses in such Proprietary Intellectual Property.

23.4.9.4 Developer shall also either cause to be delivered to IFA copies

of such Proprietary Intellectual Property or obtain from such owner consent to have the relevant Proprietary Intellectual Property deposited into an Intellectual Property Escrow pursuant to the provisions of Section 23.5.

23.5 Intellectual Property Escrows

23.5.1 IFA and Developer acknowledge that Developer and/or Contractors that supply software, source code and source code documentation, including related modifications, updates, revisions, replacements and upgrades (collectively "such Proprietary Intellectual Property"), may not wish to deliver this Proprietary Intellectual Property directly to IFA, as public disclosure could deprive Developer and/or Contractors of commercial value. Developer further acknowledges that IFA nevertheless must be given access to such Proprietary Intellectual Property at any time, and that such Proprietary Intellectual Property is released and delivered to IFA in either of the following circumstances:

23.5.1.1 In the case of such Proprietary Intellectual Property owned by Developer or any Affiliate, (a) this Agreement is terminated for Developer Default, (b) a business failure (including voluntary or involuntary bankruptcy, and insolvency) of Developer occurs, (c) Developer is dissolved or liquidated or (d) Developer fails or ceases to provide services as necessary to permit continued use of such Proprietary Intellectual Property pursuant to the license or any sublicense thereof.

23.5.1.2 In the case of such Proprietary Intellectual Property owned by a Contractor (other than a Contractor that is an Affiliate), this Agreement is terminated for any reason (excluding terminations under Sections 20.4.1 or 20.4.2 relating to certain IFA Defaults) and either (a) a business failure (including voluntary or involuntary bankruptcy, and insolvency) of the Contractor occurs or (b) the Contractor is dissolved or liquidated or otherwise ceases to engage in the ordinary course of the business of manufacturing, supplying, maintaining and servicing the software, product, part or other item containing such Proprietary Intellectual Property that is the subject of a license under Section 23.4.

23.5.2 In lieu of delivering such Proprietary Intellectual Property directly to IFA, Developer may elect to deposit it with a neutral custodian. In such event, Developer shall (a) select, subject to IFA's prior approval, one or more escrow companies or other neutral custodian (each an "Escrow Agent") engaged in the business of receiving and maintaining escrows of source code and source code documentation, and (b) establish one or more escrows (each an "Intellectual Property Escrow") with the Escrow Agent on terms and conditions reasonably acceptable to IFA and Developer for the deposit, retention, upkeep and release of such Proprietary Intellectual Property. The location of such escrows is limited to Indianapolis, Indiana or another location IFA approves in writing in its sole discretion. Intellectual Property Escrows also may include Affiliates and Contractors as parties and may include deposit of such Proprietary Intellectual Property owned by Affiliates and Contractors. IFA shall not be responsible for the fees and costs of the Escrow Agent. For purposes of clarity, the Intellectual Property Escrow may be the escrow established pursuant to the RFP, subject to the terms and conditions of the escrow agreement entered into substantially in the form of "Form L" to Volume I ("Instructions to Proposers") of the RFP. IFA may direct establishment of an Intellectual Property Escrow separate from the escrow established pursuant to the Instructions to Proposers, and if such escrow no longer exists, then, if Developer elects not to deliver such proprietary Intellectual Property to IFA under this Section 23.5.2, then Developer shall deliver the same to an Intellectual Property Escrow established pursuant to this Section.

23.5.3 If Developer elects to deliver such Proprietary Intellectual Property to an Intellectual Property Escrow, Developer shall make such delivery to the Escrow Agent not later than the following times:

23.5.3.1 For pre-existing software, source code and source code documentation, immediately upon execution of this Agreement or, if provided by a Contractor, execution of the relevant Contract;

23.5.3.2 For software, source code and source code documentation incorporated into or used on or for the East End Crossing or any portion thereof, by the first to occur of (a) fifteen (15) days after it is first incorporated or used, or (b) the Substantial Completion Date; and

23.5.3.3 For any Technology Enhancement, update, upgrade or correction of software, source code and source code documentation incorporated into or used on or for the East End Crossing or any portion thereof, not later than fifteen (15) days after the end of the calendar quarter in which it is first incorporated or used.

23.5.4 IFA shall be a named, intended third-party beneficiary of each escrow agreement and each Intellectual Property Escrow with direct rights of enforcement against Developer and the Escrow Agent. Each escrow agreement shall provide that neither Developer nor the Escrow Agent shall have any right to amend or supplement it, or waive any provision thereof, without IFA's prior written approval in its sole discretion.

23.5.5 Intellectual Property Escrows shall provide rights of access and inspection to IFA and its designees at any time, subject to terms and conditions reasonably necessary to protect the confidentiality and proprietary nature of the contents of such Intellectual Property Escrows.

23.5.6 The Intellectual Property Escrows shall survive Substantial Completion, Final Acceptance, and expiration or earlier termination of this Agreement regardless of the reason, until such time as both Parties mutually agree, in their respective sole discretion, that the Intellectual Property contained therein is of no further use or benefit to the East End Crossing.

23.6 Escrow of Financial Model and Financial Modeling Data

23.6.1 IFA and Developer shall, within ten (10) Business Days after the Effective Date, diligently examine and inventory all the Financial Modeling Data to verify that the Financial Modeling Data is authentic, legible and in accordance with the terms of this Section 23.6. The examination (whether done before or after the Effective Date) does not include review, nor does it constitute approval, of proposed construction methods, estimating assumptions, or interpretation of or compliance with the PPA Documents. The examination does not alter any conditions or terms of the PPA Documents.

23.6.2 Promptly after the Parties complete the examination, IFA and Developer shall seal and jointly deposit the Financial Model and Financial Modeling Data in an escrow at a commercial business mutually acceptable to the Parties located in Indianapolis, Indiana (the "Financial Escrow"). For purposes of clarity, the Financial Escrow may be the escrow established pursuant to the RFP, subject to the terms and conditions of the escrow agreement entered into substantially in the form of "Form L" to Volume I ("Instructions to Proposers") of the RFP. IFA may direct establishment of a Financial Escrow separate from the escrow

established pursuant to the Instructions to Proposers. If such escrow no longer exists as of the date the Parties seek to deposit the Financial Model and Financial Modeling Data into an escrow, then Developer shall deliver the same to a Financial Escrow established pursuant to this Section.

23.6.3 The Parties shall follow comparable procedures for examining, verifying and depositing into the Financial Escrow Financial Model Updates and all Financial Modeling Data developed after the Effective Date. The Parties shall complete the examination and make the deposit within ten (10) days after the Financial Model Update or such Financial Modeling Data are developed.

23.6.4 If IFA elects, in its sole discretion, not to be a signatory party to the escrow agreement establishing the Financial Escrow, then IFA shall be a named, intended third-party beneficiary of the escrow agreement and the Financial Escrow with direct rights of enforcement against Developer and the escrow agent. The escrow agreement shall provide that neither Developer nor the escrow agent shall have any right to amend or supplement it, or waive any provision thereof, without IFA's prior written approval in its sole discretion. Provisions in the escrow agreement for access to the escrowed materials shall be consistent with this Section 23.6.

23.6.5 Developer shall submit the Financial Model, Financial Model Updates and Financial Modeling Data into the Financial Escrow as a paper copy and on electronic storage media in a sealed container, clearly marked with Developer's name, date of submittal, East End Crossing contract number and the words, "Financial Model and Financial Modeling Data for Escrow." Developer certifies that the material initially submitted to the Financial Escrow constitutes the Financial Model and all the Financial Modeling Data included in or used in preparation of the Proposal and close of the Initial Project Debt, that Developer has personally examined the contents of the container, and that they are complete.

23.6.6 Whenever Developer makes an additional deposit of the Financial Model, a Financial Model Update or Financial Modeling Data to the Financial Escrow, Developer shall certify to IFA in writing at the time of deposit that (a) the material deposited into the Financial Escrow constitutes the true Financial Model or Financial Model Update, and constitutes all the Financial Modeling Data used in preparation of the Financial Model or Financial Model Update, Claim, Change Proposal or other matter, as the case may be, (b) Developer has personally examined the contents of the container, and (c) they are complete.

23.6.7 The deposit and examination of Contractors' documentation that forms part of the Financial Modeling Data shall be accomplished in the same manner as for Developer's documentation.

23.6.8 Each of IFA and Developer shall have the right to examine, through one or more designated representatives, any and all components of the escrowed material in the Financial Escrow at any time during the escrow agent's normal business hours. The Party scheduling an examination need not have or state a specific reason to examine. Without limiting the foregoing, the Parties recognize that examination of the escrowed material may assist in the negotiation or determination of MAP adjustments, compensation, damages, extension of Project Schedule Deadlines, Request for Change Proposals, IFA Changes, Change Requests and Refinancing Gain calculations, or may assist in the potential resolution or settlement of Claims or Disputes.

23.6.9 Except as provided below, examinations shall be performed jointly within five (5) days of receipt of a written request to do so by either Party. If either Party fails or refuses to participate in a joint examination at the scheduled time, the Party requesting the examination may proceed with the examination on condition that it is accompanied at all times by an employee of the escrow agent and signs a written certification before departing certifying that the examining Party did not alter the escrowed material, and did not add any materials to or remove any materials from the Financial Escrow.

23.6.10 If Developer fails or refuses to participate in a joint examination at a scheduled time, such failure or refusal shall be deemed to be a failure by Developer to exhaust administrative claim remedies with respect to the particular Claim or Dispute and a bar to its continuing existing legal proceedings or bringing future legal proceedings upon the Claim or Dispute.

23.6.11 The escrowed material in the Financial Escrow is, and shall remain, the property of Developer or its Contractors.

23.6.12 Either Party may introduce the escrowed material in the Financial Escrow into evidence before the Arbitrator and in court proceedings. The Parties shall promptly abide by any request from the Arbitrator to receive, review and utilize escrowed material to assist the Arbitrator in its deliberations.

23.6.13 The Financial Escrow shall remain in effect throughout the Term and thereafter until final resolution of all Disputes, subject to any mutual agreement of the Parties to discard materials therein from time to time.

23.6.14 IFA shall not be responsible for the fees and costs of the escrow agent for the Financial Escrow.

ARTICLE 24. FEDERAL REQUIREMENTS; COMPLIANCE WITH OTHER LAWS

24.1 Compliance with Federal Requirements

Subject to Section 24.2, Developer shall comply and require its Contractors to comply with all federal requirements applicable to transportation projects that receive federal credit or funds, including those set forth in Exhibit 23 (Federal Requirements).

24.2 TIFIA Compliance

If Developer uses TIFIA credit or loans to finance the East End Crossing or any portion thereof, Developer shall provide any compliance certifications and milestone payment schedules required in connection with TIFIA, as specified in the TIFIA Funding Agreements and TIFIA Security Documents.

24.3 Federal Status of East End Crossing

24.3.1 Developer acknowledges that the FHWA has designated the East End Crossing as a "Major Project" under 23 USC § 106, which requires submission and approval of a project management plan, a finance plan and annual updates thereto, as provided in 23 USC § 106(h), and that the Project Management Plan, Financial Plan and the annual updates thereto required under the PPA Documents are intended to fulfill these requirements.

24.3.2 Developer also acknowledges that the East End Crossing will be part of the National Highway System, as defined in 23 CFR § 470, that as such the East End Crossing must meet federal design and construction requirements for facilities on the National Highway System, and that the Technical Provisions are intended to incorporate such federal design and construction requirements.

24.4 Role of and Cooperation with FHWA

Developer acknowledges that the FHWA may have certain approval and oversight rights respecting the Project Management Plan, Financial Plan and design and construction standards for the entire East End Crossing. Developer shall cooperate with FHWA in the reasonable exercise of FHWA's duties and responsibilities in connection with the East End Crossing.

24.5 Conflicting Provisions

In the event of any conflict between any applicable federal requirements and the other requirements of the PPA Documents, the federal requirements shall prevail, take precedence and be in force over and against any such conflicting provisions.

24.6 Compliance with other Laws

24.6.1 Developer and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with IFA or the State, as set forth in IC 4-2-6 *et seq.*, IC 4-2-7 *et seq.*, the regulations promulgated thereunder, Executive Order 04-08, dated April 27, 2004. If Developer is not familiar with these ethical requirements, Developer should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <<<http://www.in.gov/ethics/>>>. If Developer or its agents violate any applicable ethical standards, the Selected Firm may be subject to penalties under IC 4-2-6, 4-2-7, 35-44-1-3, and under any other applicable Laws.

24.6.2 Developer and its agents shall abide by all requirements of IC 8-15.5-13-7 in respect of the prohibition on political contributions by Developer. Neither Developer nor any individual who has an interest in Developer, may make any contribution to any candidate, or committee, during and up to and including three (3) years following the Term.

24.6.3 Developer shall comply with all applicable federal, state and local Laws, and all provisions required thereby to be included herein are hereby incorporated by reference.

ARTICLE 25. MISCELLANEOUS

25.1 Taxes

Developer shall pay, prior to delinquency, all applicable Taxes, including, pursuant to IC 8-15.5-8-3, all sales and use Taxes, in each case for which Developer is responsible in carrying out the Work and its other obligations hereunder. Developer accepts sole responsibility, and agrees that it shall have no right to a Relief Event or to any other Claim, due to its misinterpretation of Laws respecting Taxes or incorrect assumptions regarding applicability of Taxes. IFA is exempt from state, federal, and local Taxes; IFA will not be responsible for any Taxes levied on Developer or any other Developer-Related Entities as a result of this Agreement.

25.2 Amendments

The PPA Documents may be amended only by a written instrument duly executed by the Parties or their respective successors or assigns, except to the extent expressly provided otherwise in this Agreement (e.g. Sections 5.2.6, 6.1.2, 16.1 and 16.3).

25.3 Waiver

25.3.1 No waiver of any term, covenant or condition of this Agreement or the other PPA Documents shall be valid unless in writing and signed by the obligee Party. No right conferred on either Party under this Agreement or the other PPA Documents shall be deemed waived, and no breach of this Agreement or other PPA Documents excused, unless such waiver is in writing and signed by the Party claimed to have waived such right. The exercise by a Party of any right or remedy provided under this Agreement or the other PPA Documents shall not waive or preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver by any Party of any right or remedy under this Agreement or the other PPA Documents shall be deemed to be a waiver of any other or subsequent right or remedy under this Agreement or the other PPA Documents. The consent by one Party to any act by the other Party requiring such consent shall not be deemed to render unnecessary the obtaining of consent to any subsequent act for which consent is required, regardless of whether similar to the act for which consent is given.

25.3.2 Except as provided otherwise in the PPA Documents, no act, delay or omission done, suffered or permitted by one Party or its agents shall be deemed to waive, exhaust or impair any right, remedy or power of such Party hereunder, or to relieve the other Party from the full performance of its obligations under this Agreement or the other PPA Documents.

25.3.3 Either Party's waiver of any breach or failure to enforce any of the terms, covenants, conditions or other provisions of the PPA Documents at any time shall not in any way limit or waive that Party's right thereafter to enforce or compel strict compliance with every term, covenant, condition or other provision, any course of dealing or custom of the trade notwithstanding. Furthermore, if the Parties make and implement any interpretation of the PPA Documents without documenting such interpretation by an instrument in writing signed by both Parties, such interpretation and implementation thereof will not be binding in the event of any future Disputes.

25.3.4 Neither IFA's review, approval or acceptance of, nor payment for, the services required under this Agreement or the other PPA Documents shall be construed to operate as a waiver of any rights under this Agreement or any of the other PPA Documents or for any cause of action arising out of the performance of this Agreement or the other PPA Documents, and Developer shall be and remain liable to IFA in accordance with applicable Law for all damages to IFA as set forth in the PPA Documents.

25.4 Independent Contractor; No Joint Venture or Partnership

25.4.1 Developer is an independent contractor, and nothing contained in the PPA Documents shall be construed as constituting any relationship with IFA other than that of East End Crossing developer and independent contractor.

25.4.2 Both Parties, in the performance of the PPA Documents, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. Nothing in the PPA Documents is intended or shall be construed to create any partnership, joint venture or similar relationship between IFA and Developer; and in no event shall either Party take a position in any tax return or other writing of any kind that a partnership, joint venture or similar relationship exists. While the term "public-private partnership" may be used on occasion to refer to contractual relationships of the type hereby created, the Parties do not thereby express any intention to form or hold themselves out as a *de jure* or *de facto* partnership, joint venture or similar relationship, to share net profits or net losses, or to give IFA control or joint control over Developer's financial decisions or discretionary actions concerning the East End Crossing and Work.

25.4.3 In no event shall the relationship between IFA and Developer be construed as creating any relationship whatsoever between IFA and Developer's employees or agents. Neither Developer nor any of its employees or agents is or shall be deemed to be an employee or agent of IFA. Except as otherwise specified in the PPA Documents, Developer has sole authority and responsibility to employ, discharge and otherwise control its employees and has complete and sole responsibility as a principal for its agents, for all Contractors and for all other Persons that Developer or any Contractor hires to perform or assist in performing the Work.

25.5 Successors and Assigns

The PPA Documents shall be binding upon and inure to the benefit of IFA and Developer and each of their permitted successors, assigns and legal representatives.

25.6 Designation of Representatives; Cooperation with Representatives

25.6.1 IFA and Developer shall each designate an individual or individuals who shall be authorized to make decisions and bind the Parties on matters relating to the PPA Documents ("Authorized Representative"). Exhibit 24 (Initial Designation of Authorized Representatives) provides the initial Authorized Representative designations. A Party may change such designations by a subsequent writing delivered to the other Party in accordance with Section 25.11.

25.6.2 Developer shall cooperate with IFA and all representatives of IFA designated as described above.

25.7 Survival

Developer's and IFA's representations and warranties, the dispute resolution provisions contained in Section 19.6, the indemnifications, limitations and releases contained in Sections 5.9.10 and 17.5, the express obligations of the Parties following termination (including those set forth in Sections 17.1.9.4, 20.7, 20.8, 20.10, 20.11, 21.11, 23.5.6 and Exhibit 22), and all other provisions which by their inherent character should survive expiration or earlier termination of this Agreement and/or completion of the Work shall survive the expiration or earlier termination of this Agreement and/or the completion of the Work. The jurisdiction of the Arbitrator shall continue to apply after expiration or earlier termination of this Agreement to all Claims and Disputes between the Parties arising out of the PPA Documents that are subject to its jurisdiction as set forth in Section 19.6.

25.8 Limitation on Third-party Beneficiaries; Certain Kentucky-related Matters

25.8.1 It is not intended by any of the provisions of the PPA Documents to create any third-party beneficiary hereunder or to authorize anyone not a Party hereto to maintain a suit for personal injury or property damage pursuant to the terms or provisions hereof, except to the extent that specific provisions (such as the warranty and indemnity provisions, and the provisions for the protection of certain Lenders under Article 21 and any Direct Agreement) identify third parties and state that they are entitled to benefits hereunder. Except as otherwise provided in this Section 25.8.1, the duties, obligations and responsibilities of the Parties to the PPA Documents with respect to third parties shall remain as imposed by Law. The PPA Documents shall not be construed to create a contractual relationship of any kind between IFA and a Contractor or any Person other than Developer.

25.8.2 KYTC will undertake the maintenance of that portion of the East End Crossing that is not within the O&M Limits (the "O&M Excluded Portion") upon and after the Substantial Completion Date, and KYTC may therefore suffer direct damages by any failure of Developer to adequately design and construct the O&M Excluded Portion in accordance with the PPA Documents. Therefore, notwithstanding any other provision of this Section 25.8, Developer agrees that KYTC shall be an expressly-intended third-party beneficiary of this Agreement with respect to Developer's obligations for proper design and construction of the O&M Excluded Portion. The duties owed by Developer to IFA concerning proper, completed design and construction of the O&M Excluded Portion under this Agreement shall also be simultaneously due and owing to KYTC. Such duties so owed to KYTC include the contractual duty of Developer to deliver to IFA a completed O&M Excluded Portion, in accordance with the PPA Documents. Such duties also include, but shall not be limited to:

25.8.2.1 duty to perform all design and engineering work with such sufficient skill and expertise as are found generally in the industry by duly licensed professionals; and

25.8.2.2 duty to perform its work in a capable and workmanlike manner, free of significant defects.

25.8.3 Developer agrees that failure by Developer to perform these duties shall give rise to a direct action under the PPA Documents by KYTC under Indiana law against Developer for any actual, direct losses sustained by KYTC and caused by the failure of Developer to perform its contractual duties. Such losses and damages shall not include punitive damages or special, indirect, or incidental consequential damages subject, however, to the provisions of Section 19.2.12, but specifically would include, to the extent allowed by law, the actual, reasonable costs to repair, replace, redesign and/or reconstruct those portions of the O&M Excluded Portion necessary to restore the Drumanard Tunnel and/or other components of the O&M Excluded Portion to the functional status required initially for Substantial Completion under the PPA Documents. These duties and obligations are owed directly to KYTC and can only be waived or released by KYTC itself.

25.8.4 The statute of limitations for any cause of action under this Section 25.8 shall not begin to run until the Substantial Completion Date, or such other date as may be provided by law, whichever is later.

25.8.5 No portion of this provision confers upon KYTC any obligation to Developer, including an obligation for payment, and Developer shall have no recourse against KYTC for any nonpayment by IFA.

25.8.6 Developer acknowledges sufficient consideration under this Agreement for Developer's obligations and agreements under Sections 25.8.2 to Section 25.8.5.

25.9 No Personal Liability of IFA Employees; No Tort Liability

25.9.1 IFA's Authorized Representatives are acting solely as agents and representatives of IFA when carrying out the provisions of or exercising the power or authority granted to them under this Agreement. They shall not be liable either personally or as employees of IFA for actions in their ordinary course of employment.

25.9.2 The Parties agree to provide to each other's Authorized Representative Notice of any claim which such Party may receive from any third party relating in any way to the matters addressed in this Agreement, and shall otherwise provide Notice in such form and within such period as is required by Law.

25.10 Governing Law

The PPA Documents shall be governed by and construed in accordance with the laws of the State of Indiana. Any suit must be brought in the Marion County, Indiana Circuit/Superior Court located in Marion County, Indiana. Developer hereby specifically consents to this jurisdiction.

25.11 Notices and Communications

25.11.1 Notices under the PPA Documents shall be in writing and: (a) delivered personally; (b) sent by certified mail, return receipt requested; (c) sent by a recognized overnight mail or courier service, with delivery receipt requested, or (d) sent by facsimile or email communication followed by a hard copy and with receipt confirmed by telephone, to the following addresses (or to such other address as may from time to time be specified in writing by such Person):

25.11.2 All Notices to Developer shall be delivered to the following address or as otherwise directed by Developer's Authorized Representative:

WVB East End Partners, LLC
1260 East Summit Street
Crown Point, Indiana 46307
Attention: Sidney Florey
Telephone: (407) 470-6639
Facsimile: (646) 400-5868
E-mail: sidney.florey@vinci.com

In addition, copies of all notices to proceed, Notices regarding Disputes, and suspension, termination and default Notices shall be delivered to the following persons:

WI East End, LLC
c/o The Walsh Group

929 W. Adams Street
Chicago, Illinois 60607
Attention: Gregory Ciambrone
Telephone: (312) 563-5471
Fax: (312) 563-5442
E-mail: gciambrone@walshgroup.com

and:

Vinci Concessions Investments USA Inc.
c/o Vinci Concessions S.A.S.
9 Place de l'Europe
92851 Rueil-Malmaison
France
Attention: Fadi Selwan
Telephone: 33 1 47 16 32 33
Fax: 33 1 47 16 36 36
E-mail: fadi.selwan@vinci.com

and:

Bilfinger East End Holdings Inc.
c/o Bilfinger Project Investments North America Inc.
675 Cochrane Drive
West Tower, Suite 630
Markham, Ontario L3R 0B8
Canada
Attention: Damian Joy
Telephone: (905) 752-3134
Fax: (905) 530-2214
E-mail: damian.joy@pi.bilfinger.ca

25.11.3 All Notices to IFA shall be marked as regarding the East End Crossing and shall be delivered to the following address or as otherwise directed by IFA's Authorized Representative:

Indiana Finance Authority
One North Capitol Avenue, Suite 900
Indianapolis, Indiana 46204
Attention: Public Finance Director
Telephone: 317-233-4332
Facsimile: 317-232-6786
E-mail: ifa@ifa.in.gov

In addition, copies of all Notices to proceed, Notices regarding Disputes, and suspension, termination and default Notices shall be delivered to the following persons:

Indiana Finance Authority
One North Capitol Avenue, Suite 900
Indianapolis, Indiana 46204

Attention: General Counsel
Telephone: 317-233-4332
Facsimile: 317-232-6786
E-mail: ifa@ifa.in.gov

25.11.4 Notices shall be deemed received when actually received in the office of the addressee (or by the addressee if personally delivered) or when delivery is refused, as shown on the receipt of the U. S. Postal Service, private carrier or other Person making the delivery. Notwithstanding the foregoing, Notices sent by facsimile after 4:00 p.m. ET and all other Notices received after 5:00 p.m. shall be deemed received on the first business day following delivery (that is, in order for a fax to be deemed received on the same day, at least the first page of the fax must have been received before 4:00 p.m.). Any technical or other communications pertaining to the Work shall be conducted by Developer's Authorized Representative and technical representatives designated by IFA.

25.12 Integration of PPA Documents

IFA and Developer agree and expressly intend that, subject to Sections 1.2.2, 1.2.3 and 25.13, this Agreement and other PPA Documents constitute a single, non-severable, integrated agreement whose terms are interdependent and non-divisible.

25.13 Severability

25.13.1 If any clause, provision, section, subsection or part of the PPA Documents is ruled invalid (including invalid due to Change in Law) by a court having proper jurisdiction, then the Parties shall: (a) promptly meet and negotiate a substitute for such clause, provision, section or part, which shall, to the greatest extent legally permissible, effect the original intent of the Parties, including an equitable adjustment to the Financial Model Update (or, if there has been no Update, the Financial Model) and Developer's compensation to account for any change in the Work resulting from such invalidated portion; and (b) if necessary or desirable, apply to the court or other decision maker (as applicable) which declared such invalidity for an interpretation of the invalidated portion to guide the negotiations. The invalidity or unenforceability of any such clause, provision, section, subsection or part shall not affect the validity or enforceability of the balance of the PPA Documents, which shall be construed and enforced as if the PPA Documents did not contain such invalid or unenforceable clause, provision, section, subsection or part.

25.13.2 If after the efforts required by Section 25.13.1 there is no interpretation or reformation of the PPA Documents that can reasonably be adopted which will return the Parties to the benefits of their original bargain, then the court order shall be treated as a Termination by Court Ruling pursuant to Section 20.5.

25.14 Construction and Interpretation of Agreement

25.14.1 The language in all parts of the PPA Documents shall in all cases be construed simply, as a whole and in accordance with its fair meaning and not strictly for or against any Party. The Parties hereto acknowledge and agree that the PPA Documents are the product of an extensive and thorough, arm's length exchange of ideas, questions, answers, information and drafts during the Proposal preparation process, that each Party has been given the opportunity to independently review the PPA Documents with legal counsel, and that each

Party has the requisite experience and sophistication to negotiate, understand, interpret and agree to the particular language of the provisions of the PPA Documents. Accordingly, in the event of an ambiguity in or Dispute regarding the interpretation of the PPA Documents, the PPA Documents shall not be interpreted or construed against the Party preparing it, and instead other rules of interpretation and construction shall be utilized. IFA's final answers to the questions posed during the Proposal preparation process for the PPA Documents shall in no event be deemed part of the PPA Documents and shall not be relevant in interpreting the PPA Documents except as they may clarify provisions otherwise considered ambiguous.

25.14.2 The captions of the articles, sections and subsections herein are inserted solely for convenience and under no circumstances are they or any of them to be treated or construed as part of this instrument.

25.14.3 References in this instrument to this "Agreement" mean, refer to and include this instrument as well as any riders, exhibits, addenda and attachments hereto (which are hereby incorporated herein by reference) or other documents expressly incorporated by reference in this instrument, and all amendments hereto and thereto. Any references to any covenant, condition, obligation and/or undertaking "herein," "hereunder" or "pursuant hereto" (or language of like import) mean, refer to and include the covenants, conditions, obligations and undertakings existing pursuant to this instrument and any riders, exhibits, addenda, attachments or other documents affixed to or expressly incorporated by reference in this instrument. All terms defined in this instrument shall be deemed to have the same meanings in all riders, exhibits, addenda, attachments or other documents affixed to or expressly incorporated by reference in this instrument unless the context thereof clearly requires the contrary. Unless expressly provided otherwise, all references to Exhibits, Articles and Sections refer to the Exhibits, Articles and Sections set forth in this Agreement. Unless otherwise stated in this Agreement or the other PPA Documents, words that have well-known technical or construction industry meanings are used in this Agreement or the other PPA Documents in accordance with such recognized meaning. All references to a subsection or clause "above" or "below" refer to the denoted subsection or clause within the Section in which the reference appears. Wherever the word "including," "includes" or "include" is used in the PPA Documents, it is deemed to be followed by the words "without limitation." Wherever reference is made in the PPA Documents to a particular Governmental Entity, it includes any public agency succeeding to the powers and authority of such Governmental Entity.

25.14.4 As used in this Agreement and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and vice versa.

25.14.5 All monetary amounts and obligations set forth in the PPA Documents are expressed and payable in U.S. dollars.

25.15 Usury Savings

The PPA Documents are subject to the express condition that at no time shall either Party be obligated or required to pay interest on any amount due the other Party at a rate which could subject the other Party to either civil or criminal liability as a result of being in excess of the maximum non-usurious interest rate permitted by Indiana Law (the "maximum legal rate"), if any. If, by the terms of the PPA Documents either Party at any time is obligated to pay interest on any amount due in excess of the maximum legal rate, then such interest shall be deemed to

be immediately reduced to the maximum legal rate and all previous payments in excess of the maximum legal rate shall be deemed to have been payments in reduction of the principal amount due and not on account of the interest due. All sums paid or agreed to be paid to a Party for the use, forbearance, or detention of the sums due that Party under the PPA Documents shall, to the extent permitted by applicable Indiana Law, be amortized, prorated, allocated, and spread throughout the full period over which the interest accrues until payment in full so that the rate or amount of interest on account of the amount due does not exceed the maximum legal rate in effect from time to time during such period. If after the foregoing adjustments a Party still holds interest payments in excess of the maximum legal rate, it shall promptly refund the excess to the other Party.

25.16 Approvals under PPA Documents

25.16.1 Refer to Sections 3.1.3 and 3.1.4.1 regarding the standards for IFA approval or consent.

25.16.2 In all cases where approvals or consents are required to be provided under the PPA Documents by Developer and no particular standard for such approvals or consents is expressly provided, such approvals or consents shall not be unreasonably withheld or delayed. In cases where sole discretion is specified, Developer's decision shall be final, binding and not subject to the Dispute Resolution Procedures.

25.17 Entire Agreement

The PPA Documents contain the entire understanding of the Parties with respect to the subject matter thereof and supersede all prior agreements, understandings, statements, representations and negotiations, in each case oral or written, between the Parties with respect to their subject matter.

25.18 Authority to Bind Developer

The signatory for Developer represents that he/she has been duly authorized to execute this Agreement on behalf of Developer and has obtained all necessary or applicable approvals to make this Agreement fully binding upon Developer when his/her signature is affixed, and accepted by the Authority.

25.19 Counterparts

This instrument may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have executed this Agreement as of the date first written above.

Developer

WVB EAST END PARTNERS, LLC

By: _____
Name: Sidney Florey
Title: Project Executive

IFA

INDIANA FINANCE AUTHORITY

By: _____
Name: Kendra York
Title: Public Finance Director

EXHIBIT 1

ABBREVIATIONS AND DEFINITIONS

Unless otherwise specified, wherever the following abbreviations or terms are used in the Agreement and the Technical Provisions, they have the meanings set forth below:

A-C	Alternating Current
AASHTO	American Association of State Highway and Transportation Officials
AAT	Area Advisory Team
ACHP	Advisory Council on Historic Preservation
ADA	Americans with Disabilities Act
AFPs	ARIES Field Processors
AM	Acquisition Manager
AMRL	AASHTO Material Reference Laboratory
ANSI	American National Standards Institute
APWA	American Public Works Association
AREMA	American Railway Engineering and Maintenance of Way Association
ASTM	American Society of Testing and Materials
ATC	Alternative Technical Concept
ATIS	Advanced Traveler Information System
ATMS	Advanced Traffic Management System
ATS	Automatic Transfer Switch
ATVA	Accident and Terrorist Vulnerabilities Assessment
AVI	Automatic Vehicle Identification
AWS	American Welding Society
BA	Biological Assessment
BFO	Bloomington Field Office
BIS	Bypass Isolation Switch
BMP	Best Management Practice
BMV	Indiana Bureau of Motor Vehicles
BO	Biological Opinion
BSHCT	Bi-State Historic Consultation Team
BSMT	Bi-State Management Team
CADD	Computer Aided Drafting and Design
CB	Citizens' Band
CCTV	Closed Circuit Television
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 *et seq.*), as amended
CFD	Computational Fluid Dynamics
CFR	Code of Federal Regulations
CMMS	Computerized Maintenance Management System

CMP	Construction Monitoring Plan
CPESC	Certified Professional in Erosion and Sedimentation Control
CQCM	Construction Quality Control Manager
CO	Carbon Monoxide
COMS	Carbon Monoxide Monitoring System
CPI	Consumer Price Index
CPM	Critical Path Method
CSM	Context Sensitive Mitigation
CVISNP	Commercial Vehicle Information Systems Networks Program
CVO	Commercial Vehicle Operations
CWA	Clean Water Act
CWTS	Certified Worksite Traffic Supervisor
D&C	Design and Construction
DBE	Disadvantaged Business Enterprise
DDI	Diverging Diamond Interchange
DDO	Definitive Design of Operations
DMS	Dynamic Message Sign
DQAM	Design Quality Assurance Manager
DSRC	Dedicated Short-Range Communications
DSS	Decent, Safe and Sanitary
ECM	Environmental Compliance Manager
ECMP	Environmental Compliance and Mitigation Plan
ECP	Erosion Control Plan
EDA	Earth Disturbance Area
EDMS	Electronic Document Management System
EIA	Electronic Industries Alliance
EMP	Environmental Management Plan
EMS	Environmental Management System
eNOI	Electronic Notice of Intent
eNOT	Electronic Notice of Termination
EP	Extraction Procedure
EPIC	Environmental Permits Issues and Commitments
ERP	Emergency Response Plan
ESA	Endangered Species Act of 1973, 16 U.S.C. §§1531 *et seq.* as amended and as it may be amended from time to time
ESCP	Erosion and Sediment Control Plan
ET	Eastern Time
ETC	Electronic Toll Collection
ETL	Electronic Testing Laboratories
FAA	Federal Aviation Administration
FCC	Federal Communications Commission

FEIS	Final Environmental Impact Statement
FEMA	Federal Emergency Management Agency
FFO	Frankfort Field Office
FHWA	U.S. Federal Highway Administration
FSP	Field Sampling Plan
FTP	File Transfer Protocol
FWCA	Fish and Wildlife Coordination Act, 16 U.S.C. §§661 *et seq.*, as amended and as it may be amended from time to time
FWD	Falling Weight Deflectometer
GAAP	U.S. Generally Accepted Accounting Principles
GBR	Geotechnical Baseline Report
GIS	Geographical Information System
GPS	Global Positioning System
HAR	Highway Advisory Radio
HEC	Hydraulic Engineering Circular
HMA	Hot Mix Asphalt
HMCP	Hazardous Materials Control Plan
HMHSP	Hazardous Materials Health and Safety Plan
HMMP	Hazardous Materials Management Plan
HPP	Historic Preservation Plan
HSPPD	"handling, storage, packaging, preservation and delivery"
IAC	Indiana Administrative Code
IC	Indiana Statute
IDM	Indiana Department of Transportation Design Manual
IES	Illuminating Engineering Society
IRI	International Roughness Index
ISPLS	Indiana Society of Professional Land Surveyors
IDEM	Indiana Department of Environmental Management
IFA	Indiana Finance Authority
IHPAT	Indiana Historic Preservations Advisory Team
IHRS	Indiana Heritage Resource Survey
IMUTCD	Indiana Manual on Uniform Traffic Control Devices
INDOT	Indiana Department of Transportation
IPDC	Initial Project Debt Competition
IPDES	Indiana Pollutant Discharge Elimination System
IRI	International Roughness Index
IRR	Internal Rate of Return
IRS	Internal Revenue Service
ISA	Initial Site Assessment
ISO	International Organization for Standardization
ITS	Intelligent Transportation System

IVHS	Intelligent Vehicle Highway System
IVR	Interactive Voice Response
KDM	Kentucky Design Manual
KDW	Kentucky Division of Water
KPTIA	Kentucky Public Transportation Infrastructure Authority
KRS	Kentucky Revised Statute(s)
KY HPAT	Kentucky Historic Preservation Advisory Team
KYTC	Kentucky Transportation Cabinet
LASIBA	Louisville and Southern Indiana Bridges Authority
LC	Lucent Connector
LCS	Lane Control Signal
LED	Light-Emitting Diode
LIDAR	Laser Image Detection and Ranging
LOS	Level of Service
LPR	License Plate Reader
LRFD	Load and Resistance Factor Design (an AASHTO specification)
LRFR	Load and Resistance Factor Rating
LWC	Louisville Water Company
LUS	Lane Use Signal
MACS	Mainline Automated Clearance System
MHHW	Mean Higher High Water
MLLW	Mean Lower Low Water
MOA	Memorandum of Agreement
MOMS	Maintenance On-line Management Subsystem
MOT	Maintenance of Traffic
MOU	Memorandum of Understanding
MOV	Metal Oxide Varistor
MP	Maintenance Plan
MPH	Miles Per Hour
MPO	Metropolitan Planning Organization
MS4	Municipal Separate Storm Sewer System
MSE	Mechanically Stabilized Earth
MSDS	Materials Safety Data Sheets
MTTR	Mean Time to Repair
MTBF	Mean Time Between Failure
MTTR	Mean Time to Repair
MUTCD	Indiana Manual on Uniform Traffic (Control) Devices or FHWA Manual on Uniform Traffic (Control) Devices, as further defined in Section 26 of the Technical Provisions.
N/A	Not Applicable
NAVD88	North American Vertical Datum of 1988

NBIS	National Bridge Inspection Standards
NCHRP	National Cooperative Highway Research Program
NDE	Nondestructive Examination
NEPA	National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*, as amended and as it may be amended from time to time
NFIP	National Flood Insurance Program
NFPA	National Fire Protection Association
NHS	National Highway System
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NOI	Notice of Intent submitted to USEPA
NORPASS	North America Preclearance and Safety System
NOT	Notice of Termination submitted to USEPA
NPDES	National Pollutant Discharge Elimination System
NRHP	National Register of Historic Places
NTCIP	National Transportation Communications for ITS Protocol
NTP	Notice to Proceed
O&M	Operation and Maintenance
OCR	Optical Character Recognition
OER	Office of Emergency Response
OHMP	Indiana Department of Natural Resources-Office of Habitat Management and Permitting
OIT	Operator Interface Terminal
OMMP	Operations and Maintenance Monitoring Plan
OMP	Operations and Maintenance Plan
OPMP	Indiana Department of Natural Resources Office of Project Management and Permitting
OSHA	Occupational Safety and Health Administration
OTDR	Optical Time-Domain Reflectometer
PA	Section 106 Programmatic Agreement
PABs	Private Activity Bonds
PABX	Private Automatic Branch Exchange
PC	Point of Curvature
PCB	Printed Circuit Board
PCC	Portland Cement Concrete
PCM	Preconstruction Manual
PDA	Pile Driving Analyzer
PDF	Portable Document Format
PE	Preliminary Engineering
PI	Point of Intersection

PIC	Public Information Coordinator
PIP	Public Involvement Plan
PIV	Post Indicator Valve
PLC	Programmable Logic Controller
PMIS	Pavement Management Information System
PML	Probable Maximum Loss
PMP	Project Management Plan
PPA	Public-Private Agreement between IFA and Developer for the Ohio River Bridges Program, East End Crossing, as it may be amended from time to time.
PS&E	Plans, Specifications, and Estimates
PT	Point of Tangency
PTZ	Pan-Tilt-Zoom
PVE	Passenger Vehicle Equivalent
QA	Quality Assurance
QAPP	Quality Assurance Program Plan
QC	Quality Control
QCP	Quality (Control) Checkpoints
QMP	Quality Management Plan
RBF	Riverbank Filtration
RCU	Remote Control Unit
RF	Radio Frequency
RFC	Released for Construction
RFP	Request for Proposals to Develop, Design, Construct, Finance, Operate and Maintain the East End Crossing (Louisville-Southern Indiana Ohio River Bridges Project), through a Public-Private Agreement, issued July 31, 2012, issued by IFA, as amended by addenda
RID	Reference Information Document
RIO	Remote Input/Output
RLM	Residual Life Methodology
RMS	Root Mean-Square
ROD	Record of Decision
ROW	Right of Way
ROW AM	Right of Way Acquisition Manager
ROWIS	Right of Way Information System
RPLS	Registered Professional Land Surveyor
RSS	Reinforced Soil Slope
RTM	Real Time Monitor
RWIS	Road Weather Information System
SAP	Sampling and Analysis Plan
SC	Subscriber Connector
SCADA	Supervisory Control and Data Acquisition

SCMP	Substantial Completion Milestone Payment
SCMPA	Substantial Completion Milestone Payment Adjustment
SCMPAC	Substantial Completion Milestone Payment Adjustment Cap
SF	Square Feet
SFEIS	Supplemental Final Environmental Impact Statement
SHP	Safety and Health Program
SHPO	State Historic Preservation Officer
SICP	Snow and Ice Control Plan
SIR	Self-insured retention
SPCP	Spill Prevention and Control Plan
SSHP	Site Safety and Health Plan
SSTR	Single Slope Traffic Railing
STIP	Statewide Transportation Improvement Program
SUE	Subsurface Utility Engineering
SWM	Storm Water Management
SWPPP	Storm Water Pollution Prevention Plan
TCLP	Toxicity Characteristic Leaching Procedure
TCP	Traffic Control Plan
TCC	Tolling Collection Center
TCS	Toll Collection System
TDC	Toll Data Center
TIA	Telecommunications Industry Association
TIFIA	Transportation Infrastructure Finance and Innovation Act of 1988, codified at 23 U.S.C. § 601 *et seq.*, as amended and as it may be amended from time to time
TIP	Transportation Improvement Program
TMC	Traffic Management Center
TMP	Transportation Management Plan
TMS	Traffic Monitoring Stations
TOC	Traffic Operations Center
TOP	Traffic Operations Plan
TP	Technical Provisions
TRIMARC	Louisville-Southern Indiana Regional Traffic Management Center
TTCP	Temporary Traffic Control Plan
TVS	Tunnel Ventilation System
TVSS	Transient Voltage Surge Suppressors
UCC	Uniform Commercial Code
UNRS	USDOT Number Recognition System
UPS	Uninterruptible Power Source
US	United States Highway
USACE	United States Army Corps of Engineers

USCG	United States Coast Guard
USDOT	United States Department of Transportation
USEPA	United States Environmental Protection Agency
USFWS	United States Fish and Wildlife Service
USPAP	Uniform Standard of Professional Appraisal Practices
VBI	Voice Break-In
VWS	Virtual Weigh Station
WBS	Work Breakdown Structure
WEAP	Wave Equation Analysis of Pile Driving
WHPA	Wellhead Protection Area
WIM	Weigh in Motion

Abandonment means that Developer abandons all or a material part of the East End Crossing, which abandonment shall have occurred if (a) Developer demonstrates through statements, acts or omissions an intent not to continue, for any reason other than a Relief Event that materially interferes with ability to continue, to design, construct, operate or maintain all or a material part of the East End Crossing or (b) no significant Work (taking into account the Project Schedule, if applicable, and any Relief Event) on the East End Crossing or a material part thereof is performed for a continuous period of more than 45 days.

Access and Mobility Plan means the deliverable described at Table 25-1 of the Technical Provisions.

Act has the meaning set forth in Recital A of the Agreement.

Activity has the meaning set forth in the Department's recurring SP CPM Schedule 108-C-215.

Actual Benchmark Insurance Policies has the meaning set forth in Section 17.1.9.2 of the Agreement.

Actual Insurance Policies has the meaning set forth in Section 17.1.9.4 of the Agreement.

Additional Properties means properties that are both (a) outside the boundaries for the Project Right of Way as set forth in the ROW Maps and (b) either (i) added to the Project Right of Way for permanent use for East End Crossing-related purposes or (ii) added for temporary use as Project Specific Locations.

Adjust means to perform a Utility Adjustment.

Adjustment means a Utility Adjustment.

Adjustment Standards means the standard specifications, standards of practice, and construction methods that a Utility Owner customarily applies to facilities (comparable to those being Adjusted on account of the East End Crossing) constructed by the Utility Owner (or for the Utility Owner by its contractors), at its own expense. Unless the context requires otherwise, references in the PPA Documents to a Utility Owner's "applicable Adjustment Standards" refer to those that are applicable pursuant to Section 5.5.3 of the Agreement.

Aesthetic Design Guidelines means Reference Information Documents that are so described and have been prepared by IFA in consultation with the BSHCT, IHPAT, KY HPAT, other advisory groups, agencies and the public that are appropriate for the project setting and are to be implemented and refined during final design through continuing consultations with these entities.

Aesthetics and Enhancement Implementation Plan means the plan that is to be prepared by Developer per Section 5.3.1 of the Technical Provisions that applies the Aesthetic Design Guidelines and incorporates context sensitive solutions for all project aesthetics and landscape work, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Affiliate means:

(a) any Equity Member;

(b) any Person who directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, Developer or any Equity Member; and

(c) any Person for which ten percent or more of the equity interest in such Person is held directly or indirectly, beneficially or of record by (i) Developer, (ii) any Equity Member or (iii) any Affiliate of Developer under clause (b) of this definition.

For purposes of this definition the term "control" means the possession, directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting rights or securities, by contract, family relationship or otherwise.

Affiliated means having the status of an Affiliate.

Age means the elapsed time since an Element was first constructed or installed or, if applicable, last reconstructed, rehabilitated, restored, renewed or replaced.

Agreement means that certain Public-Private Agreement, to which this Exhibit 1 (Abbreviations and Definitions) is attached, executed by IFA and Developer, including any and all Exhibits and amendments thereto.

Airspace means any and all real property, including the surface of the ground and submerged lands, within the vertical column extending above and below the surface boundaries or water surface, as applicable, of the Project Right of Way and not necessary or required for the East End Crossing or for developing, permitting, designing, financing, constructing, installing, equipping, operating, maintaining, repairing, reconstructing, restoring, rehabilitating, renewing or replacing the East End Crossing or Developer's timely fulfillment of its obligations under the PPA Documents.

Annual MAP Limit means the limit for the MAP in each year of the Term as set forth in Exhibit 9 to the Agreement.

AP Appropriations Fund means the trust fund of that name established and maintained under the Project Trust Agreement.

AP Disputed Amounts Fund means the trust fund of that name established and maintained under the Project Trust Agreement.

AP Payment Fund means the trust fund of that name established and maintained under the Project Trust Agreement.

AP Relief Event and Termination Compensation Fund means the trust fund of that name established and maintained under the Project Trust Agreement.

Arbitrator means the individual appointed to hear and resolve disputes between the parties as provided in Section 19.6 of the Agreement.

Area Advisory Teams has the meaning set forth in Section 7.1.3 of the SFEIS.

As-Built Models means the deliverable described at Table 25-1 of the Technical Provisions.

ATVA has the meaning set forth at Section 24.1.1 of the Technical Provisions.

ATVA Report means the deliverable described at Table 25-1 of the Technical Provisions.

Authorized Representative has the meaning set forth in Section 25.6 of the Agreement.

Availability Payment means the amount earned in each given Fiscal Year commencing at the Operating Period by Developer as determined in accordance with Exhibit 10 (Payment Mechanism) to the Agreement.

Backward Looking Termination for Convenience Amount means the amount calculated in accordance with Exhibit 22 (Terms for Termination Compensation) to the Agreement.

Barge Impact Analysis Report has the meaning set forth in Section 15.5.11 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Base Maximum Availability Payment has the meaning set forth in Attachment 1 to Exhibit 10 (Payment Mechanism) to the Agreement.

Baseline Substantial Completion Date means the scheduled date for Substantial Completion set forth in Exhibit 2-B (Preliminary Project Baseline Schedule) and Exhibit 4 (Milestone Payment Amounts) to the Agreement (in no event later than October 31, 2016), as such deadline may be extended for Relief Events from time to time pursuant to the Agreement.

Best Management Practices (BMP) has the meaning set forth in *Storm Water Management For Construction Activities: Developing Pollution Prevention Plans and Best Management Practices* (EPA Document 832 R 92-005).

Betterment has, with respect to a given Utility being Adjusted, the meaning (if any) set forth in the Utility Agreement(s) applicable to the Utility; in all other cases, "Betterment" means any upgrading of the Utility in the course of such Utility Adjustment that is not attributable to the construction of the East End Crossing and is made solely for the benefit of and at the election of the Utility Owner, including an increase in the capacity, capability, efficiency or function of an Adjusted Utility over that which was provided by the existing Utility. Notwithstanding the foregoing, the following are not considered Betterments unless otherwise provided in the applicable Utility Agreement(s):

(a) Any upgrading which is required for accommodation of the East End Crossing;

(b) Replacement devices or materials that are of equivalent standards although not identical;

(c) Replacement of devices or materials no longer regularly manufactured with an equivalent or next higher grade or size;

(d) Any upgrading required by applicable Law;

(e) Replacement devices or materials that are used for reasons of economy (e.g., non-stocked items may be uneconomical to purchase);

(f) Any upgrading required by the Utility Owner's applicable Adjustment Standards; and

(g) Any discretionary decision by a Utility Owner that is contemplated within a particular standard described in clause (f) above.

With respect to any Replacement Utility Property Interest, "Betterment" has the meaning (if any) set forth in the applicable Utility Agreement(s). In all other cases, a Replacement Utility Property Interest shall be considered a Betterment, except to the extent that reinstallation of a Utility in the Replacement Utility Property Interest (i) is necessary in order to meet the requirements of the PPA Documents, or (ii) is called for by Developer in the interest of overall economy for the East End Crossing.

Bi-State Historic Consultation Team means an advisory group for the Project that was formed pursuant to the Section 106 Memorandum of Agreement.

Bi-State Management Team means appointed representatives of the Indiana Department of Transportation, the Kentucky Transportation Cabinet and Federal Highway Administration who as a group are responsible for overall management of the Project.

Blasting Plan means the deliverable described at Table 25-1 of the Technical Provisions.

Books and Records means any and all documents, books, records, papers, or other information relating to the East End Crossing, including (i) all design and construction documents, and operations and maintenance documents (including but not limited to drawings, specifications, submittals, subcontracts, subconsultant agreements, purchase orders, invoices, schedules, meeting minutes, budgets, forecasts, change orders, (ii) income statements, balance sheets, statements of cash flow and changes in financial position, details regarding Toll Revenues (including information regarding the collection thereof), operating income, expenses, capital expenditures and budgeted operating results relating to the East End Crossing, (iii) all budgets, certificates, claims, contract agreements, correspondence, data (including test data), documents, expert analyses, facts, files, information, investigations, materials, notices, plans, projections, proposals, records, reports, requests, samples, schedules, settlements, statements, studies, surveys, tests, test results, traffic information (including volume counts, classification counts, origin and destination data, speed and travel time information and vehicle jurisdiction data) analyzed, categorized, characterized, created, collected, generated, maintained, processed, produced, prepared, provided, recorded, stored or used by Developer or any of its Representatives in connection with the East End Crossing or the Project and (iv) with respect to all of the above, any Information that is stored electronically or on computer-related media, including in the Electronic Document Management System; provided however, that nothing in the Agreement shall require the disclosure by any Party of Books and Records that is protected

by the attorney-client or other legal privilege based upon an opinion of counsel reasonably satisfactory to the other Party.

Breakage Costs means any prepayment premiums or penalties, make-whole payments or other prepayment amounts, including costs of early termination of interest rate and inflation rate hedging, swap, collar or cap arrangements, that Developer must pay, or that may be payable or credited to Developer, under any Funding Agreement or Security Document or otherwise as a result of the payment, redemption or acceleration of all or any portion of the principal amount of Project Debt prior to its scheduled payment date, excluding, however, any such amounts included in the principal amount of any Refinancing.

Bridge Construction Manager is the Key Personnel listed at Exhibit 2-H to the Agreement.

Bridge Load Rating Report means the deliverable described at Table 25-1 of the Technical Provisions.

Bridge Type Selection Process means the process that was followed in selection of proposed bridge types for the East End Crossing and the Downtown Crossing as described in the Reference Information Document MS-5.06.

Business Day means any weekday (i.e., Monday through Friday) except for those weekdays on which banks are not required or authorized by applicable Law to be open in the State.

Business Opportunities has the meaning set forth in Sections 8.2.2 and 8.2.3 of the Agreement.

CADD Drafting Standards means the deliverable described at Table 25-1 of the Technical Provisions.

Category 1 Defect has the meaning set forth in Attachment 22-1 to the Technical Provisions.

Category 2 Defect has the meaning set forth in Attachment 22-1 to the Technical Provisions.

Certified Worksite Traffic Supervisor has the meaning set forth in Section 12.4.2 of the Technical Provisions.

Change in Adjustment Standards means any change in Adjustment Standards after the Setting Date that directly affects the design or construction of Utility Adjustments and is (a) necessary to conform to applicable Law or Change in Law or (b) adopted by the applicable Utility Owner after the Setting Date, excluding any such changes in Adjustment Standards known to Developer as of the Setting Date. A Change in Law that changes, adds to or replaces Adjustment Standards, as well as revisions to the Technical Provisions to conform to such Change in Law, shall be treated as a Change in Adjustment Standards rather than an IFA Change to the Technical Provisions.

Change in Law means

(a) the adoption of any Law of the State, the Commonwealth of Kentucky or a local government or political subdivision of either, after the Setting Date, provided such new Law is materially inconsistent with the Laws of the State, the Commonwealth of Kentucky or such local government or political subdivision in effect on the Setting Date,

(b) any change in any Law of the State, the Commonwealth of Kentucky or a local government or political subdivision of either or in the interpretation or application thereof by any Governmental Entity after the Setting Date, provided such change is materially inconsistent with Laws of the State, the Commonwealth of Kentucky or such local government or political subdivision in effect on the Setting Date;

excluding, however,

(i) any such change in or new Law of the State or the Commonwealth of Kentucky that also constitutes or causes a Change in Adjustment Standards,

(ii) any change in or new Law of the State or the Commonwealth of Kentucky pending, passed or adopted but not yet effective as of the Setting Date,

(iii) any change in State or the Commonwealth of Kentucky labor Laws, and

(iv) any change in State or the Commonwealth of Kentucky tax Laws of general application except the adoption after the Setting Date of any Law not otherwise excluded that results in the levy of State or the Commonwealth of Kentucky *ad valorem* property taxes on the Developer's Interest (it being understood that any change in State or the Commonwealth of Kentucky tax laws shall not be deemed of general application if it is solely directed at and the effect of which is solely borne by Developer or private operators of transportation assets or transportation asset developers, in each case, in the State or the Commonwealth of Kentucky).

New or revised statutes or regulations of the United States or a federal agency, the State, the Commonwealth of Kentucky or a local government or political subdivision of either, enacted, promulgated or adopted after the Setting Date that change, add to or replace applicable standards, criteria, requirements, conditions, procedures, specifications and other provisions, including Safety Standards and Project Standards, but excluding Adjustment Standards, relating to the D&C Work or O&M Work, as well as revisions to the Technical Provisions to conform to such new or revised statutes, shall be treated as a Change in Law (subject to the foregoing exclusions) rather than an IFA Change to the Technical Provisions.

Change of Control means any Equity Transfer, transfer of an interest, direct or indirect, in an Equity Member, or other assignment, sale, financing, grant of security interest, hypothecation, conveyance, transfer of interest or transaction of any type or description, including by or through voting securities, asset transfer, contract, merger, acquisition, succession, dissolution, liquidation, bankruptcy or otherwise, that results, directly or indirectly, in a change in possession of the power to direct or control or cause the direction or control of the management of Developer or a material aspect of its business. A change in possession of the power to direct or control or cause the direction or control of the management of an Equity Member may constitute a Change of Control of Developer if such Equity Member possesses, immediately prior to such Change of Control, the power to direct or control or cause the

direction or control of the management of Developer. Notwithstanding the foregoing, the following shall not constitute a Change of Control:

(a) A change in possession of the power to direct or control the management of Developer or a material aspect of its business due solely to a bona fide transaction involving beneficial interests in the ultimate parent organization of an Equity Member, (but not if the Equity Member is the ultimate parent organization), provided, however, that this exception shall not apply if the transferee in such transaction is, at the time of the transaction, suspended or debarred, subject to an agreement for voluntary exclusion, or subject to a proceeding to suspend or debar from bidding, proposing or contracting with any federal or State department or agency;

(b) An upstream reorganization or transfer of direct or indirect interests in Developer so long as there occurs no change in the entity with ultimate power to direct or control or cause the direction or control of the management of Developer;

(c) A transfer of interests between managed funds that are under common ownership or control, except a change in the management or control of a fund that manages or controls Developer;

(d) An Equity Transfer, where the transferring Equity Member and the transferee are under the same ultimate parent organization ownership, management and control before and after the transfer;

(e) A change in possession of the power to direct or control the management of Developer or a material aspect of its business due solely to bona fide open market transactions in securities effected on a recognized public stock exchange, including such transactions involving an initial public offering;

(f) The exercise of minority veto or voting rights (whether provided by applicable Law, by Developer's organizational documents or by related member or shareholder agreements or similar agreements) over major business decisions of Developer, provided that if such minority veto or voting rights are provided by shareholder or similar agreements, IFA has received copies of such agreements; or

(g) The grant of Security Documents, in strict compliance with Section 13.3 of the Agreement, or the exercise of Lender remedies thereunder, including foreclosure.

Change Order means a written order issued by IFA to Developer delineating changes in Work within the general scope of the PPA Documents or in terms and conditions of the Technical Provisions (including changes in the standards applicable to the Work in accordance with Section 16.1.1 of the Agreement) and establishing, if appropriate, an adjustment to Developer's compensation or Project Schedule.

Change Request means a written request from Developer seeking to change the character, quantity, quality, description, scope or location of any part of the Work, or to modify or deviate from the PPA Documents.

Chief Executive Officer of Developer means the chief executive officer, president or other senior officer of Developer, or the governing body of Developer, in each case having authority to negotiate and resolve a Dispute with the Executive Director and bind Developer by his, her or its decision in regard to such Dispute.

Claim means (a) a demand by Developer, which is disputed by IFA, for a time extension under the PPA Documents, payment of money or damages from IFA to Developer, or for payment from IFA of a Compensation Amount or Termination Compensation, or (b) a demand by IFA, which is disputed by Developer, for payment of money or damages from Developer to IFA.

Claim Deductible means the following amounts, as applicable: (a) the first $40,000 of Extra Work Costs, subject to adjustment as provided in Section 15.6.2.3 of the Agreement; and (b) the amount equal to the Delay Costs for (i) the first three days of delay for Relief Events occurring before the Substantial Completion Date and (ii) the first seven days of delay for Relief Events occurring on and after the Substantial Completion Date.

Closure means that all or part of any traffic lanes, ramps, direct connectors or cross roads or shoulders are closed or blocked, or that the use thereof is otherwise restricted, during the Operating Period, unless the reason is otherwise permitted by the Agreement.

Collateral Agent means the Institutional Lender listed or otherwise designated to act as trustee or agent on behalf of or at the direction of the other Lenders in the Security Documents, or the Institutional Lender designated to act as trustee or agent on behalf of or at the direction of the other Lenders in an intercreditor agreement or other document executed by all Lenders to whom Security Documents are outstanding at the time of execution of such document, a copy of which shall be delivered by Developer to IFA. In the event of any Project Debt issued and held by a single Lender, Collateral Agent means such Lender. The bond trustee for PABs, if an Institutional Lender, may also be the Collateral Agent.

Commercially Reasonable Insurance Rates means insurance premiums, except Excluded Premium Increases, up to but not exceeding 200% of the applicable Insurance Premium Benchmark Amount for all required Insurance Policies; provided that for the period before any Insurance Premium Benchmark Amount commences, commercially reasonable rates are the greater of (i) rates that a reasonable and prudent risk manager for a Person seeking to insure comparable risks would conclude are justified by the risk protection afforded, and (ii) the rates indicated for the period in question in the Financial Model and related Financial Modeling Data.

Committed Investment means:

(a) Any form of direct investment of good and immediately available funds by Equity Members, including the purchase of equity shares in and/or the provision of Subordinate Debt to Developer; or

(b) An irrevocable written commitment to make the direct investment referenced in clause (a) of this definition, in good and immediately available funds, by a date which is no later than the Baseline Substantial Completion Date, coupled with an on-demand letter of credit issued by or for the account of an Equity Member naming Developer as beneficiary, satisfying the requirements of Section 17.3.1 of the Agreement and guaranteeing such commitment.

Communications Plan means Developer's plan for communications between IFA and Developer as set forth in Section 1.5.2.5 of the Technical Provisions.

Community Outreach Plan has the meaning set forth in Section 6.3 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Comparable Facilities means highways and bridges, as applicable, that are substantially similar to the East End Crossing and associated facilities including frontage roads, as applicable. For purposes of this definition, determination of what highways or bridges are substantially similar to the East End Crossing shall be based on any one or more of similar age, design, engineering, construction, topographical features, operating systems and features, or other features or situations, and/or based on a geographical area in which highways or bridges have been or are susceptible to being affected by a common event (such as but not limited to flood or tornado). The presence or absence of tolling and tolling facilities shall not be a factor in determining whether a highway or bridge is substantially similar to the East End Crossing.

Compensation Amount means the amount, if any, owing to Developer under Article 15 of the Agreement on account of occurrence of a Relief Event.

Concept of Operations Report has the meaning set forth in Section 19.7.1 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Construction Documents means all shop drawings, working drawings, fabrication plans, material and hardware descriptions, specifications, construction quality control reports, construction quality assurance reports and samples necessary or desirable for construction of the East End Crossing and/or the Utility Adjustments included in the Construction Work, in accordance with the PPA Documents and the Special Provisions.

Construction Manager is the Key Personnel listed at Exhibit 2-H to the Agreement.

Construction Noncompliance Adjustment means the amount assigned to each Construction Noncompliance Event as set forth in Exhibit 10 (Payment Mechanism).

Construction Noncompliance Event means the failure to meet one of the minimum performance requirements as set forth in Exhibit 12 (Noncompliance Points System and Persistent Developer Default) within the applicable cure period (if any).

Construction QA/QC Plan means the IFA-approved plan for quality assurance and quality control of the Construction Work, as set forth in Section 1.5.2.5 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Construction Quality Manager has the meaning set forth in Section 4.8.1 of the Technical Provisions. The Construction Quality Manager is a Key Personnel listed at Exhibit 2-H to the Agreement.

Construction Quality Control Manager or **CQCM** has the meaning set forth in Section 4.8.1 of the Technical Provisions. The Construction Quality Control Manager is a Key Personnel listed at Exhibit 2-H to the Agreement.

Construction Noncompliance Point has the meaning set forth in Section 4.2 of Exhibit 10 (Payment Mechanism) to the Agreement.

Construction Work means all Work to build or construct, reconstruct, rehabilitate, make, form, manufacture, furnish, install, integrate, supply, deliver or equip the East End Crossing and/or the Utility Adjustments. Construction Work includes Landscaping Work and aesthetic treatments.

Consumer Price Index, or **CPI**, means the Consumer Price Index All items (BES Series ID: CUUR0000SA0), as published by the United States Department of Labor, Bureau of Labor Statistics, for which the base year is 1982-84 = 100, or if such publication ceases to be in existence, a comparable index selected by IFA and approved by Developer, acting reasonably. If such index is revised so that the base year differs from that set forth above, the CPI shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Bureau of Labor Statistics otherwise alters its method of calculating such index, the Parties shall mutually determine appropriate adjustments in the affected index.

Contract means any agreement, and any supplement or amendment thereto, by Developer with any other Person, Contractor or Supplier to perform any part of the Work or provide any materials, equipment or supplies for any part of the Work, or any such agreement, supplement or amendment at a lower tier, between a Contractor and its lower tier Contractor or a Supplier and its lower tier Supplier, at all tiers. The term "Contract" excludes Utility Agreements.

Contractor means any Person with whom Developer has entered into any Contract to perform any part of the Work or provide any materials, equipment, hardware or supplies for any part of the Work, on behalf of Developer, and any other Person with whom any Contractor has further subcontracted any part of the Work, at all tiers.

Controlling Work Item means the activity or work item on the Critical Path of the D&C Work having the least amount of Total Float.

Core Lender(s) has the meaning set forth in the RFP.

Corrosion Protection Plan has the meaning set forth in Section 15.5.1 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Cost to Cure means an appraisal method applied to estimate a proper adjustment for damages to a property that can be physically and economically corrected, as described in further detail in the IFA Appraisal and Review Manual.

Critical Path means the longest chain(s), in terms of time, of logically connected activities on the Project Schedule ending with Final Acceptance. Any delay along a Critical Path will affect the calculated Substantial Completion Date or Final Acceptance Date.

Custodial Account has the meaning set forth in Exhibit 15 (Summary of Terms for Custody Agreement) to the Agreement.

Custodian means the financial institution that will enter into the Custody Agreement as custodian.

Cure Period means:

(a) With respect to a Developer Default set forth in an IFA-Lender Notice that is curable by the payment of money to IFA, a period starting on the date of the receipt of such IFA-Lender Notice and ending 60 days after the later of (i) Lender's receipt of such IFA-Lender Notice or (ii) expiration of Developer's cure period (if any) under the Agreement;

(b) With respect to a Developer Default set forth in an IFA-Lender Notice other than Incurable Developer Defaults and those under clauses (a) above and (c) below, a period starting on the date of the receipt of such IFA-Lender Notice and ending 60 days after the later of (i) receipt of such IFA-Lender Notice or (ii) expiration of Developer's cure period (if any) under the Agreement;

(c) With respect to a Developer Default set forth in an IFA-Lender Notice, other than Incurable Developer Defaults, that by its nature is not capable of cure unless and until the Step-in Party, the Collateral Agent or a court receiver has possession and control of the East End Crossing, a period starting on the date of the receipt of such IFA-Lender Notice and ending 180 days after the later of (i) receipt of such IFA-Lender Notice or (ii) expiration of Developer's cure period (if any) under the Agreement; provided, however, that (i) during such cure period the Step-in Party cures all Developer Defaults which may be cured by the payment of money within the Cure Period under clause (a) above, (ii) during such cure period the Step-in Party cures all Developer Defaults governed by clause (b) above within the Cure Period available under clause (b) above, and (iii) within the later of (A) five days after expiration of Developer's cure period, if any, and (B) 30 days after the Collateral Agent receives such IFA-Lender Notice, the Step-in Party initiates and thereafter pursues with good faith, diligence and continuity lawful processes and steps to obtain possession and control of the East End Crossing.

With respect to clause (c) above, if the Collateral Agent or another Step-in Party (i) shall have succeeded to the Developer's Interest and obtained possession in accordance with the terms of Article 21 to the Agreement, (ii) shall have delivered to IFA within 15 days after obtaining possession and control a Substitute Accession Agreement, and (iii) shall have thereafter diligently and with continuity cured all Developer Defaults which are capable of being cured through possession, then the Collateral Agent or other Step-in Party shall have time after it obtains possession as may be necessary with exercise of good faith, diligence and continuity to cure such Developer Default or perform such condition, in any event not to exceed 120 days after the date it obtains possession, and the Cure Period shall be extended accordingly; provided that in no event shall the Term be extended.

Notwithstanding the foregoing, neither a Notice nor opportunity to cure shall be required for a Developer Default under Sections 19.1.1.3(a), 19.1.1.16 or 19.1.1.17 of the Agreement. In no case, however, shall a Cure Period extend beyond the expiration of the Term.

Custody Agreement has the meaning set forth in Section 14.7.1 of the Agreement.

Custody Arrangement has the meaning set forth in Section 14.7.1 of the Agreement.

Day or **day** means calendar day unless otherwise expressly specified.

D&C Work means the Design Work and Construction Work, including those obligations of Developer pertaining to design and construction set forth in the Technical Provisions.

DB Substantial Completion means satisfaction of all the conditions as set forth in Section 5.8.2 of the Agreement, as and when confirmed by IFA's issuance of a certificate in accordance with the procedures and within the time frame established in Section 5.8.2 of the Agreement.

DBE Coordinator is the Key Personnel listed at Exhibit 2-H to the Agreement.

DBE Goal means the goal for percent of work to be performed by certified DBEs that is established by IFA and specified in Section 7.10.2 of the Agreement.

DBE Performance Plan means Developer's plan for meeting the DBE Goal. The preliminary DBE Performance Plan is Exhibit 2-L (Developer's Preliminary DBE Performance Plan) to the Agreement.

DBE Special Provisions means IFA's special provisions for the IFA Disadvantaged Business Enterprise Program adopted pursuant to 49 CFR Part 26, which special provisions are set forth in Exhibit 7 (IFA's Disadvantaged Business Enterprise (DBE) Special Provisions) to the Agreement.

Deductible Relief Event means the Relief Events referenced in clauses (g) (but only as to performance or failure to perform work by a Governmental Entity), (j), (m) (but only as to releases by a third party), (n), (o), (q) and (u) of the definition of Relief Event.

Default means an Event of Default as defined in the Funding Agreement for any senior Project Debt or any event or circumstance specified in such Funding Agreement that would (with the expiration of a grace period, the giving of notice, the lapse of time, the making of any determination under the Funding Agreement or any combination of any of the foregoing) be an Event of Default.

Default Termination Event means each of the Developer Defaults listed in Section 20.3.1 of the Agreement.

Defect means a defect, whether by design, construction, installation, damage or wear, affecting the condition, use, functionality or operation of any Element of the East End Crossing, which would cause or have the potential to cause one or more of the following:

(a) A hazard, nuisance or other risk to public or worker health or safety, including the health and safety of Users;

(b) A structural deterioration of the affected Element or any other part of the East End Crossing;

(c) Damage to a third party or a third party's property or equipment;

(d) Damage to the Environment;

(e) Failure of the affected Element or any other part of the East End Crossing to meet a Performance Requirement or any other requirement of the PPA Documents;

(f) Failure of an Element to meet the Target for a measurement record as set forth in the columns headed "Target" and "Measurement Record" in the Performance and Measurement Table; or

(g) Loss of Toll Revenues.

Deferral of Compensation means the election of IFA to pay Extra Work Costs or Delay Costs through any one of the following or a combination thereof:

(a) Extension of the Term;

(b) Adjustment of the Availability Payment; or

(c) Periodic payments over the Term.

Definitive Design of Operations has the meaning set forth in Section 19.4.1 of the Technical Provisions.

Definitive Design of Operations Document means the deliverable described at Table 25-1 of the Technical Provisions.

Delay Costs means Developer's additional costs that result to Controlling Work items from a Relief Event Delay, which are limited to (a) direct costs for the actual idle labor and equipment, (b) the indirect costs and expenses thereof excluding cost of funds (whether debt or equity) and excluding Lender charges, damages and penalties, and (c) profit thereon, all as calculated pursuant to Exhibit 17 (Extra Work Costs and Delay Costs Specifications) to the Agreement; provided that for delays to non-Controlling Work Items incident to a Relief Event Delay, the term Delay Costs does not include any indirect costs, expenses or profit thereon; provided, further, that, in the event of a Relief Event Delay resulting from concurrent IFA-Caused Delay(s) and delays for which Developer is responsible under the PPA Documents, Developer shall not be entitled to Delay Costs to the extent the Developer is responsible for the delay. Delay Costs do not include any costs that Developer can or could reasonably mitigate.

Department has the meaning set forth in Recital M of the Agreement.

Department MOUs has the meaning set forth in Recital M of the Agreement.

Deputy Project Manager is the Key Personnel listed at Exhibit 2-H to the Agreement.

Design-Build Contract means that certain agreement between Developer and the Design-Build Contractor of even date herewith for the design and construction of the East End Crossing and the related Utility Adjustments included in the Construction Work.

Design-Build Contractor means Walsh Construction Company / VINCI Construction Grand Projects, an unincorporated joint venture.

Design Documents means all drawings (including plans, profiles, cross-sections, notes, elevations, typical sections, details and diagrams), specifications, reports, studies, calculations, electronic files, records and submittals necessary for, or related to, the design of the East End Crossing and/or the Utility Adjustments included in the Design Work and/or the Construction Work. Design Documents include the Final Design Documents.

Design Life means, for an Element, the period following its first installation, or following its last reconstruction, rehabilitation, restoration, renewal or replacement, until the Element will next require reconstruction, rehabilitation, restoration, renewal or replacement.

Design QA/QC Plan means the IFA-approved plan for quality assurance and quality control of the Design Work, as set forth in Section 1.5.2.5 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Design Quality Assurance Manager or **DQAM** has the meaning set forth in Section 3.2.6 of the Technical Provisions. The Design Quality Assurance Manager is a Key Personnel listed at Exhibit 2-H to the Agreement.

Design Requirements means all requirements in respect of the Design Work and the Design Documents, including IFA-approved Deviations, in each case as set forth in Sections 5.2.1 and 5.2.4 of the Agreement.

Design Review means any of the reviews of the Design Documents by IFA or its representatives, as described in Section 3.9 of the Technical Provisions.

Design Review Plan and Schedule has the meaning set forth in Section 3.7 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Design Unit means any logical grouping of component(s) of the East End Crossing design assembled into a single package for the purposes of design.

Design Work means all Work of design, engineering or architecture for the East End Crossing, Project Right of Way acquisition or Utility Adjustments.

Design Workshop has the meaning set forth in Section 3.16 of the Technical Provisions.

Designer means the design consulting firm(s) with primary responsibility for the design of the Work.

Developer means WVB East End Partners, LLC, a Delaware limited liability company, together with its permitted successors and assigns.

Developer Default has the meaning set forth in Section 19.1.1 of the Agreement.

Developer-Related Entities means (a) Developer, (b) Developer's Equity Members, (c) Contractors (including Suppliers), (d) any other Persons (except IFA and the Department) performing any of the Work, (e) any other Persons except IFA and the Department) for whom Developer may be legally or contractually responsible, and (f) the employees, agents, officers, directors, representatives, consultants, successors and assign of any of the foregoing.

Developer Release(s) of Hazardous Material means (a) Release(s) of Hazardous Material attributable to the actions, omissions, negligence, willful misconduct, or breach of applicable Law or contract by any Developer-Related Entity, provided that the removal of Hazardous Materials by Developer or a Developer-Related Entity in accordance with the requirements of the Agreement shall not be a "Developer Release of Hazardous Material"; (b) Release(s) of Hazardous Materials arranged to be brought onto the Site or elsewhere by any Developer-Related Entity; regardless of cause, or (c) use, containment, storage, management, handling, transport and disposal of any Hazardous Materials by any Developer-Related Entity in violation of the requirements of the PPA Documents or any applicable Law or Governmental Approval.

Developer Utility Agreement has the meaning set forth in Section 18.1.5 of the Technical Provisions.

Developer's Interest means all right, title and interest of Developer in, to, under or derived from the Agreement and the other PPA Documents, including Developer's right, title and interest in and to the Project Right of Entry, Principal Project Documents, Project Management Plan, Contracts, Submittals, Claims and Intellectual Property.

Developer's Schematic Design means the schematic design for the East End Crossing submitted by Developer and set forth in Exhibit 2-A (Developer's Schematic Design) to the Agreement.

Deviation means any proposed or actual change, deviation, modification, alteration or exception from the Technical Provisions.

Direct Agreement means the agreement in the form attached as Exhibit 21 to the Agreement by and among IFA, Developer, and the Lender (or if there is more than one Lender, the Collateral Agent on behalf of the Lenders) respecting certain of Lenders' rights under the PPA Documents. Direct Agreement(s) shall follow the "Form of Direct Agreement" provided as Exhibit 21 to the Agreement in all material respects.

Directive Letter means the letter described in Section 16.3 of the Agreement.

Disadvantaged Business Enterprise or **DBE** has the meaning set forth in Exhibit 7 (IFA's Disadvantaged Business Enterprise (DBE) Special Provisions) to the Agreement.

Discriminatory O&M Change means (a) materially more onerous application to Developer or the East End Crossing of alterations or changes (including additions) to the Technical Provisions and Safety Standards relating to the O&M Work than the application thereof to other comparable the Department projects, or (b) selective application of alterations or changes (including additions) to the Technical Provisions and Safety Standards relating to the O&M Work to Developer or the East End Crossing and not to other comparable the Department projects. Notwithstanding the foregoing, such application in response to any negligence, willful misconduct, or breach of applicable Law, Governmental Approval or contract by Developer or any Developer-Related Entity shall not be Discriminatory O&M Changes. A Discriminatory O&M Change is an IFA Change.

Dispute means any Claim, dispute, disagreement or controversy between IFA and Developer concerning their respective rights and obligations under the PPA Documents, including concerning any alleged breach or failure to perform and remedies.

Disputed Amounts has the meaning set forth in Section 10.3 of the Agreement.

Dispute Resolution Procedures means the procedures for resolving Disputes set forth in Section 19.6 of the Agreement, including the Informal Resolution Procedures.

Distribution means:

Whether in cash or in kind, and both made and projected to be made:

(a) Any:

(i) Dividend or other distribution in respect to share or other capital;

(ii) Payment or other distributions in reduction of capital, redemption or purchase of shares or any other reorganization or variation to share capital;

(iii) Payments (whether of principal, interest, Breakage Costs or otherwise) on Subordinate Debt;

(iv) Payment, loan, contractual arrangement or transfer of assets or rights to the extent (in each case) it is neither in the ordinary course of business nor on reasonable commercial terms; and

(v) Receipt of any other benefit which is not received in the ordinary course of business and not on reasonable commercial terms, or

(b) The early release of any contingent funding liabilities, the amount of such release being deemed to be a gain for the purposes of any calculation of Refinancing Gain.

Such dividends, distributions payments or other benefits include proceeds of any Refinancing.

Downtown Bridge means that portion of the Downtown Crossing that pertains to the work relating to the existing bridge spanning the Ohio River.

Downtown Crossing means that portion of the Project that excludes the East End Crossing.

Early Termination Date means the effective date of termination of the Agreement for any reason prior to the stated expiration of the Term.

East End Bridge means the entire structure — from abutment to abutment including approach slabs — over the Ohio River, Upper River Road, and Transylvania Beach Road carrying Indiana State Route 265/KY 841. For purposes of the Technical Provisions, and consistent with the Reference Information Documents, the East End Bridge is divided into two separate sections: the East End Bridge Main Spans and the East End Bridge Kentucky Approach Spans.

East End Bridge Kentucky Approach Spans means a portion of Project Section 4 – Sta. 167+82.86 to Sta. 187+51.86 of the Reference Information Documents.

East End Bridge Main Spans means Project Section 5 – Sta. 187+40.00 (ahead) to Sta. 212+74.51 of the Reference Information Documents. The East End Bridge Main Spans include the Indiana approach slab and Pier 1 (Sta. 187+40.00) in Kentucky.

East End Crossing means the transportation facilities and all related structures and improvements used in connection with operation of such transportation facilities, to be financed, developed, designed, constructed, operated and maintained, or any of the foregoing, pursuant to the terms of the PPA Documents. The East End Crossing is divided into the Project Sections. For avoidance of doubt, the East End Crossing does not include the design and construction of the Old Salem Road realignment or the new bridge carrying Old Salem Road over proposed SR 265.

Effective Date means the date of the execution of the Agreement by IFA and Developer or such other date as shall be mutually agreed upon in writing by IFA and Developer.

Electrical Safety Observer means an individual competent to assist the individual person performing electrical work, to rescue such individual person performing electrical work, and who has been certified in the last six months to provide cardiopulmonary resuscitation.

Electronic Document Management System means Developer's computerized system for East End Crossing document and records management established pursuant to Section 1.5.2.6 of the Technical Provisions.

Element means an individual component, system or subsystem of the East End Crossing or of a Utility Adjustment, and shall include at a minimum a breakdown into the items described in the Performance and Measurement Criteria, further subdivided by Performance Sections where appropriate.

Element Category means each of the main headings in the column entitled "Element" in the Performance and Measurement Criteria.

Eligible Investments means any one or more of the following instruments or securities:

(a) Direct obligations of, and obligations fully and unconditionally guaranteed by, (i) the United States of America or (ii) any agency or instrumentality of the United States of America the obligations of which are backed by the full faith and credit of the United States of America;

(b) Demand or time deposits, federal funds or bankers' acceptances issued by any depository institution or trust company, provided that (i) any demand or time deposit or certificate of deposit is fully insured by the Federal Deposit Insurance Corporation or (ii) any commercial paper or the short-term deposit rating or the long-term unsecured debt obligations or deposits of such depository institution or trust company at the time of such investment or contractual commitment providing for such investment have been rated "A" or higher by a Rating Agency;

(c) Commercial paper (including both non-interest-bearing discount obligations and interest-bearing obligations payable on demand or on a specified date not more than one year after the date of issuance thereof) which has been rated "A" or higher by a Rating Agency at the time of such investment;

(d) Any money market funds, the investments of which consist of cash and obligations fully and unconditionally guaranteed by (i) the United States of America or (ii) any agency or instrumentality of the United States of America the obligations of which are backed by the full faith and credit of the United States of America and which have been rated "A" or higher by a Rating Agency; and

(e) Other investments then customarily accepted by the State in similar circumstances;

provided, however, that no instrument or security shall be an Eligible Investment if such instrument or security evidences a right to receive only interest payments with respect to the obligations underlying such instrument or if such security provides for payment of both principal and interest with a yield to maturity in excess of 120% of the yield to maturity at par.

Emergency means any unforeseen event affecting the East End Crossing, whether directly or indirectly, which (a) causes or has the potential to cause disruption to the free flow of traffic on the East End Crossing or a threat to the safety of the public; (b) is an immediate or imminent threat to the long term integrity of any part of the infrastructure of the East End Crossing, to the Environment or to property adjacent to the East End Crossing; (c) is recognized by the Indiana Department of Public Safety as an emergency; or (d) is recognized or declared by the Governor of the State, the Federal Emergency Management Administration (FEMA), the U.S. Department of Homeland Security or other Governmental Entity with authority to declare an emergency.

Emergency Plan means Developer's plan for emergency prevention, response and services, as part of the PMP, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Emergency Repair Work means any Work performed pursuant to Section 9.3 of the Agreement.

Emergency Services means law enforcement, fire, paramedic, ambulance service and other similar services from agencies with which Developer establishes protocols for incident response, safety and security procedures, as set forth in the Incident Management Plan and Emergency Plan.

Engineer has the meaning set forth in Section 101.20 of the Standard Specifications.

Environment means air, soils, submerged lands, surface waters, groundwaters, land, stream sediments, surface or subsurface strata, biological resources, including endangered, threatened and sensitive species, natural systems, including ecosystems, and historic, archeological and paleontological resources.

Environmental Approvals means all Governmental Approvals arising from or required by any Environmental Law in connection with development of the Project as applicable to the East End Crossing and/or the East End Crossing, including the NEPA Documents.

Environmental Compliance and Mitigation Plan (ECMP) means Developer's plan, to be prepared under the CEPP described in the Project Management Plan, for performing all environmental mitigation measures set forth in the Environmental Approvals, including the NEPA Documents and similar Governmental Approvals for the East End Crossing or the Work,

or set forth in the PPA Documents, and for complying with all other conditions and requirements of the Environmental Approvals, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Environmental Compliance Manager (ECM) means the individual retained or employed by Developer who has the authority and responsibility for monitoring, documenting and reporting environmental compliance for the Work as more particularly described in Section 7.3 of the Technical Provisions. The Environmental Compliance Manager is a Key Personnel listed at Exhibit 2-H to the Agreement.

Environmental Law means any Law applicable to the East End Crossing or the Work requiring consideration of environmental impacts or addressing, regulating or imposing liability, actions or standards of conduct that pertains to the Environment, Hazardous Materials, contamination of any type whatsoever, or environmental health and safety matters, and any lawful requirements and standards that pertain to the Environment, Hazardous Materials, contamination of any type whatsoever, or environmental health and safety matters, set forth in any permits, licenses, approvals, plans, rules, regulations ordinances or other Governmental Approvals adopted, or other criteria and guidelines promulgated, pursuant to Laws applicable to the East End Crossing or the Work, as such have been or are amended, modified, or supplemented from time to time (including any present and future amendments thereto and reauthorizations thereof) including those relating to:

(a) The manufacture, processing, use, distribution, existence, treatment, storage, disposal, generation, and transportation of Hazardous Materials;

(b) Air, soil, surface and subsurface strata, stream sediments, surface water, and groundwater;

(c) Releases of Hazardous Materials;

(d) Protection of wildlife, Threatened or Endangered Species, sensitive species, wetlands, water courses and water bodies, historical, archeological, and paleontological resources, and natural resources;

(e) The operation and closure of underground storage tanks;

(f) and safety of employees and other persons; and

(g) Notification, documentation, and record keeping requirements relating to the foregoing.

Without limiting the above, the term "Environmental Laws" shall also include the following:

(i) The National Environmental Policy Act (42 U.S.C. §§ 4321 *et seq.*), as amended;

(ii) The Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 *et seq.*), as amended;

(iii) The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 *et seq.*), as may be further amended;

(iv) The Emergency Planning and Community Right to Know Act of 1986 (42 U.S.C. §§ 11001 *et seq.*), as amended;

(v) The Clean Air Act (42 U.S.C. §§ 7401 *et seq.*), as amended;

(vi) The Federal Water Pollution Control Act, as amended by the Clean Water Act (33 U.S.C. §§ 1251 *et seq.*);

(vii) The Resource Conservation and Recovery Act (42 U.S.C. §§ 6901, *et seq.*), as amended;

(viii) The Toxic Substances Control Act (15 U.S.C. §§ 2601 *et seq.*), as amended;

(ix) The Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 *et seq.*), as amended;

(x) The Oil Pollution Act (33 U.S.C. §§ 2701, *et. seq.*), as amended;

(xi) The Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136 *et seq.*), as amended;

(xii) The Federal Safe Drinking Water Act (42 U.S.C. §§ 300 *et seq.*), as amended;

(xiii) The Federal Radon and Indoor Air Quality Research Act (42 U.S.C. §§ 7401 *et seq.*), as amended;

(xiv) The Occupational Safety and Health Act (29 U.S.C. §§ 651 *et seq.*), as amended;

(xv) The Endangered Species Act (16 U.S.C. §§ 1531 *et seq.*), as amended;

(xvi) The Fish and Wildlife Coordination Act (16 U.S.C. §§ 661 *et seq.*), as amended;

(xvii) The National Historic Preservation Act (16 U.S.C. §§ 470 *et seq.*), as amended;

(xviii) The Coastal Zone Management Act (33 U.S.C. §§ 1451 *et seq.*), as amended;

(xix) The Bald and Golden Eagle Protection Act (16 U.S.C. §§ 668 *et seq.*), as amended;

(xx) The Migratory Bird Treaty Act (16 U.S.C. §§ 703 *et seq.*), as amended;

(xxi) The Marine Mammal Protection Act (16 U.S.C. §§ 1361 *et seq.*), as amended;

(xxii) Indiana Statutes, Title 46, Water, Air, Energy, and Environmental Conservation, as amended; and

(xxiii) Section 4(f) of the U.S. Department of Transportation Act, 49 U.S.C. § 303(c), as amended).

Environmental Litigation means any lawsuit that is filed in a court of competent jurisdiction and seeks to overturn, set aside, enjoin, or otherwise inhibit the implementation of a

federal, state, or local agency's approval of the Louisville-Southern Indiana Ohio River Bridges Project based on the agency's alleged non-compliance with applicable Laws (including Environmental Laws), including but not limited to: the National Environmental Policy Act, 42 U.S.C. § 4231 *et seq.*; Section 4(f) of the Department of Transportation Act, 49 U.S.C. § 303(c); the National Historic Preservation Act, 16 U.S.C. § 470; the Clean Air Act, 42 U.S.C. § 7401 *et seq.*; the Clean Water Act, 33 U.S.C. § 1251 *et seq.*; and the Endangered Species Act, 16 U.S.C. § 1531 *et seq.;* and other federal, state, or local Laws.

Environmental Management System or **EMS** has the meaning set forth in Section 7.3 of the Technical Provisions.

Equity IRR means the nominal post-tax internal rate of return to the Committed Investment described in clause (a) of the definition of Committed Investment, over the full Term calculated, using the Financial Model, as the discount rate that, when applied to Committed Investment cash flows, gives a zero net present value. The Equity IRR initially is equal to the Original Equity IRR. For purposes of this definition:

(a) The phrase "post-tax" refers only to U.S. federal and state income tax liability of Developer or its Equity Members and specifically excludes (i) any foreign income tax and other tax of any kind, and (ii) any withholding tax, including any tax that Developer or an Equity Member is obligated to withhold on Distributions (whether actual or constructive) or other payments or allocations to Equity Members or holders of debt of or equity interests in an Equity Member under 26 U.S.C. §§ 1441 – 1446, notwithstanding 26 U.S.C. § 1461; and

(b) The phrase "cash flows" refers to Distributions described in clause (a) of the definition of Distributions, minus Committed Investment described in clause (a) of the definition of Committed Investment.

Equity Member means any Person with a direct equity interest in Developer.

Equity Transfer means any assignment, mortgage, encumbrance, conveyance, sale, or other transfer of equity interest in Developer.

Erection Procedure Report mean the deliverable described at Table 25-1 of the Technical Provisions.

Erosion and Sediment Control Plan means 327 IAC 15-5--the Erosion and Sediment Control chapter of the Indiana Design Manual.

Erosion Control Supervisor has the meaning set forth in Section 8.3.2 of the Technical Provisions.

Escalated Benchmark Insurance Premiums has the meaning set forth in Section 17.1.9.7 of the Agreement.

Escrow Agent has the meaning set forth in Section 23.5.2 of the Agreement.

Excluded Premium Increases has the meaning set forth in Section 17.1.9.1 of the Agreement.

Executive Director means the Executive Director of IFA and any successor thereto having substantially similar powers and authority.

Exempt Refinancing means:

(a) Any Refinancing that was fully and specifically identified and taken into account in the Financial Model and calculation of the Original Equity IRR;

(b) Amendments, modifications, supplements or consents to Funding Agreements and Security Documents, excluding extensions and renewals, and the exercise by a Lender of rights, waivers, consents and similar actions, in the ordinary course of day-to-day loan administration and supervision that do not, individually or in the aggregate, provide a financial benefit to Developer;

(c) Any changes in taxation or Developer's accounting treatment or policies; and

(d) Any of the following acts by a Lender of senior lien priority Project Debt:

(i) The syndication of any of such Lender's rights and interests in the senior Funding Agreements;

(ii) The grant by such Lender of any rights of participation, or the disposition by such Lender of any of its rights or interests, in respect of the senior Funding Agreements in favor of any other Lender of senior lien Project Debt or any other investor; or

(iii) The grant by such Lender of any other form of benefit or interest in either the senior Funding Agreements or the revenues or assets of Developer, whether by way of security or otherwise, in favor of any other Lender of senior lien Project Debt or any investor.

Existing Structures means any existing bridge structure within the Project ROW that the Technical Provisions identify to be rehabilitated or widened, where portions of the existing structure are to remain in place.

Existing Utility Property Interest means any right, title or interest in real property (e.g., a fee or an easement) claimed by a Utility Owner as the source of its right to maintain an existing Utility in such real property, which is compensable in eminent domain.

Extra Work means any Work in the nature of additional work, altered work or deleted work which is directly attributable to occurrence of a Relief Event and absent the Relief Event would not be required by the PPA Documents. The term "Extra Work" does not include Relief Event Delay.

Extra Work Costs means the incremental increase in the following costs of Developer directly attributable to Extra Work, which shall be calculated pursuant to Exhibit 17 (Extra Work Costs and Delay Costs Specifications) to the Agreement:

(a) Labor and burden costs;

(b) Material and supply costs;

(c) Equipment costs;

(d) Indirect costs and expenses excluding cost of funds (whether debt or equity) and excluding Lender charges, damages and penalties; and

(e) Profit.

Federal Requirements means the provisions required to be part of federal-aid construction contracts, including the provisions set forth in Exhibit 23 (Federal Requirements) to the Agreement.

Final Acceptance means the occurrence for all Project Sections of all the events and satisfaction of all the conditions set forth in Section 5.8.5 of the Agreement, as and when confirmed by IFA's issuance of a certificate in accordance with the procedures and within the time frame established in Section 5.8.5 of the Agreement.

Final Acceptance Date means the date that Final Acceptance has been achieved for all Project Sections.

Final Acceptance Deadline means the deadline for achieving Final Acceptance for all Project Sections, as set forth in the Project Schedule, as such deadline may be extended for Relief Events from time to time pursuant to the Agreement.

Final CPM Schedule means the deliverable described in Section 1.5.2.1.4 and at Table 25-1 of the Technical Provisions.

Final Design means, depending on the context: (a) the Final Design Documents, which is a deliverable described at Table 25-1 of the Technical Provisions, (b) the design concepts set forth in the Final Design Documents or (c) the process of development of the Final Design Documents, in either case.

Final Design Documents means the complete final construction drawings, including plans, profiles, cross-sections, notes, elevations, typical sections, details and diagrams, specifications, reports, studies, calculations, electronic files, records and submittals, necessary or related to construction and maintenance of the East End Crossing or any portion thereof and any Utility/ies included in the Design Work or the Construction Work.

Final Environmental Impact Statement (FEIS) means the certain "Louisville-Southern Indiana Ohio River Bridges Project Final Environmental Impact Statement and Section 4(f) Evaluation" signed by the Federal Highway Administration on April 8, 2003.

Financial Close means the satisfaction or waiver of all conditions precedent set forth in Section 13.7.5 of the Agreement to the first utilization under the Initial Funding Agreements relating to the long-term financing of the Initial Project Debt.

Financial Close Deadline means the deadline for achieving Financial Close, which shall be either: (a) the date scheduled for Financial Close as set forth in the Notice from Developer to IFA as provided in Section 13.7.2 of the Agreement, or (b) the date scheduled for Financial Close as set forth in the Notice from IFA to Developer extending the date for Financial Close as provided in Section 13.7.2 of the Agreement, or (c) 120 days after issuance of the IPDC Commencement Notice by IFA as provided in Section 13.7.2 of the Agreement.

Financial Close Security means the bond or letter of credit in the amount of $20,000,000 provided by Developer to IFA under Section 6.6 of Volume I of the RFP (Instructions to Proposers).

Financial Director is the Key Personnel listed at Exhibit 2-H to the Agreement.

Financial Escrow has the meaning set forth in Section 23.6.2 of the Agreement.

Financial Model means the financial computer model, including the Financial Model Formulas and the related output, assumptions and information used by or incorporated in each of the Financial Model Formulas, that is:

(a) Represented by material contained on computer disks and printouts held as of the Effective Date in the escrow established under Section 23.6 of the Agreement and copies of which are held by IFA and Developer;

(b) Used as of the Effective Date, with inputs of the interest rates under the Initial Project Debt, to produce the financial forecasts, projections and calculations with respect to revenues, expenses, the repayment of Project Debt and Distributions to initial Equity Members that result in achievement of the Equity IRR;

(c) The basis on which Developer and IFA entered into the Agreement; and

(d) Subject to an updated audit and opinion by an independent model auditor within two Business Days after the Effective Date, as provided in Section 12.2 of the Agreement.

Financial Model Formulas means the mathematical formulas that Developer and IFA have agreed upon as of the Effective Date, as the same may be changed by mutual written agreement of the Parties, for projecting Equity IRR, which mathematical formulas are used as part of the Financial Model and each Financial Model Update, but without the data and information used by or incorporated in the Financial Model or Financial Model Update.

Financial Model Update or **Update** means any update to the Financial Model prepared pursuant to Section 12.1 of the Agreement.

Financial Modeling Data means all back-up information in any media or format regarding the basis for Developer's assumptions, estimates, projections and calculations in its Proposal, in the Financial Model and in Financial Model Updates of revenues, pricing, costs, expenses, repayment of Project Debt, Distributions and internal rate of return, including:

(a) Appendix D-2 of the Proposal (Detailed Costing Form);

(b) The data book submitted with the Proposal, fully describing all assumptions underlying the estimates, projections and calculations in the Financial Model, revisions thereto pursuant to Section 12.1.1, and updates to such data book related to the Financial Model and Financial Model Updates;

(c) The step-by-step instructions on the procedure to run and to optimize the Financial Model Formulas, the Financial Model and Financial Model Updates;

(d) Copies of all offers, and all data and information within this definition, received from all Contractors (at all tiers) identified in the Proposal and any other potential Contractors that provided data and information used as the basis for Appendix D-2 of the Proposal, as revised pursuant to Section 14.3.1;

(e) Copies of all offers, and all data and information within this definition, received from all Contractors (at all tiers) related to any Relief Event;

(f) All other supporting data, technical memoranda, calculations, formulas, unit and materials prices (if applicable) and such other cost, charge, fee, financing, equity return and revenue information used by Developer in the creation and derivation of its Proposal or the revisions pursuant to Section 12.1.1 of the Agreement, or of the Financial Model, or any Financial Model Update, or related to any Relief Event or Change Order.

Financial Plan means Developer's plan for financing the East End Crossing, which plan is set forth in Exhibit 2-C (Financial Plan) to the Agreement.

First Priority Costs means the following costs payable from the IFA First Priority Costs Fund:

(a) IFA's Costs incurred from and after the Baseline Substantial Completion Date, up to an annual cap equal to two million U.S. dollars ($2,000,000) for calendar year 2013 and an annual cap each calendar year thereafter equal to the cap for the immediately preceding calendar year increased by two and one-half percent (2.5%); provided that for any calendar year in which items of major maintenance and repair (including due to occurrence of Relief Events or due to Rehabilitation Work or Handback Requirements) are reasonably anticipated to be under design or construction, IFA shall have the right to increase the cap by its estimated increase in IFA's Costs of Oversight of such design and construction;

(b) The fees and costs of the custodian properly incurred under, and in accordance with, the Custody Agreement; and

(c) The fees and costs of the Project Trustee properly incurred under, and in accordance with, the Project Trust Agreement.

Fiscal Year means the consecutive 12-month period starting on July 1 and ending on June 30.

Flood Event means a "flood" (as defined by the Federal Emergency Management Agency) where flood waters at the Site reach two (2) or more acres measured, at or in excess of: (a) for the period commencing on the Effective Date up to and including the earlier of (i) the Substantial Completion Date and (ii) early termination of the Agreement, NAVD88 Elevation 434.00 (or its equivalent, successor measurement); or (b) for the period commencing the day subsequent to the Substantial Completion Date up to and including the end of the Term, NAVD88 Elevation 457.00 (or its equivalent, successor measurement), in each case as such measurement is officially determined and recorded by the U.S. National Oceanic and Atmospheric Administration's National Weather Service for the geographic region that includes the Site.

Force Account Estimate means an itemized estimate prepared by the railroad for the prescribed work to be done by the railroad to accommodate the East End Crossing. Prescribed work is paid for on the basis of actual costs and appropriate additives.

Force Majeure Event means the occurrence of any of the following events that is (i) beyond the reasonable control of Developer, (ii) not attributable to the negligence, willful misconduct, or breach of applicable Law or contract by any Developer-Related Entity, and (iii) actually, demonstrably, materially and adversely affects performance of Developer's obligations (other than payment obligations) in accordance with the terms of the PPA Documents to a material extent, provided that such events (or the effects of such events) are not caused, and could not have been avoided by the exercise of caution, due diligence, or reasonable efforts, by Developer or any Developer-Related Entity: (a) war (including civil war and revolution), invasion, armed conflict, violent act of foreign enemy, military or armed blockade, or military or armed takeover of the East End Crossing or the Site, in each case occurring within the State of Indiana and/or the Commonwealth of Kentucky; (b) any act of terrorism, riot, insurrection, civil commotion or sabotage that causes direct physical damage to, or otherwise directly causes interruption to construction or direct losses during operation of, the East End Crossing or the Site; (c) national strikes not specific to Developer, embargoes, acts or omissions of a port or transportation authority, unavailability or shortages of materials, wars, and currently-listed events that occur outside of the State that, in each case, directly causes interruption to construction or direct losses during operation of the East End Crossing; (d) nuclear explosion that causes direct physical damage to the East End Crossing or the Site, or radioactive contamination of the East End Crossing or the Site; (e) Flood Event, fire, explosion, gradual inundation caused by natural events, a tornado with an enhanced Fujita Score Rating of EF2, sinkhole caused by natural events, or landslide caused by natural events, in each case directly impacting the physical improvements of the East End Crossing or performance of Work at the Site; (f) any governor-declared Emergency within the limits of the Project Right of Way, except one consisting of or arising out of traffic accidents and (g) a Seismic Event.

Forest Mitigation Plan means the deliverable described at Table 25-1 of the Technical Provisions.

Forward Looking Termination for Convenience Amount means the amount calculated in accordance with Exhibit 22 (Terms for Termination Compensation) to the Agreement.

Funding Agreement means:

(a) Any loan agreement, funding agreement, account maintenance or control agreement, insurance or reimbursement agreement, intercreditor agreement, subordination agreement, trust indenture, agreement from any Equity Member in favor of any Lender, hedging agreement, interest rate swap agreement, guaranty, indemnity agreement, agreement between any Contractor and any Lender, or other agreement by, with or in favor of any Lender pertaining to Project Debt (including any Refinancing), other than Security Documents;

(b) Any note, bond or other negotiable or non-negotiable instrument evidencing the indebtedness of Developer for Project Debt (including any Refinancing); and

(c) Any amendment, supplement, variation or waiver of any of the foregoing agreements or instruments.

GBR Envelope means the zone for Tunnel construction, as defined in Section 16.1.7 of the Technical Provisions.

General Inspection means an inspection to identify Defects and assess asset condition, as more particularly set forth in Section 22.5.3 of the Technical Provisions.

General Reserve Fund means the trust account of that name established and maintained under the Project Trust Agreement.

Geotechnical Baseline Report means the Geotechnical Engineering Report, LSIORBP Section 4 Tunnel Geotechnical Baseline Report, April 2012, by Golder Associates.

Good Industry Practice means the exercise of the degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from time to time from a skilled and experienced professional designer, engineer, constructor, operator or maintenance provider seeking in good faith to comply with its contractual obligations, complying with all applicable Laws and Governmental Approvals, using accepted design and construction standards and criteria normally used on similar projects in Indiana, and engaged in the same type of undertaking in the United States under similar circumstances and conditions, including environmental conditions.

Governmental Approval means any registration, permit, license, consent, concession, grant, franchise, authorization, waiver, variance or other approval, guidance, protocol, mitigation agreement, or memoranda of agreement/understanding, and any amendment or modification of any of them provided or issued by Governmental Entities including State, local, or federal regulatory agencies, agents, or employees, which authorize or pertain to the East End Crossing or the Work.

Governmental Entity means any federal, State, Commonwealth of Kentucky or local government and any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or entity other than IFA.

Guarantor means any Person that is the obligor under any guaranty in favor of IFA required under the Agreement, including any guaranty of the Design-Build Contract or any O&M Contract.

Handback Plan means the plan by that name described in Section 23.1 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Handback Requirements means the terms, conditions, requirements and procedures governing the condition in which Developer is to deliver the East End Crossing and the related Project Right of Way and Toll Collection System Locations to IFA upon expiration or earlier termination of the Agreement, as set forth in Section 23 of the Technical Provisions.

Handback Requirements Letter of Credit means a letter of credit delivered to IFA in lieu of the Handback Requirements Reserve Account, in accordance with Sections 6.13.5 and 17.3 of the Agreement.

Handback Requirements Reserve Account has the meaning set forth in Section 6.13.1 of the Agreement.

Hazardous Materials means any element, chemical, compound, material or substance, whether solid, liquid or gaseous, which at any time is defined, listed, classified or otherwise regulated in any way under any Environmental Law, or any other such substances or conditions (including mold and other mycotoxins or fungi) which may create any unsafe or hazardous condition or pose any threat to human health and safety. For the avoidance of doubt, unexploded ordnance is not considered a Hazardous Material, although substances contained in or leaking from unexploded ordnance may be within this definition of Hazardous Material. "Hazardous Materials" includes the following:

(a) Hazardous wastes, hazardous material, hazardous substances, hazardous constituents, and toxic substances or related materials, whether solid, liquid, or gas, including substances defined as or included in the definition of "hazardous substance", "hazardous waste", "hazardous material", "extremely hazardous waste", "acutely hazardous waste", "radioactive waste", "radioactive materials", "bio-hazardous waste", "pollutant", "toxic pollutant", "contaminant", "restricted hazardous waste", "infectious waste", "toxic substance", "toxic waste", "toxic material", or any other term or expression intended to define, list or classify substances by reason of properties harmful to health, safety or the indoor or outdoor environment (including harmful properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, "TCLP toxicity" or "EP toxicity" or words of similar import under any applicable Environmental Laws);

(b) Any petroleum, including crude oil and any fraction thereof, and including any refined petroleum product or any additive thereto or fraction thereof or other petroleum derived substance; and any waste oil or waste petroleum byproduct or fraction thereof or additive thereto;

(c) Any drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal resources;

(d) Any flammable substances or explosives;

(e) Any radioactive materials;

(f) Any asbestos or asbestos-containing materials;

(g) Any lead and lead-based paint;

(h) Any radon or radon gas;

(i) Any methane gas or similar gaseous materials;

(j) Any urea formaldehyde foam insulation;

(k) Electrical equipment which contains any oil or dielectric fluid containing regulated levels of polychlorinated biphenyls;

(l) Pesticides;

(m) Any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any Governmental Entity or which may or could pose a hazard to the health and safety of the owners, operators, Users or any Persons in the vicinity of the East End Crossing or to the indoor or outdoor Environment; and

(n) Soil, or surface water or ground water, contaminated with Hazardous Materials as defined above.

Hazardous Materials Management means procedures, practices and activities to address and comply with Environmental Laws and Environmental Approvals with respect to Hazardous Materials and Recognized Environmental Conditions encountered, impacted, disturbed, released, caused by or occurring in connection with the East End Crossing, Project Right of Way or the Work, as well as investigation, characterization and remediation of such Hazardous Materials and Recognized Environmental Conditions. Hazardous Materials Management may include sampling, handling, stock-piling, storing, backfilling in place, asphalt batching, recycling, dewatering, treating, cleaning up, excavating, removing, remediating, transporting and/or disposing off-site of Hazardous Materials and otherwise managing Recognized Environmental Conditions, whichever approach is effective, most cost-efficient and authorized under applicable Law.

Hazardous Materials Management Plan (HMMP) means Developer's plan for Hazardous Materials Management both within and outside the Project Right of Way during construction of the East End Crossing and Utility Adjustments included in the Construction Work, and during operation of O&M Limits, as more particularly set forth in Section 7.9.1 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Historic Preservation Plans means studies that have been prepared by IFA pursuant to the Section 106 Memorandum of Agreement that include contextual descriptions of various historic districts or properties and recommended mitigation measures.

Holiday means New Years Day, Martin Luther King Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day, the day after Thanksgiving and Christmas Day. In years when one of these days fall on a weekend, that particular Holiday will be the observed Holiday

Hourly Flows means the number of passenger car units (pcus) traveling in one direction on Project Section 4 in one hour per lane passing by or through a measurement location for each direction of travel approved by IFA, measured and reported by Developer if, as and when required under the PPA Documents for each approved measurement location for hour long time periods commencing every 15 minutes of every hour commencing on and after the Substantial Completion Date, 24 hours a day, seven days per week.

Hydraulic Report means the deliverable described at Table 25-1 of the Technical Provisions.

IFA means the Indiana Finance Authority, its duly appointed designees, and any entity succeeding to the powers, authorities and responsibilities of IFA invoked by or under the PPA Documents.

IFA Appropriations Fund means the fund by the name established under the Project Trust Agreement.

IFA-Caused Delays means any of the following events, to the extent they result in a delay or interruption in performance of any material Developer obligation under the Agreement, and provided such events are beyond Developer's control and are not due to any act, omission, negligence, recklessness, willful misconduct, breach of contract, the requirements of the PPA Documents (including Developer's obligations set forth in Section 4.3.10 of the Agreement) or Law of any of the Developer-Related Entities, and further provided that such events (or the effects of such events) could not have been avoided by the exercise of caution, due diligence, or reasonable efforts by Developer:

(a) Failure of IFA:

(i) To issue NTP1 within 30 days after satisfaction of all of the conditions precedent to issuance of NTP1 as set forth in Section 5.3.1 of the Agreement, or

(ii) To issue NTP2 within 30 days after satisfaction of all of the conditions precedent to issuance of NTP2 as set forth in Section 5.6.1 of the Agreement; or

(iii) To issue the certificate of Substantial Completion within 5 days after DB Substantial Completion and satisfaction of all O&M Conditions Precedent as provided in Section 5.8.1;

(b) IFA Changes;

(c) Failure or inability of IFA to make available to Developer for construction:

(i) A Project Right of Way parcel other than Additional Properties by the applicable "Anticipated Date Available" set forth in Attachment 21-1 of the Technical Provisions; or

(ii) An Additional Property that IFA is to acquire, within 550 days after IFA's receipt and approval of Developer's written request, information required under Section 21.1 of the Technical Provisions, and drawing in accordance with Section 5.4.3 of the Agreement, subject, however, to (A) the exceptions and limitations set forth in Section 15.7.2 of the Agreement and (B) IFA's right to extension of such time period as necessary due to IFA's curtailment, suspension or cessation of acquisition activities as set forth in Section 5.4.8 of the Agreement;

provided that "make available" means that Developer shall have the right to enter the parcel for the purpose of commencing and completing construction in accordance with the PPA Documents as the result of IFA's having secured a temporary or final right of entry, permit or other agreement, or an order of possession, through settlement, negotiation, the eminent domain process or otherwise;

(d) Failure or inability of IFA to make available to Developer for operations any of the property described in clauses (c)(i) and (ii) above by the Substantial Completion Date, subject, however, in the case of clause (c)(ii) above to the exception and right of extension described in such clause, and provided that "make available" means that Developer shall have the right to enter the parcel for the purposes and activities of Developer contemplated under the PPA Documents after the Substantial Completion Date, as the result of IFA's having secured a temporary or final right of entry, permit or other agreement, or an order of possession, through settlement, negotiation, the eminent domain process or otherwise;

(e) Failure of IFA to provide responses to proposed schedules, plans, Design Documents, condemnation and acquisition packages, and other Submittals and matters submitted to IFA after the Effective Date for which response is required under the PPA Documents as an express prerequisite to Developer's right to proceed or act, within the time periods (if any) indicated in the PPA Documents, or if no time period is indicated, within a reasonable time, taking into consideration (i) the nature, importance and complexity of the Submittal or matter, (ii) the number of Submittals or such other items which are then pending for IFA's response, (iii) the completeness and accuracy of the Submittal or such other item, and (iv) Developer's performance and history of Nonconforming Work under the PPA Documents, following delivery of Notice from Developer requesting such action in accordance with the terms and requirements of the PPA Documents;

(f) Suspension of Work orders issued by IFA pursuant to Section 19.2.8.3 of the Agreement, provided that:

(i) Any suspension of Work arising from Force Majeure Events, litigation, or security threat rule, order or directive shall not be considered an IFA-Caused Delay (although it may qualify as a Relief Event under clause (j), (s) or (t), respectively of the definition of "Relief Event"), despite the fact that IFA may specifically direct Developer to suspend the Work; and

(ii) Any suspension of Work arising from presence or Release of Hazardous Materials, IFA's performance of data recovery respecting archeological, paleontological, historical or cultural resources, or IFA's actions related to endangered or threatened species shall not be considered an IFA-Caused Delay (although it may qualify as a Relief Event under clause (m), (n), (o) or (q), respectively, of the definition of "Relief Event"), despite the fact that IFA may specifically direct Developer to suspend the Work. Any proper suspension of Work pursuant to Section 19.2.8.1 of the Agreement shall not be considered an IFA-Caused Delay;

(g) Uncovering of the Construction Work, so long as (i) Developer shall have given IFA prior notification (in accordance with the terms of the PPA Documents, but in no case less than five (5) Business Days' prior notification prior to covering the relevant portion of the Construction Work) of Developer's intent to cover such portion of the Construction Work, (ii) such portion has, in fact, been covered, (iii) the covering itself is not Defective and otherwise in accordance with the PPA Documents and (iv) upon uncovering, that portion of the Construction Work that

had been covered is determined not to be Defective and is otherwise in accordance with the PPA Documents. For purposes of clarity:

(i) all costs and delays arising out of or relating to uncovering of the Construction Work is not, nor shall be deemed to be, an IFA-Caused Delay if such Construction Work was (1) covered without proper prior notification to IFA, (2) Defective or (3) contrary to the requirements in the PPA Documents;

(ii) Construction Work that becomes Defective by virtue of the uncovering, where such uncovering would otherwise be an IFA-Caused Delay shall itself be an IFA-Caused Delay, so long as Developer conducts the uncovering in accordance with Project Standards; and

(iii) Developer bears the burden of proof to establish that it had given, or caused to be given, and IFA received, or was deemed to receive, proper prior notification of the covering;

(h) IFA's issuance of the notice to Developer extending the date for Financial Close as provided in Section 13.7.2 of the Agreement or an extension of the date for Financial Close due to a delay in the Effective Date as described in Section 13.7.2.1 of the Agreement, for the period commencing on the first day after the original date for Financial Close as set forth in the Developer FC Notice (or the date scheduled for Financial Close as set forth in the Proposal, if the date for Financial Close is extended due to a delay in the Effective Date, as described in Section 13.7.2.1 of the Agreement) until the date of Financial Close set forth in the IFA FC Notice (or, if the date for Financial Close is extended due to a delay in the Effective Date, as described in Section 13.7.2.1, and IFA does not issue an IFA FC Notice, the date set forth in the Developer FC Notice); and

(i) Failure or inability on the part of IFA to obtain the IFA-Provided Approvals on the dates set forth in Attachment 07-01 of the Technical Provisions except delay to the extent attributable to any of the differences described in Section 4.3.4 of the Agreement unless such differences are due to an IFA Change.

IFA Change means any of the following events:

(a) Any change in the scope of the Work that IFA has directed Developer to perform through a Change Order as described in Section 16.1 of the Agreement or a Directive Letter pursuant to Section 16.3 of the Agreement;

(b) Unless expressly provided otherwise in the PPA Documents, any change in the Technical Provisions or Safety Standards applicable to the Work pursuant to, and compliant with the conditions of, Section 5.2.5, that IFA has directed Developer to perform through a Change Order pursuant to Section 16.1 of the Agreement or a Directive Letter pursuant to Section 16.3 of the Agreement;

(c) Reasonable or necessary change(s) to the Technical Provisions (that are neither Non-Discriminatory O&M Changes nor Discriminatory O&M Changes) to (i) correct (an) erroneous provision(s) of the Technical Provisions, (ii) remove a potentially unsafe condition prescribed by the Technical Provisions, or (iii)

resolve a present or certain future inconsistency between the Technical Provisions and any of the PPA Documents, Good Industry Practice or applicable Law where, in each case, either (A) Developer neither knew nor, in the exercise of reasonable care, should have known that adopting change(s) to such provision(s) of the Technical Provisions was reasonable or necessary to render such Technical Provision(s) correct, safe and consistent with the PPA Documents, Good Industry Practice and applicable Law prior to commencing or continuing any D&C Work affected by the problematic provision(s), or (B) Developer knew of and reported the problematic provision(s) to IFA, pursuant to Developer's obligation under Section 5.2.5 of the Agreement, prior to Developer commencing or continuing any D&C Work affected by the problematic provision(s); and

(d) Any other event that the PPA Documents expressly state shall be treated as an "IFA Change."

IFA Construction Quality Manager has the meaning set forth in Figure 2-1 of the Technical Provisions.

IFA Default has the meaning set forth in Section 19.3.1 of the Agreement.

IFA Design Quality Manager has the meaning set forth in Figure 2-1 of the Technical Provisions.

IFA First Priority Costs Fund means the fund by the name established under the Project Trust Agreement.

IFA-Initiated Approvals means the Environmental Approvals identified in Section 7.4 of the Technical Provisions that have not been obtained as of the Effective Date.

IFA Landscaping Work Accounting has the meaning set forth in Section 5.10.6.4 of the Agreement.

IFA-Lender Notice means a Notice by IFA to the Collateral Agent delivered promptly upon giving Notice to Developer of:

(a) A Developer Default other than an Incurable Developer Default;

(b) IFA's right to terminate, or IFA's election to terminate, the PPA under Sections 19.2 and 20.3 of the PPA;

(c) IFA's exercise of any rights under Sections 19.2.3 (except under 19.2.3.5), 19.2.4 or 19.2.8.1 of the PPA; or

(d) IFA's right to suspend its performance (including in connection with any insolvency or bankruptcy proceeding in relation to Developer) under the PPA.

in each case specifying:

i. The unperformed obligations of Developer under the PPA that are the grounds for termination of the PPA, or for suspension of performance or for exercise of the other

rights all as referred to in Sections 19.2.8.1, 19.2.3 (except 19.2.3.5), 19.2.4 and 19.2.1 of the PPA in detail sufficient to enable the Collateral Agent to assess the scope and amount of any liability of Developer resulting therefrom;

ii. To the extent known to IFA, all amounts due and payable by Developer to IFA under the PPA on or before the date of such IFA Notice and which remain unpaid at such date and the nature of Developer's obligation to pay such amounts; and

iii. The estimated amount of Developer's payment obligation to IFA that IFA reasonably foresees will arise during the applicable Cure Period,

which, IFA shall update upon the Collateral Agent's request, not more frequently than monthly.

IFA-Provided Approvals means the Governmental Approvals for the East End Crossing obtained by IFA as of the Setting Date as specifically listed and identified as such in Attachment 07-01 to the Technical Provisions.

IFA Quality Manager has the meaning set forth in Section 4.3.1 of the Technical Provisions.

IFA Quality Oversight Verification Reports means reports prepared by IFA documenting results of IFA quality verification activities as described in Section 4.3.1 of the Technical Provisions.

IFA REAA Accounting has the meaning set forth in Section 15.8.4 of the Agreement.

IFA Release(s) of Hazardous Material means, except as provided below, the introduction in, on or under the Project Right of Way of Hazardous Material directly by IFA, or by its contractors, subcontractors, agents or employees acting in such capacity (other than any Developer-Related Entity). IFA Release(s) of Hazardous Material excludes, however, (a) any Hazardous Materials so introduced that are in or part of construction or other materials, equipment and hardware incorporated into the East End Crossing and (b) any Known or Suspected Hazardous Materials.

IFA Utility Agreement has the meaning set forth at Section 18.1.2 of the Technical Provisions.

IFA's Costs means for any month or any Fiscal Year, as applicable, fees, costs and expenses of all kinds incurred by IFA after the Effective Date, including:

(a) Salaries, wages and benefits of employees, rent, office costs, advisor and consultant costs, including costs of traffic and revenue studies and updates thereto, and attorneys' fees;

(b) Costs to acquire property, easements, rights of entry, rights of access and other interests necessary for construction, operation or maintenance of the East End Crossing; and

(c) All other organizational, administrative, operating and overhead fees, costs and expenses of IFA;

provided that "IFA's Costs" excludes (i) payments due from IFA to Developer under the Agreement and (ii) IFA's Recoverable Costs, and other amounts, due from Developer under the Agreement.

IFA's Recoverable Costs means:

(a) The costs of any assistance, action, activity or Work undertaken by IFA for which Developer is liable or is to reimburse IFA under the terms of the PPA Documents, including the charges of third party experts, consultants and contractors and reasonably allocated wages, salaries, compensation, benefits and overhead of IFA staff and employees performing such action, activity or Work; plus

(b) Third-party costs IFA incurs to publicly procure any such third party experts, consultants or contractors; plus

(c) Reasonable fees and costs of attorneys (including the reasonably allocable fees and costs of the Indiana Department of Law or IFA in-house counsel), financial advisors, engineers, architects, insurance brokers and advisors, investigators, traffic and revenue consultants, risk management consultants, other consultants, and expert witnesses, as well as court costs and other litigation costs, in connection with any such assistance, action, activity or Work, including in connection with investigating and defending claims by and resolving disputes with third party contractors; plus

(d) Interest on all the foregoing sums at a floating rate equal to the LIBOR in effect from time to time plus 200 basis points, commencing on the date due under the applicable terms of the PPA Documents (or if none, at the time incurred by IFA) and continuing until paid in full.

Incident means a localized disruption to the free flow of traffic or safety of Users on the East End Crossing.

Incident Management Plan means Developer's plan for detection and response to Incidents, as part of the PMP, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Incidental Charges means:

(a) Reasonable fees approved by IFA in writing for recovering the costs of issuing paper account statements;

(b) Reasonable fees approved by IFA in writing for recovering the costs of issuing invoices to post-paid commercial account customers;

(c) Reasonable fees approved by IFA in writing chargeable to a customer for insufficient funds in bank accounts against which customer checks are drawn; and

(d) Other reasonable fees and charges approved by IFA in writing in its good faith discretion for provision to customers of optional incidental services that IFA approves in writing in its good faith discretion.

Incurable Developer Default means a Developer Default under (a) Section 19.1.1.11, (b) Section 19.1.1.3(a) or (c) Section 19.1.1.16 or 19.1.1.17 of the Agreement.

Indemnified Parties means IFA, the Department, KYTC, KPTIA, LASIBA, the Joint Interlocal Board for the Ohio River Bridges Project, the State, the Commonwealth of Kentucky and each of their respective successors, assigns, officeholders, officers, directors, commissioners, agents, representatives, agents, consultants and employees.

Indiana Approach has the meaning set forth in Section 1.1 of the Technical Provisions.

Indiana Design Manual means the current INDOT Design Manual, which is posted on the INDOT website at http://www.in.gov/indot/design_manual/.

Indiana Historic Preservation Advisory Team means an Indiana advisory group for the Project that was formed pursuant to the Section 106 Memorandum of Agreement.

Indiana Revenue Share means 50% of the Toll Revenues for the Project.

Indiana Revenue Share Account means the account by that name established under the Custody Agreement.

Informal Resolution Procedures has the meaning set forth in Section 19.6.3 of the Agreement.

Initial Funding Agreements means the Funding Agreements establishing the rights and obligations pertaining to the Initial Project Debt, as specifically identified in Exhibit 13 (List of Initial Funding Agreements and Initial Security Documents) to the Agreement.

Initial Project Debt means the Project Debt to originally finance the East End Crossing and Work, in the total face amount at each lien priority, and with the particular Lenders, set forth in Exhibit 13 (List of Initial Funding Agreements and Initial Security Documents) to the Agreement, which Project Debt is evidenced by the Initial Funding Agreements and secured by the Initial Security Documents.

Initial Security Documents means the Security Documents securing the Initial Project Debt, as specifically identified in Exhibit 13 (List of Initial Funding Agreements and Initial Security Documents) to the Agreement.

Initial Senior Project Debt means Initial Project Debt, other than Subordinate Debt, in the face amount of at least that set forth in the Financial Plan attached to the Agreement as Exhibit 2-C (Financial Plan) to the Agreement from one or more Institutional Lenders (or other Lenders if the Collateral Agent is an Institutional Lender), evidenced or to be evidenced by the applicable Initial Funding Agreements and secured by the applicable Initial Security Documents in favor of such Lender(s).

Installation Practices for Outdoor Fiber-Optic Cable Systems Manual means the deliverable described at Table 25-1 of the Technical Provisions.

Institutional Lender means:

(a) The United States of America, any state thereof or any agency or instrumentality of either of them, any municipal agency, public benefit corporation or public authority, advancing or insuring mortgage loans or making payments which, in any manner, assist in the financing, development, operation and maintenance of projects;

(b) Any (i) bank, trust company (whether acting individually or in a fiduciary capacity), savings and loan organization or insurance company organized and existing under the laws of the United States of America or any state thereof, (ii) foreign insurance company or bank qualified to do business as such, as applicable under the laws of the United States of America or any state thereof, or (iii) pension fund, foundation or university or college endowment fund (provided that an entity described in this clause (b) only qualifies as an Institutional Lender if it is subject to the jurisdiction of state and federal courts in the State in any actions);

(c) Any "qualified institutional buyer" under Rule 144(a) under the U.S. Securities Act of 1933 or any other similar Law hereinafter enacted that defines a similar category of investors by substantially similar terms; or

(d) Any other financial institution or entity designated by Developer and approved in writing by IFA (provided that such institution or entity, in its activity under the Agreement, is acceptable under then current guidelines and practices of IFA);

provided, however, that each such entity (other than entities described in clause (c) and clause (d) of this definition), or combination of such entities if the Institutional Lender is a combination of such entities, shall have individual or combined assets, as the case may be, of not less than $1 billion. The foregoing dollar minimums shall automatically increase at the beginning of each calendar year by the percentage increase, if any, in the CPI during the immediately preceding calendar year, determined by comparing the CPI most recently published for the immediately preceding year with the CPI most recently published for the second preceding year.

Insurance Policies means all of the insurance policies Developer is required to carry pursuant to Section 17.1 and Exhibit 19 (Insurance Coverage Requirements) to the Agreement.

Insurance Premium Benchmark Amount has the meaning set forth in Section 17.1.9.8 of the Agreement.

Insurance Review Report has the meaning set forth in Section 17.1.9.2 of the Agreement.

Insurance Unavailability means either:

(a) Any Insurance Policy coverage required under Section 17.1 of the Agreement and Exhibit 19 (Insurance Coverage Requirements) to the Agreement is completely unavailable from insurers meeting the financial requirements set forth in Section 17.1.2.1; or

(b) Provision of all such Insurance Policy coverages has become unavailable at Commercially Reasonable Insurance Rates from insurers meeting the financial requirements set forth in Section 17.1.2.1.

Intellectual Property means all current and future legal and/or equitable rights and interests in know-how, patents (including applications), copyrights (including moral rights), trade marks (registered and unregistered), service marks, trade secrets, designs (registered and unregistered), utility models, circuit layouts, plant varieties, business and domain names, inventions, solutions embodied in technology, and other intellectual activity, and applications of or for any of the foregoing, subsisting in or relating to the East End Crossing, East End Crossing design data or East End Crossing traffic data. Intellectual Property includes traffic management algorithms, and software, source code and source code documentation used in connection with the East End Crossing (including software, source code and source code documentation used for management of traffic on the East End Crossing). Intellectual Property also includes the Financial Model Formulas, Financial Model and Financial Modeling Data. Intellectual Property is distinguished from physical construction and equipment itself and from drawings, plans, specifications, layouts, depictions, manuals and other documentation that disclose Intellectual Property.

Intellectual Property Escrow has the meaning set forth in Section 23.5.2 of the Agreement.

Intelligent Transportation System (ITS) has the meaning set forth in Section 19 of the Technical Provisions.

Intelligent Vehicle Highway System (IVHS) means smart vehicle and smart highway technologies to improve the safety, efficiency and environmental impact of highway facilities.

Interpretive Engineering Decision has the meaning set forth in Section 3.7.1 of the Agreement.

IPDC Commencement Notice has the meaning set forth in Section 13.7.2 of the Agreement.

ITS Operations and Maintenance Plan has the meaning set forth in Section 19.7.1 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Kentucky Approach has the meaning set forth in Section 1.1 of the Technical Provisions.

Kentucky Historic Preservation Advisory Team means a Kentucky advisory group for the Project that was formed pursuant to the Section 106 Memorandum of Agreement.

Kentucky Revenue Share means 50% of the Toll Revenues for the Project.

Kentucky Revenue Share Account means account by that name established under the Custody Agreement.

Key Contract means any one of the following Contracts for Work Developer causes to be performed:

(a) All Prime Contracts for construction, including the Design-Build Contract;

(b) All Prime Contracts for design;

(c) All O&M Contracts, including the Contract with the Lead Operations and Maintenance Contractor;

(d) All Prime Contracts for project or program management services which individually or in the aggregate total in excess of $25 million;

(e) All other Prime Contracts with a single contractor (or a single contractor and its Affiliates), which individually or in the aggregate total in excess of $50 million; and

(f) Any contract, Prime Contract or Contract(s) between a Developer-Related Entity and the Lead Engineering Firm in respect of the East End Crossing.

The term "Key Contracts" shall mean all such Contracts in the aggregate or more than one of such Contracts.

Key Contractor means the Contractor under any Key Contract.

Key Personnel means those individuals appointed by Developer and approved by IFA from time to time to fill the "Key Personnel" positions identified in Section 1.5.1 of the Technical Provisions. The specific individuals appointed by Developer and approved by IFA to initially fill certain of the Key Personnel positions are identified in Exhibit 2-H (Equity Members, Contractors and Key Personnel Commitments) to the Agreement.

Known or Suspected Hazardous Materials means Hazardous Materials and Recognized Environmental Conditions that are known or reasonably suspected to exist as of the Setting Date from information or analysis contained in or referenced in the Reference Information Documents, including any of the phase 1 environmental site assessments and reports contained in the Reference Information Documents as of the Setting Date. Known or Suspected Hazardous Materials include Hazardous Materials and Recognized Environmental Conditions arising in or from any of the Hazardous Materials sites listed in the Final Environmental Impact Statement, the Supplemental Final Environmental Impact Statement and Section 7.9 of the Technical Provisions.

Landscaping Statement has the meaning set forth in Section 5.10.6.1 of the Agreement.

Landscaping Work has the meaning set forth in Section 5.10.1 of the Agreement.

Landscaping Work Allowance has the meaning set forth in Section 5.10.3 of the Agreement.

Law or **Laws** means (a) any statute, law, code, regulation, ordinance, rule or common law, (b) any binding judgment (other than regarding a Claim or Dispute), (c) any binding judicial or administrative order or decree (other than regarding a Claim or Dispute), (d) any written directive, guideline, policy requirement or other governmental restriction (including those resulting from the initiative or referendum process, but excluding those by IFA within the scope of its administration of the PPA Documents) or (e) any similar form of decision of or determination by, or any written interpretation or administration of any of the foregoing by, any Governmental Entity, in each case which is applicable to or has an impact on the East End

Crossing or the Work, whether taking effect before or after the Effective Date, including Environmental Laws. "Laws," however, excludes Governmental Approvals.

Lead Bridge Engineer is the Key Personnel listed at Exhibit 2-H to the Agreement.

Lead Engineer has the meaning set forth in Section 3.2.4 of the Technical Provisions. The Lead Engineer is Key Personnel listed at Exhibit 2-H to the Agreement.

Lead Engineering Firm means Jacobs Engineering Group, Inc., a Delaware corporation.

Lead Operations and Maintenance Contractor means the entity that will perform the O&M Work for Developer during the Operating Period. The Parties acknowledge that, as of the Effective Date, Developer shall self-perform the O&M Work, and if, as and when Developer shall not self-perform the O&M Work, the provisions of Section 6.2.1 of the Agreement shall apply.

Lead Underwriter has the meaning set forth in the RFP.

Lead Tunnel Engineer is the Key Personnel listed at Exhibit 2-H to the Agreement.

Lender means each of the holders and beneficiaries of Security Documents and their respective successors, assigns, participating parties, trustees and agents, including the Collateral Agent.

Lender Notice means a Notice from Collateral Agent to IFA, with a copy to Developer, delivered promptly upon the occurrence of any Default or Event of Default (whether or not an IFA-Lender Notice has been served relating to the same event), which Lender Notice shall specify the circumstances and nature of the Default or Event of Default to which the Lender Notice relates.

LIBOR means the offered rate per annum (rounded up to the next highest one one-thousandth of one percent (0.001%)) for deposits in U.S. dollars for a one-month period which appears on the Telerate Page 3750 at approximately 11:00 A.M., London time, on the date of determination, or if such date is not a date on which dealings in U.S. dollars are transacted in the London interbank market, then on the next preceding day on which such dealings were transacted in such market. All interest based on LIBOR shall be calculated on the bases of a 360-day year for the actual days elapsed.

Lockbox Account has the meaning set forth in Exhibit 15 (Summary of Terms for Custody Agreement) to the Agreement.

Long Stop Date means the outside deadline for achieving Substantial Completion, as set forth in the Project Schedule, as such deadline may be extended for Relief Events from time to time pursuant to the Agreement.

Losses means any loss, damage, injury, liability, obligation, cost, response cost, expense (including attorneys', accountants' and expert witnesses' fees and expenses (including those incurred in connection with the enforcement of any indemnity or other provision of the Agreement)), fee, charge, judgment, penalty, fine or Third Party Claims. Losses include injury to or death of persons, damage or loss of property, and harm or damage to natural resources.

Mainline means the main alignment of the East End Crossing roadway, which is continuous through all Project Sections.

Maintenance-of-Traffic Manager has the meaning set forth in Section 12.3.2 of the Technical Provisions.

Maintenance Plan (MP) means Developer's plan for managing maintenance during the Operating Period, as more particularly described in Section 22.4.1 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Maintenance Work Report has the meaning set forth in Section 22.4.1.3 of the Technical Provisions.

Major Environmental Approvals means those Environmental Approvals identified in Attachment 7-1 of the Technical Provisions that are not IFA-Provided Approvals.

Major Environmental Approval Deadline means the end of the expected time necessary to secure each of the Major Environmental Approvals as set forth in Attachment 7-1 of the Technical Provisions.

Mass Concrete Thermal Control Plan means the deliverable described at Table 25-1 of the Technical Provisions.

Maximum Availability Payment or **MAP** means the maximum Availability Payment that Developer can earn in a given Fiscal Year from and after the Substantial Completion Date, as calculated in accordance with Exhibit 10 (Payment Mechanism) to the Agreement, and as may be further adjusted in accordance with the PPA Documents.

Milestone means each of the milestones set forth at Exhibit 4 (Milestone Payment Amounts) to the Agreement.

Milestone Agreement has the meaning set forth in Section 10.1.1.1 of the Agreement.

Milestone Payment means the payment(s) identified in Section 10.1.1 of the Agreement.

Milestone Payment Amount means the amount of the Milestone Payment(s) identified in Section 10.1.1, calculated pursuant to Section 4 of Exhibit 10 (Payment Mechanism) and payable on the dates identified in Exhibit 4 (Milestone Payment Amounts) of the Agreement, subject to adjustment as provided in Section 10.1.3 and Exhibit 10.

Monthly Disbursement means the amount, if any, paid by IFA to Developer in accordance with Section 10.2.3 of the Agreement, and equal to (a) 95% of the MAP (for the subject year) divided by 12 minus (b) the interest owed by Developer to IFA, if any, under the Agreement.

MP Appropriations Fund means the trust fund of that name established and maintained under the Project Trust Agreement.

MP Disputed Amounts Fund means the trust fund of that name established and maintained under the Project Trust Agreement.

MP Payment Fund means the trust fund of that name established and maintained under the Project Trust Agreement.

MP Relief Event and Termination Compensation Fund means the trust fund of that name established and maintained under the Project Trust Agreement.

NEPA Documents means each document issued by FHWA pursuant to NEPA for the East End Crossing and/or the Project as it relates to the East End Crossing, including the Final Environmental Impact Statement, the Supplemental Final Environmental Impact Statement any record of decision entered in respect thereof, and all approved supplements and reevaluations pertaining to the Project as of the Effective Date.

New Agreements has the meaning set forth in Section 21.4.4.2 of the Agreement.

Noncompliance Event means any Developer breach or failure to meet the minimum performance requirements set forth in Attachment 1 of Exhibit 12 to the Agreement, as those requirements may be revised from time to time. Any given "Noncompliance Event" is either a Construction Noncompliance Event or an O&M Noncompliance Event.

Noncompliance Points means the points that may be assessed for certain breaches or failures to perform by Developer, as set forth in Attachment 1 of Exhibit 12 to the Agreement.

Nonconformance Report means a report issued by either IFA or Developer pursuant to the terms and conditions of the Quality Plan.

Nonconforming Work means Work that does not conform to (and does not exceed) the requirements of the PPA Documents, the Governmental Approvals, applicable Law, the Design Documents or the Construction Documents.

Non-Discriminatory O&M Change means any alteration or change (including addition) to provisions in the Technical Provisions and Safety Standards relating to the O&M Work of general application to Department transportation facilities, including revision to manuals, publications and guidelines, adoption of new manuals, publications and guidelines, changed, added or replacement standards, criteria, requirements, conditions, procedures and specifications, including Safety Standards, relating to O&M Work of general application to Department transportation facilities. A Non-Discriminatory O&M Change is an IFA Change.

Notice means a written notice, notification, correspondence, order or other communication given under the Agreement to a Party that complies with the prescriptions set forth in Section 25.11.

Notice of Determination has the meaning set forth in Section 11.2.2 of the Agreement.

Notice of Termination for Convenience means Notice issued by IFA to Developer terminating the Agreement for convenience.

Noxious Weed Control Plan means the deliverable described at Table 25-1 of the Technical Provisions.

NTP1 means a Notice issued by IFA to Developer authorizing Developer to proceed with the portions of the Work described in Section 5.3.1 of the Agreement.

NTP1 Conditions Deadline means the outside date set forth in the Project Schedule by which Developer is obligated under the Agreement to perform and complete the Work and obtain IFA's approval of such Work necessary to issuance of NTP1, as set forth in Section 5.3.1 of the Agreement, as such deadline may be extended for Relief Events from time to time pursuant to the Agreement.

NTP2 means a Notice issued by IFA to Developer authorizing Developer to proceed with the balance of the Work described in Section 5.6.1 of the Agreement.

NTP2 Conditions Deadline means the outside date set forth in the Project Schedule by which Developer is obligated under the Agreement to perform and complete the Work and obtain IFA's approval of such Work necessary to issuance of NTP2, as set forth in Section 5.6.1 of the Agreement, as such deadline may be extended for Relief Events from time to time pursuant to the Agreement.

Nutrient Management Plan means the deliverable described at Table 25-1 of the Technical Provisions.

O&M Conditions Precedent means the conditions set forth in Section 5.8.4 of the Agreement, as and when confirmed by IFA's issuance of a certificate in accordance with the procedures and within the time frame established in Section 5.8.4 of the Agreement.

O&M Contract means any Contract between Developer or an Affiliate and a third party (i.e. a Person other than IFA) for management, direction, supervision or performance of the O&M Work or any portion thereof. There may be more than one O&M Contract concurrently in effect.

O&M Contractor means the Contractor under any O&M Contract. There may be more than one O&M Contractor concurrently performing O&M Work.

O&M Excluded Portion has the meaning set forth in Section 25.8.2 of the Agreement.

O&M Limits has the meaning set forth in Section 22.1.4 of the Technical Provisions.

O&M Noncompliance Event means the failure to meet one of the minimum performance requirements during the Operating Period in Attachment 1 of Exhibit 12 within the applicable cure period (if any).

O&M Period Noncompliance Point has the meaning set forth in Section 3.8 of Exhibit 10 (Payment Mechanism) to the Agreement.

O&M Quality Plan has the meaning set forth in Section 22.1.8 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

O&M Records means all data in connection with the O&M Work, including (a) all inspection and inventory records, whether generated by Developer or a third party, (b) any communication to and/or from IFA or a third party, and (c) any information system (as may be introduced or amended by IFA from time to time) in connection with the O&M Work that IFA requires Developer to use, implement or operate.

O&M Safety Plan has the meaning set forth in Section 22.1.7 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

O&M Work means any and all operation, management, administration, maintenance, repair, preservation, modification, reconstruction, rehabilitation, restoration, renewal and replacement, including Planned Maintenance, Rehabilitation Work and Handback Requirements Work, during the Operating Period.

Open Book Basis means allowing IFA to review all underlying assumptions, data, documents and information associated with the Financial Model, each Financial Model Update, pricing or compensation or adjustments thereto, costs of the Work, Extra Work Costs, Delay Costs, costs claims under Section 15.2 or 15.3 of the Agreement, schedule, composition of equipment spreads, equipment rates (including rental rates), labor rates and benefits, productivity, estimating factors, design and productivity allowance, contingency and indirect costs, risk pricing, discount rates, interest rates, inflation and deflation rates, swap and hedge rates, insurance rates, bonding rates, letter of credit fees, overhead, profit, traffic volumes, and other items reasonably required by IFA to satisfy itself as to validity or reasonableness.

Operating Period means for the period starting on the Substantial Completion Date and ending at the end of the Term.

Operations and Maintenance Manager is the Key Personnel listed at Exhibit 2-H to the Agreement.

Operations and Maintenance Plan (OMP) means Developer's plan for managing operations and maintenance during the Operating Period, as more particularly described in Section 22.1.1 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Operations Report means the quarterly operations report Developer submits to IFA for the O&M Work as set forth in Section 22.2.2 of the Technical Provisions.

Optical Character Recognition (OCR) means the process of converting an image to text.

Original Equity IRR means the Equity IRR projected in the Financial Model, which is equal to ten and thirty-four hundredths percent (10.34%).

Other IFA Costs Fund means the fund by that name established under the Project Trust Agreement.

Oversight means monitoring, inspecting, sampling, measuring, spot checking, attending, observing, testing, investigating and conducting any other oversight respecting any part or aspect of the East End Crossing or the Work, including all the activities described in Section 3.4.1.2 of the Agreement.

Owner means IFA, for purposes of the Technical Provisions.

Owner Verification Tests means the material tests performed in accordance with the applicable IFA test method to verify the accuracy of the tests, inspections and audits performed by or on behalf of Developer pursuant to the approved Construction QA/QC Plan to ensure that

only materials of specified quality or better are accepted and incorporated into the East End Crossing.

PABs means bonds, notes or other evidence of indebtedness issued by the PABs Issuer pursuant to the provisions of Internal Revenue Code Sections 142(a)(15) and (m) (which acronym stands for "private activity bonds").

PABs Issuer means IFA solely in its capacity of exercising its authority under Indiana Law to issue the PABs.

Party means Developer or IFA, as the context may require, and "**Parties**" means Developer and IFA, collectively.

Pavement Design Reports means the deliverable described at Section 10.3.2 of the Technical Provisions.

Payment Bond means one or more payment bonds in place as a condition to issuance of NTP2 and commencement of the D&C Work, as more particularly set forth in Section 17.2.1 of the Agreement.

Performance and Measurement Criteria means Attachment 1 of Exhibit 12 to the Agreement.

Performance and Measurement Table means Attachment 22-1 to the Technical Provisions.

Performance Inspection means a detailed inspection of the Performance Sections undertaken by Developer during the Operating Period in accordance with Section 22.5.5 of the Technical Provisions to establish an Asset Condition Score for each Element Category and verify compliance with the Performance Requirements and the other requirements of the PPA Documents.

Performance Requirements means for each Element of the East End Crossing during the Operating Period, the requirements set forth in Performance and Measurement Criteria in the column headed "Failure to" or in succeeding Performance and Measurement Tables under such column, in Attachment 1 of Exhibit 12 to the Agreement.

Performance Section means a defined section of the East End Crossing for the purpose of audit, inspection and measurement. A Performance Section includes all travel lanes including Mainline lanes, shoulders and ramps of the roadway operating in one direction over a length of approximately 0.1 miles, together with all Elements of the East End Crossing and Related Transportation Facilities within the Project Right of Way associated with the relevant approximately 0.1 mile length of roadway.

Performance Security means one or more performance bonds or letters of credit in place as a condition to issuance of NTP2 and commencement of the D&C Work, as more particularly set forth in Section 17.2.1 of the Agreement.

Permitted Closure means, subject to Section 15.11 of the Agreement:

(a) Closures for performance of properly scheduled and executed Planned Maintenance as provided in Section 22.4 of the Technical Provisions;

(b) A Closure due to an Emergency that is not the result of the negligence, willful misconduct, or breach of applicable Law or contract by Developer or any Developer-Related Entity nor considered a Relief Event, provided Developer is using commercially reasonable efforts to:

(i) Respond to the Emergency in accordance with the requirements of the PPA Documents;

(ii) Mitigate the impact of the Emergency;

(iii) Reopen the affected traffic lane(s) and ramps as quickly as possible to traffic; and

(iv) Minimize the impact of Developer's activities to traffic flow;

(c) A Closure due to utility installation work during the Operating Period as provided in Section 6.1.4 of the Agreement, provided Developer is using commercially reasonable efforts to:

(i) Avoid or minimize the impact thereof on traffic flow, and

(ii) Reopen the affected traffic lane(s) and ramps as quickly as possible to traffic;

(d) A Closure specified, caused or ordered by, and continuing only for so long as required by, IFA or any Governmental Entity (other than in its capacity as a Utility Owner), including Closures caused by a Relief Event described in clause (e), (s) or (t) of the definition of Relief Event, except to the extent such Closure is the result of the negligence, willful misconduct, or breach of applicable Law or contract by Developer or any Developer-Related Entity;

(e) A Closure as a result of a Relief Event described in clause (g), (h), (j), (k) or (n) of the definition of Relief Event, except to the extent otherwise provided in Section 15.11 as to clause (j) or (n) and provided Developer is using commercially reasonable efforts to:

(i) Mitigate the impact of the Relief Event;

(ii) Reopen the affected traffic lane(s) and ramps as quickly as possible to traffic; and

(iii) Minimize the impact of Developer's activities to traffic flow;

(f) A Closure due to any other Relief Event not covered under clause (d) or (e) of this definition of Permitted Closure shall be deemed a Permitted Closure only insofar as Developer's response to such Relief Event is undertaken as Planned Maintenance in order to manage, mitigate or resolve the effects of the Relief Event; or

(g) A Closure necessary to accommodate future construction of Related Transportation Facilities constructed by others, provided Developer is using commercially reasonable efforts to:

(i) Mitigate the impact of the Closure; and

(ii) Reopen the affected traffic lane(s) and ramps as quickly as possible to traffic.

(h) A Closure necessary to construct a permanent repair of damage caused by a third party and that is (i) not the result of the negligence, willful misconduct, or breach of applicable Law or contract by Developer or any other Developer-Related Entity nor (ii) considered a Relief Event; provided, however, in either case, that such work is conducted during Unavailability Period B as defined in Section 3.5.3 of Exhibit 10 to the PPA.

(i) Shoulder work of a nature too brief to require should closure as per MUTCD, i.e., patrols, inspections, assistance to motorists, removal of debris.

(j) Moving operations conducted at night such as sweeping.

(k) Snow and ice removal.

Notwithstanding the foregoing, in the event that any traffic lane is the subject of a Permitted Closure, and an Unavailability Event occurs in the traffic lane(s) remaining in service, then the traffic lanes subject to the Permitted Closure also shall be deemed to be subject to an Unavailability Event.

Persistent Developer Default means:

(a) Accumulation of assessed Noncompliance Points, including those assessed on account of breaches or failures that have been cured, at or above any of the trigger points set forth in Section 2.1 of Exhibit 12 (Noncompliance Points System and Persistent Developer Default) to the Agreement; or

(b) Accumulation at or above any of the trigger points set forth in Section 2.2 of Exhibit 12 (Noncompliance Points System and Persistent Developer Default) to the Agreement of non-material breaches or failures to timely observe or perform or to cause to be observed or performed any covenant, agreement, obligation, term or condition required to be observed or performed by Developer under the PPA Documents and not otherwise the subject of a Notice declaring a Developer Default, including non-material breaches or failures to perform the Design Work, Construction Work or O&M Work in accordance with the PPA Documents.

For the purpose of clause (b) above, a breach or failure to perform shall be counted:

(i) Only if it is the subject of a Notice from IFA to Developer, except that no Notice shall be required to count continuation of the breach or failure to perform beyond the applicable cure period as a new and separate breach or failure to perform, as described in Section 11.3.5 of the Agreement;

(ii) Regardless of whether it is cured;

(iii) Regardless of whether it is of the same or different type, nature or character as any other breach or failure to perform included in the count; and

(iv) Regardless of whether it is the basis for assessment of Noncompliance Points.

Person means any individual, corporation, joint venture, limited liability company, company, voluntary association, partnership, trust, unincorporated organization or Governmental Entity, as well as IFA.

Planned Maintenance means O&M Work that has been properly scheduled and executed in accordance with Section 22.4 of the Technical Provisions.

Plans means (only where capitalized) the plans, profiles, typical cross sections, standard drawings, working drawings, and supplemental drawings or exact reproductions thereof which show the location, character, dimensions, and details of the work to be done.

Plant and Turf Establishment Certification Package has the meaning set forth in Section 5.7.1 of the Technical Provisions.

Post-Delivery Test Plan means the deliverable described at Table 25-1 of the Technical Provisions.

Post Termination Fund means the trust fund of that name established and maintained under the Project Trust Agreement.

PPA Documents has the meaning set forth in Section 1.2 of the Agreement.

Preliminary Project Baseline Schedule means the high level, logic-based critical path schedule representing Developer's plan to complete performance of the Work beginning on the date of NTP1 and concluding with Final Acceptance, as set forth in Exhibit 2-B (Preliminary Project Baseline Schedule) to the Agreement.

Prepaid Customers Account has the meaning set forth in Exhibit 15 (Summary of Terms for Custody Agreement) to the Agreement.

Pre-Refinancing Data means all relevant data in relation to a proposed Refinancing other than a proposed Exempt Refinancing under clause (c) or (d) of the definition of Exempt Refinancing and calculation of the estimated Refinancing Gain, including:

(a) Details of actual and projected timing and amounts of the investment of equity and Subordinate Debt from the Effective Date to the anticipated date of Refinancing, and of projected timing and amounts of the investment of equity and Subordinate Debt, if any, from the anticipated date of Refinancing to the end of the Term;

(b) Information on the actual and projected cash flows of Developer from the Effective Date to the anticipated date of Refinancing, and of projected cash flows of Developer from the anticipated date of Refinancing to the end of the Term;

(c) Details of the actual and projected timing and amounts of Distributions from the Effective Date to the anticipated date of Refinancing and of projected timing and amounts of Distributions from the anticipated date of Refinancing to the end of the Term;

(d) A copy of the pre-Refinancing Financial Model as updated by Developer, which shall be identical to any presented to the proposed Refinancing Lender(s);

(e) A copy of all term sheets or all other relevant documentation and information in relation to the terms of the proposed Refinancing;

(f) A copy of the proposed post-Refinancing Financial Model as updated by Developer, which shall be identical to any presented to the proposed Refinancing Lender(s);

(g) Information on all relevant assumptions, including tax assumptions and where appropriate back up data and tax opinions, for the projections in the pre-Refinancing and post-Refinancing Financial Models as updated by Developer;

(h) A detailed calculation of the estimated Refinancing Gain and IFA's share thereof (if any) following the procedures set forth in Exhibit 14 (Calculation and Payment of Refinancing Gain) to the Agreement; and

(i) All other information IFA may reasonably request in relation to the proposed Refinancing and related calculations and assumptions.

Prime Contract means a Contract between Developer and a Contractor.

Principal Project Documents means each Design-Build Contract, each O&M Contract, and the escrow agreements for the Intellectual Property Escrow(s) and Financial Escrow.

Progress Report has the meaning set forth in Section 1.5.2.1.3 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Project means the Louisville-Southern Indiana Ohio River Bridges Project, of which the East End Crossing is a part.

Project Adjusted Costs means those costs and expenses that have actually been incurred by or on behalf of Developer directly in connection with the design, acquisition or construction of the East End Crossing, as well as in connection with Rehabilitation Work, less the Milestone Payment Amount actually paid by IFA. Notwithstanding the foregoing, Project Adjusted Costs do not include capitalized interest and other financing costs, professional and advisory fees, Developer overhead and administrative expenses, Redundancy Payments or demobilization costs.

Project Baseline Schedule means the logic-based critical path schedule for all Work through Final Acceptance, as more particularly described in Section 1.5.2.1.1 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Project Debt means bona fide indebtedness (including subordinated indebtedness) for or in respect of funds borrowed (including bona fide indebtedness with respect to any financial

insurance issued for funds borrowed) or for the value of goods or services rendered or received, the repayment of which has specified payment dates and is secured by one or more Security Documents. Project Debt includes principal, capitalized interest, accrued interest, customary and reasonable lender, financial insurer, agent and trustee fees, costs, expenses and premiums with respect thereto, payment obligations under interest rate and inflation rate hedging agreements or other derivative facilities with respect thereto, reimbursement obligations with respect thereto, lease financing obligations, and Breakage Costs. Project Debt excludes any indebtedness of Developer or any shareholder, member, partner or joint venture member of Developer that is secured by anything less than the entire Developer's Interest, such as indebtedness secured only by an assignment of economic interest in Developer or of rights to cash flow or dividends from Developer. Project Debt also excludes any increase in indebtedness to the extent resulting from an agreement or other arrangement Developer enters into or first becomes obligated to repay after it was aware (or should have been aware, using reasonable due diligence) of the occurrence or prospective occurrence of an event of termination, including Developer's receipt of a Notice of Termination for Convenience and occurrence of an IFA default of the type entitling Developer to terminate the Agreement. In addition, no debt shall constitute Project Debt unless and until the Collateral Agent provides IFA with Notice thereof and the related Funding Agreements and Security Documents in accordance with Article 21 of the Agreement. Subject to the foregoing exclusions, Project Debt includes the PABs and obligations arising thereunder and TIFIA loans, guaranties and credit support, and obligations arising thereunder.

Project Debt Termination Amount means:

(a) All amounts outstanding in respect of the Project Debt; plus

(b) Without double counting in relation to such Project Debt, all Breakage Costs payable by Developer as a result of prepayment of the outstanding amounts of such Project Debt, subject to Developer and the Lenders mitigating all such costs to the extent reasonably possible; minus

(c) To the extent it is a positive amount, the aggregate of all Breakage Costs payable by the Lenders to Developer as a result of prepayment of any outstanding Project Debt; minus

(d) To the extent it is a positive amount, such amounts under clause (a) and (b) above that constitute or accumulate by reason of default rates of interest, late charges and penalties, including any such items added to principal.

Project Limits has the meaning set forth in Tables 9-1 and 9-2 of the Technical Provisions, as the context requires.

Project Management Plan or **PMP** means the document, including approved changes, additions and revisions, prepared by Developer and approved by IFA describing quality assurance, quality control and other activities necessary to manage the development, design, construction, operation and maintenance of the East End Crossing, containing the IFA-approved component parts, plans and documentation described in Section 1.5.2.5 of the Technical Provisions, and which is a deliverable described at Attachment 01-1 of the Technical Provisions.

Project Manager means the individual designated by Developer and approved in writing by IFA in the position to take full responsibility for the prosecution of the Work and will act as a

single point of contact on all matters on behalf of Developer as described in the approved Project Management Plan. The Project Manager is a Key Personnel listed at Exhibit 2-H to the Agreement.

Project Office has the meaning set forth in Section 1.5.3 of the Technical Provisions.

Project Right of Entry has the meaning set forth in Section 2.1.2 of the Agreement.

Project Right of Way or **Project ROW** means any real property (which term is inclusive of all estates and interests in real property), improvements and fixtures within the lines delineating the outside boundaries of the East End Crossing set forth in the ROW Maps contained in the Reference Information Documents, as such boundaries may be adjusted from time to time in accordance with the PPA Documents (including adjustments for Additional Properties). The term specifically includes all air space, surface rights and subsurface rights within the boundaries of the Project Right of Way.

Project Schedule means one or more, as applicable, of the logic-based critical path schedules (the Project Baseline Schedule, the Project Status Schedule and the Project recovery schedule) for all Work leading up to and including Substantial Completion and Final Acceptance, and for tracking the performance of such Work, as the same may be revised and updated from time to time in accordance with Section 1.5.2.1 of the Technical Provisions.

Project Schedule Deadline means one or more of the NTP1 Conditions Deadline, Financial Close Deadline, NTP2 Conditions Deadline, Baseline Substantial Completion Date, Final Acceptance Deadline and Long Stop Date, as the case may be.

Project Section means each of "sections" 4 through 6 inclusive of the East End Crossing as identified in the NEPA Documents and described in Section 1.1 of the Technical Provisions.

Project Specific Locations means areas in which Developer proposes temporary East End Crossing-specific activities in connection with the Construction Work not within the Project Right of Way boundaries identified in the NEPA Documents, such as construction work sites, temporary work areas, lay down areas, staging areas, storage areas, stockpiling areas, earth work material borrow sites, equipment parking areas, and similar areas.

Project Standards has the meaning set forth in Section 26 of the Technical Provisions.

Project Status Schedule has the meaning set forth in Section 1.5.2.1.2 of the Technical Provisions.

Project Trust Agreement means the agreement by that name dated as of the Effective Date between IFA and the Project Trustee.

Project Trustee means US Bank, N.A., a national banking association formed under the laws of the United States, as the trustee under the Project Trust Agreement, and any successor or replacement trustee thereunder.

Proposal means Developer's response to the RFP.

Proposal Due Date means October 26, 2012, the deadline for submission of the Proposal to IFA.

Proprietary Intellectual Property means Intellectual Property created, used, applied or reduced to practice in connection with the East End Crossing or the Work that derives commercial value from its protection as a trade secret under applicable Law or from its protection under patent law.

Protected Characteristics has the meaning set forth in Section 7.9.2 of the Agreement.

Protection in Place means any action taken to avoid damaging a Utility which does not involve removing or relocating that Utility, including staking the location of a Utility, exposing the Utility, avoidance of a Utility's location by construction equipment, installing steel plating or concrete slabs, encasement in concrete, temporarily de-energizing power lines, and installing physical barriers. The term includes both temporary measures and permanent installations meeting the foregoing definition.

Protection Plan has the meaning set forth in Section 18.1.11 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Public Finance Director has the meaning set forth in Recital H of the Agreement.

Public Information Coordinator is the Key Personnel listed at Exhibit 2-H to the Agreement.

Public Involvement Plan (PIP) has the meaning set forth in Section 6.1 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Public Involvement Plan Manager means the person designated by IFA to oversee Developer's public information activities as more particularly described in Section 6.5.2 of the Technical Provisions.

Public Records Act means IC 5-14-3, as amended from time to time.

Punch List means an itemized list of Construction Work which remains to be completed after Substantial Completion has been achieved and before Final Acceptance, the existence, correction and completion of which will have no adverse effect on the normal and safe use and operation of the East End Crossing.

Quality Management Plan has the meaning set forth in Section 2.1 of the Technical Provisions.

Quality Manager means the individual retained by Developer as the Key Personnel with the authority and responsibility for ensuring establishment and maintenance of, and compliance with, the Design QA/QC Plan and Construction QA/QC Plan. The Quality Manager is a Key Personnel listed at Exhibit 2-H to the Agreement.

Quality Oversight means IFA's activities with respect to quality, as described in Section 4.3.1 of the Technical Provisions.

Quality Plan means the deliverable described at Table 25-1 of the Technical Provisions.

Quarter means a time period comprised of three calendar months. Each Fiscal Year contains four Quarters: July – September; October – December; January – March; and April – June.

Quarterly Noncompliance Adjustment means an amount equal to the sum of the deductions for Noncompliance Events or cumulative Noncompliance Events as set forth in Attachment 1 of Exhibit 12 to the Agreement, incurred during a given Quarter and calculated as provided in Section 3.8 of Exhibit 10 (Payment Mechanism) to the Agreement.

Quarterly Other Payment Adjustment means the adjustment, positive or negative, to derive the Quarterly Payment Adjustment, calculated as provided in Section 3.9 of Exhibit 10 (Payment Mechanism) to the Agreement.

Quarterly Payment means the amount of the portion of Availability Payment payable by IFA to Developer for a given Quarter, calculated as provided in Exhibit 10 (Payment Mechanism).

Quarterly Payment Adjustment means the adjustment, positive or negative, to derive the amount of the Quarterly Payment, calculated as provided in Section 3 of Exhibit 10 (Payment Mechanism) to the Agreement.

Quarterly Unavailability Adjustment means an amount equal to the sum of the adjustments for each Unavailability Event incurred during a given Quarter, calculated as provided in Section 3.4 of Exhibit 10 (Payment Mechanism) to the Agreement.

Railroad Agreement means the agreements described at Section 18.6 of the Technical Provisions.

Railroad Force Account Work means work performed by, or on behalf of, any railroad arising out of or relating to the East End Crossing. This work may involve: flagging for train operations, work involving road crossing surfaces, track adjustments, installation of warning devices, relocation of existing warning devices, installation or extension of drainage structures under tracks, wire line adjustments, and other related work.

Rating Agency means any of Standard & Poor's Rating Services, a division of The McGraw-Hill Companies, Inc., Moody's Investors Service, Inc., or Fitch Investors Service, Inc.

REAA Statement has the meaning set forth in Section 15.8.1 of the Agreement.

Reach has the meaning set forth in Section 5.3.1 of Attachment 13-1 to the Geotechnical Baseline Report.

Reasonable Accuracy means with respect to the description or identification of a Utility in the Utility Information:

(a) The Utility's actual centerline location is located at or less than five (5) feet distant from the horizontal centerline location indicated therefor in the Utility Information (without regard to vertical location);

(b) The Utility Information does not show the Utility as abandoned (i.e., nonexistent except "on paper", or existent but no longer active) when in fact the Utility exists and is active;

(c) The Utility Information shows non-existent or inactive Utilities as abandoned; or

(d) The Utility has an actual nominal diameter (excluding casings and any other appurtenances) greater than 12 inches, and its actual nominal diameter is either greater than or less than the diameter shown in the Utility Information by 25% or less of the diameter shown in the Utility Information

Any other inaccuracies in the Utility Information (e.g., as to type of material or encasement status) shall have no impact on "reasonable accuracy" of its identification and shall not result in a determination that the Utility was not identified with "reasonable accuracy." If there is any discrepancy between any of the components of the Utility Information, only the most accurate information shall be relevant for purposes of determination of "reasonable accuracy."

Reasonable Investigation means the following activities by appropriate, qualified professionals prior to the Setting Date:

(a) Visit and visual, non-intrusive inspection of the Site and adjacent locations, except areas to which access rights have not been made available by the Setting Date;

(b) Review and analysis of all Reference Information Documents;

(c) Review and analysis of IFA-Provided Approvals available prior to the Setting Date;

(d) Reasonable inquiry with Utility Owners, including request for and review of Utility plans provided by Utility Owners;

(e) Review and analysis of material Laws applicable to the Project or the Work as of the Setting Date; and

(f) Other activities sufficient to familiarize Developer with surface and subsurface conditions, including the presence of Utilities, Hazardous Materials, archeological, paleontological and cultural resources, and Threatened or Endangered Species, affecting the Site or surrounding locations;

except that none of the foregoing activities includes conducting field studies, geotechnical investigations, or original research of private records not contained or referenced in the Reference Information Documents or Technical Provisions.

Recognized Environmental Condition has the meaning set forth in ASTM 1527-05.

Record Drawings means construction drawings and related documentation revised to show significant changes made to the East End Crossing 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. The Record Drawings is a deliverable described at Table 25-1 of the Technical Provisions.

Recurring Special Provision means a special provision that is issued by the Department's Standards Committee for particular situations that is applicable, in accordance with Section 105.04 of the Department's Standard Specifications, and may be included in a contract on a case-by-case basis.

Redundancy Payments means the payment of all wages earned, accrued unused vacation time, and any other payments required by Law or required by the employer's employment agreement with the employees.

Reference Design means and consists of all the design elements of the East End Crossing consistent with the applicable Environmental and Governmental Approvals existing prior to the Setting Date and contained in the Reference Information Documents.

Reference Information Documents means the collection of information, data, documents and other materials that IFA has made available to Developer in connection with the East End Crossing or the Work (including those contained in the RFP documents) for general or reference information only and without any warranty as to their accuracy, completeness or fitness for any particular purpose. The Reference Information Documents are not PPA Documents. Prior to the Effective Date, IFA made available to Developer a non-exclusive list of Reference Information Documents.

Refinancing means:

(a) Any amendment, variation, novation, extension, renewal, supplement, refunding, defeasance or replacement of any Project Debt, Funding Agreement or Security Document (other than any Subordinate Debt and Subordinated Security Documents);

(b) The issuance by Developer of any indebtedness in addition to the Initial Project Debt, secured or unsecured;

(c) The disposition of any rights or interests in, or the creation of any rights of participation in respect of, Project Debt, Funding Agreements and Security Documents or the creation or granting by Developer or any Lender of any other form of benefit or interest in either Project Debt, Funding Agreements and Security Documents or the Developer's Interest whether by way of security or otherwise; or

(d) Any other arrangement put in place by Developer or another Person which has an effect similar to any of clauses (a) through (c) above.

Refinancing Data means all relevant data in relation to a Refinancing other than an Exempt Refinancing under clause (c) or (d) of the definition of Exempt Refinancing and calculation of the Refinancing Gain, including:

(a) Details of actual timing and amounts of the investment of equity and Subordinate Debt from the Effective Date to the date of Refinancing, and of projected timing and amounts of the investment of equity and Subordinate Debt, if any, from the date of Refinancing to the end of the Term;

(b) Information on the actual cash flows of Developer from the Effective Date to the date of Refinancing, and of projected cash flows of Developer from the date of Refinancing to the end of the Term;

(c) Details of the actual timing and amounts of Distributions from the Effective Date to the date of Refinancing and of projected timing and amounts of Distributions from the date of Refinancing to the end of the Term;

(d) A copy of the final pre-Refinancing Financial Model as updated by Developer, which shall be identical to any presented to the Refinancing Lender(s);

(e) A copy of the final post-Refinancing Financial Model as updated by Developer, which shall be identical to any presented to the Refinancing Lender(s);

(f) Information on all relevant assumptions, including tax assumptions and where appropriate back up data and tax opinions (if any), for the projections in the pre-Refinancing and post-Refinancing Financial Models as updated by Developer;

(g) A detailed calculation of the Refinancing Gain and IFA's share thereof (if any) following the procedures set forth in Exhibit 14 (Calculation and Payment of Refinancing Gain) to the Agreement; and

(h) All other information IFA may reasonably request in relation to the Refinancing and related calculations and assumptions.

Refinancing Gain means the amount calculated as provided in Exhibit 14 (Calculation and Payment of Refinancing Gain) to the Agreement.

Registered Professional Engineer means a person who is duly licensed and registered by the State of Indiana or the Commonwealth of Kentucky to engage in the practice of engineering in the State where the work is being performed.

Registered Professional Land Surveyor means a person registered by the State of Indiana or the Commonwealth of Kentucky to practice the profession of land, boundary, or property surveying or other similar professional practices in the State where the work is being performed.

Regulations has the meaning set forth in Section 7.9.1 of the Agreement.

Rehabilitation Work means maintenance, repair, reconstruction, rehabilitation, restoration, renewal or replacement of any Element of the East End Crossing that is not normally included as an annually recurring cost in maintenance and repair budgets for transportation facilities of similar natures and in similar environments as the East End Crossing.

Rehabilitation Work Schedule means the schedule for Rehabilitation Work to be prepared and updated by Developer pursuant to Section 6.7 of the Agreement.

Related Transportation Facility(ies) means all existing and future bridges, tunnels, highways, streets and roads, or other transportation facilities of any mode, including upgrades and expansions thereof, that are or will be connecting with or crossing under or over the East End Crossing.

Release of Hazardous Materials or **Release** means any spill, leak, emission, release, discharge, injection, escape, leaching, dumping or disposal of Hazardous Materials into the soil, air, surface water, groundwater, submerged lands or Environment, including any exacerbation of an existing release or condition of Hazardous Materials contamination.

Released-for-Construction means the certification that is issued by the Lead Engineer when formally issuing final design documents for construction as described in Section 3.9.3 of the Technical Provisions.

Released-for Construction Design means the deliverable described at Table 25-1 of the Technical Provisions.

Relief Event means any of the following events, subject to the requirements, limitations, deductibles and the duty to prevent and to mitigate consequences that are set forth in the Agreement for such events:

(a) IFA failure to perform or observe any of its material covenants or obligations under the PPA Documents, including unreasonable failure to issue a certificate of Substantial Completion or certificate of satisfaction of conditions precedent to Service Commencement, Substantial Completion or Final Acceptance after Developer fully satisfies all applicable conditions and requirements for obtaining such a certificate (except where such failure is within another defined Relief Event);

(b) IFA Change (other than a Discriminatory O&M Change and Non-Discriminatory O&M Change);

(c) Discriminatory O&M Change;

(d) Non-Discriminatory O&M Change;

(e) Safety Compliance Orders;

(f) IFA-Caused Delay;

(g) (i) Performance of works by or (ii) failure to perform works required of, IFA, the Department or another Governmental Entity or their contractors (other than Developer) in the vicinity of the Project Right of Way, in either case excluding any Utility Adjustment Work by a Utility Owner, and in either case that materially disrupts Developer's onsite Work;

(h) Development, use or operation of a Business Opportunity in the Airspace by IFA, the Department, KYTC or anyone (other than a Developer-Related Entity) legitimately claiming under or through IFA, the Department, KYTC, the State, the Commonwealth of Kentucky, or any entity created by both the State and the Commonwealth of Kentucky arising out of, or related to, the East End Crossing, to the extent set forth in Section 8.2.4 of the Agreement;

(i) (i) IFA's lack of good and sufficient title to or right to enter and occupy any parcel in the Project Right of Way, including Additional Properties required due to IFA Changes but excluding all other Additional Properties, after conclusion of IFA's

purported acquisition of the parcel or right of entry and occupancy through negotiation, settlement or condemnation proceeding in accordance with the schedule for acquisition of the parcels in the Project Right of Way as described in Attachment 21-1 of the Technical Provisions, to the extent it interferes with physical performance of Work, or (ii) the existence, at any time following issuance of NTP2, of any title reservation, condition, easement or encumbrance, of record or not of record, on any parcel in the Project Right of Way, including Additional Properties required due to IFA Changes but excluding all other Additional Properties, to the extent it interferes with physical performance of Work, except in both cases any title reservations, covenants, conditions, restrictions, easements or encumbrances (A) concerning Utilities, (B) described in Section 2.1.6 of the Agreement and either contained in the Reference Information Documents as they exist on the Setting Date or as may be particularly described in the Technical Provisions, or (C) caused, permitted or suffered by a Developer-Related Entity, and also excepting in all cases rights of access for Governmental Entities and Utility Owners as provided by Law other than a Change in Law;

(j) Force Majeure Event;

(k) Delays in obtaining Major Environmental Approvals by the applicable Major Environmental Approval Deadline or, once obtained, the revocation or suspension of a Major Environmental Approval by the relevant Governmental Entity (excluding revocations or suspensions arising out of, or relating to Developer's failure to comply with its obligations under the PPA Documents and/or its or IFA's delegated obligations under, or the terms and conditions of, the revoked or suspended Major Environmental Approval), except delay to the extent attributable to any of the differences described in Section 4.3.4 of the Agreement unless such differences are due to an IFA Change;

(l) Unreasonable and unjustified delay by a Utility Owner (i) with whom Developer has been unable to enter into a Developer Utility Agreement in connection with a Utility Adjustment or (ii) with whom Developer or IFA, as the case may be, has entered into a Developer Utility Agreement or IFA Utility Agreement, as the case may be, in connection with a Utility Adjustment and such delay by a Utility Owner is contrary to or in violation of the terms and provisions of the Developer Utility Agreement or IFA Utility Agreement, as the case may be, provided that, in either case (A) all of the "conditions to assistance" described in Section 5.5.7.2 of the Agreement have been satisfied and (B) delay due to, among other things, the failure by any Developer-Related Entity to locate or design the East End Crossing or carry out the Work in accordance with the PPA Documents, the Adjustment Standards, the applicable IFA Utility Agreement, Developer Utility Agreement, the NEPA Documents, other Governmental Approval or applicable Law shall be deemed reasonable and justified;

(m) Discovery at, near or on the Project Right of Way, including Additional Properties required due to IFA Changes but excluding all other Additional Properties, of any Hazardous Materials (including IFA Release(s) of Hazardous Material), excluding Developer Releases of Hazardous Materials and Known or Suspected Hazardous Materials;

(n) Any spill of Hazardous Material by a third party who is not acting in the capacity of a Developer-Related Entity which (i) occurs after the Setting Date, (ii) is required to be reported to a Governmental Entity and (iii) renders use of the roadway or construction area unsafe or potentially unsafe absent assessment, containment and/or remediation;

(o) Discovery on or under the Project Right of Way, including Additional Properties required due to IFA Changes but excluding all other Additional Properties, of any archeological, paleontological or cultural resources, excluding any such resources known to Developer prior to Setting Date or that would become known to Developer by undertaking Reasonable Investigation;

(p) Discovery of (i) for the "Drumanard Tunnel" in Project Section 4, actual subsurface or latent physical conditions at any particular location within the tunnel that differ materially from the baseline subsurface conditions indicated in the Geotechnical Baseline Report at that location, provided, however, that the entire final Tunnel cross section (A-line) as defined in Section 16.1.8 of the Technical Provisions), excluding any necessary pre-support elements, is constructed entirely within the GBR Envelope at that location, and excluding any such conditions known to Developer prior to the Setting Date or that could have been reasonably anticipated as potentially present by an experienced global civil works contractor based on the information contained in the Geotechnical Baseline Report; (ii) for the balance of the East End Crossing, actual subsurface or latent physical conditions within two (2) feet of boring holes identified in the geotechnical data reports included among the Reference Information Documents that differ materially from the subsurface conditions indicated in such report at such boring holes, excluding any such conditions known to Developer prior to the Setting Date or that could have been reasonably anticipated as potentially present by an experienced global civil works contractor based on the information contained in such geotechnical data reports (for avoidance of doubt, encountering conditions more than two (2) feet away from the actual boring holes that differ from conditions extrapolated from such boring data and that are not within this clause (ii) is not a Relief Event); or (iii) for the entire East End Crossing (including the "Drumanard Tunnel"), actual subsurface physical conditions within the Project Right of Way, including Additional Properties required due to IFA Changes but excluding any other Additional Properties, of an unusual nature, differing materially from those ordinarily encountered in the area and generally recognized as inherent in the type of work provided for in the Agreement, excluding any such conditions known to Developer prior to the Setting Date or that would become known to Developer by undertaking Reasonable Investigation;

(q) Discovery at, near or on the Project Right of Way, including Additional Properties required due to IFA Changes but excluding any other Additional Properties, of any Threatened or Endangered Species (regardless of whether the species is listed as threatened or endangered as of the Setting Date), excluding any such presence of the American Bald Eagle, the Indiana Bat or other species known to Developer prior to the Setting Date or that would become known to Developer by undertaking Reasonable Investigation;

(r) Change in Law or Change in Adjustment Standards, except a Change in Adjustment Standards that is consistent with the terms and limitations, if any, on changes in Adjustment Standards set forth in any Utility Memorandum of Agreement or Utility Agreement to which Developer is a party;

(s) Issuance of a temporary restraining order, preliminary injunction or other form of interlocutory relief by a court of competent jurisdiction that prohibits prosecution of any portion of the Work, except if based on the wrongful act or omission of any Developer-Related Entity;

(t) Issuance of a rule, order or directive from the U.S. Department of Homeland Security or comparable State agency regarding specific security threats to the East End Crossing or the region in which the East End Crossing is located or which the East End Crossing serves, to the extent such rule, order or directive requires specific changes in Developer's normal design, construction, operation or maintenance procedures in order to comply;

(u) Discovery of Unknown Utilities that directly affects the Construction Work, including Construction Work on Additional Properties required due to IFA Changes but excluding Construction Work on any other Additional Properties, except where the identification of a Utility in the Utility Information was Reasonably Accurate, was known to Developer as of the Setting Date, or that would become known to Developer by undertaking Reasonable Investigation; or

(v) Discovery of any hidden or undetected structural defect in any Existing Structure that directly affects the Construction Work, excluding any such defects known to Developer as of the Setting Date, or that would become known to Developer by undertaking Reasonable Investigation (which, in the case of this Relief Event clause (v) includes specifically review of all related Reference Information Documents provided by IFA prior to the Setting Date).

Relief Events Allowance Amount has the meaning set forth in Section 15.6.1.1 of the Agreement.

Relief Events Allowance Account means the account of that name established and maintained pursuant to Section 15.6.1.1 of the Agreement.

Relief Event Delay means a delay to a Controlling Work Item, after consumption of all Total Float available pursuant to Section 5.7.6 of the Agreement, provided that such delay excludes delay due to loss, damage or destruction described in Section 15.7.9.

Relief Event Notice means the Notice required to be provided by Developer under Section 15.1.1 of the Agreement.

Relief Request has the meaning set forth in Section 15.1.2 of the Agreement.

Replacement Utility Property Interest means any permanent right, title or interest in real property outside of the Project ROW (e.g., a fee or an easement) which is acquired for a Utility being reinstalled in a new location as a part of the Utility Adjustment Work. The term specifically excludes any statutory right of occupancy or permit granted by a Governmental Entity for occupancy of its real property by a Utility.

Representative means, with respect to any Person, any director, officer, employee, official, lender (or any agent or trustee acting on its behalf), partner, member, owner, agent, lawyer, accountant, auditor, professional advisor, consultant, engineer, Contractor, other person from whom such Person is, at law, responsible or an other representative of such Person and any professional advisor, consultant or engineer designated by such Person as its "representative."

Request for Change Proposal means a Notice issued by IFA to Developer setting forth a proposed IFA Change and requesting Developer's assessment of cost, financial, schedule, Performance Requirement and other impacts thereof, as set forth in Section 16.1.2 of the Agreement.

Required Minimum Insurance Policies has the meaning set forth in Section 17.1.9.3 of the Agreement.

Responsible Engineer has the meaning set forth in Section 3.2.5 of the Technical Provisions.

Rescue Refinancing means any Refinancing that:

(a) Occurs due to the failure or imminent failure of Developer to comply with any material financial obligation under any Funding Agreement or Security Document;

(b) Results in the cure of such failure or imminent failure;

(c) Does not result in an increase in the Equity IRR beyond the Original Equity IRR; and

(d) Does not result in an actual or potential increase of the Project Debt Termination Amount by more than 10%.

Residual Life means, for an Element, the period remaining until the Element will next require reconstruction, rehabilitation, restoration, renewal or replacement. The Residual Life of an Element would be equal to its originally calculated Useful Life less its Age if (a) the Element has performed in service in the manner and with the levels of traffic and wear and tear originally expected by Developer as reflected in the Financial Model and (b) Developer has performed the Routine Maintenance of the Element, and as a result thereof the Element complies throughout its originally calculated Useful Life with each applicable Performance Requirement. The Residual Life of an Element would be different from its originally calculated Useful Life minus its Age if any of the foregoing conditions is not true.

Residual Life at Handback means the calculated duration that any Element will continue to comply with any applicable Performance Requirement or standard after Handback and before Rehabilitation Work is required, determined through the application of the Residual Life Methodology and Residual Life Inspections and by assuming that the Element is subject to Routine Maintenance.

Residual Life Inspection means an inspection undertaken in accordance with the "Inspection Requirements" set forth in Section 22.5 of the Technical Provisions (including any testing undertaken by an independent testing organization), or for Elements not listed in Table

23-1 of the Technical Provisions, in accordance with Good Industry Practice, to determine the Residual Life of all Elements.

(a) **First Inspection** means the first Residual Life Inspection as set forth in Section 23.3 of the Technical Provisions.

(b) **Second Inspection** means the second Residual Life Inspection as set forth in Section 23.3 of the Technical Provisions.

(c) **Final Inspection** means the final Residual Life Inspection as set forth in Section 23.3 of the Technical Provisions.

Residual Life Methodology (RLM) is the evaluation and calculation methodology by which the Residual Life of any Element will be calculated at Handback and contains the method by which any necessary Rehabilitation Work will be identified to ensure that each Element for which a minimum Residual Life at Handback is required under Section 23.2 of the Technical Provisions meets such requirement.

RFP or **Request for Proposals** has the meaning set forth in Recital E of the Agreement.

Routine Maintenance means maintenance activities that are scheduled in advance and occur on a regular basis, such as weekly, monthly, quarterly, semi-annually or annually which are normally included as an annually recurring cost in maintenance and repair budgets for transportation facilities (and associated equipment) of similar natures and in similar environmental conditions as the East End Crossing.

ROW Maps means and consists of right of way maps prepared for the East End Crossing and contained in the Reference Information Documents, depicting within the boundary lines shown therein the land or property which IFA has made or will make available for the East End Crossing.

Safety Compliance means any and all improvements, repair, reconstruction, rehabilitation, restoration, renewal, replacement and changes in configuration or procedures respecting the East End Crossing to correct a specific safety condition or risk of the East End Crossing that IFA or a Governmental Entity has reasonably determined to exist by investigation or analysis.

Safety Compliance Order means a written order or directive from IFA to Developer to implement Safety Compliance. For purposes of clarity, a Safety Compliance Order may not be issued by IFA that effects a change to the Technical Provisions, Safety Standards or safety-related portions of the Work affected by a Change in Law.

Safety Manager is the Key Personnel listed at Exhibit 2-H to the Agreement.

Safety Plan means the safety plan for Developer's personnel and the general public that Developer is to prepare and implement in accordance with Section 6.5.5 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Safety Standards means those provisions of the Technical Provisions that IFA indicates that it, the Department, FHWA or AASHTO considers to be important measures to protect public safety, worker safety or the safety of property. As a matter of clarification, provisions of

Technical Provisions primarily directed at durability of materials or equipment, where the durability is primarily a matter of life cycle cost rather than protecting public or worker safety, are not Safety Standards.

Section 106 Memorandum of Agreement means the multi-party agreement pursuant to 36 CFR Part 800 implementing Section 106 of the National Historic Preservation Act that is included in the RID, EV-0.04 First Amended MOA.

Section 129 Agreement has the meaning set forth in Attachment 6 to Exhibit 23 of the Agreement.

Security Document means any mortgage, deed of trust, pledge, lien, indenture, trust agreement, hypothecation, assignment, collateral assignment, financing statement under the Uniform Commercial Code of any jurisdiction, security instrument or other charge or encumbrance of any kind, including any lease in the nature of a security instrument, given to any Lender as security for Project Debt or Developer's obligations pertaining to Project Debt and encumbering the Developer's Interest.

Seismic Event means the trembling or shaking movement of the earth's surface that produces ground motions at the Site that, (a) if prior to Substantial Completion, directly impacts, and causes damage to, temporary or permanent works of the East End Crossing or (b) if following Substantial Completion, exceeds the Design Requirements and directly impacts and causes damage to the permanent works of the East End Crossing.

Senior Debt Termination Amount means:

(a) All amounts outstanding at the Early Termination Date, including accrued unpaid interest as of such date, on Project Debt that (i) is secured by Funding Agreements and Security Documents satisfying the terms and conditions set forth in Section 13.3 of the Agreement, (ii) is not Subordinate Debt and (iii) is not an equity bridge loan. For purposes hereof, an equity bridge loan is a loan provided to Developer during the construction period of the East End Crossing for an amount of equity to be contributed by Equity Members or Affiliates, typically (but not necessarily) supported by one or more of a parent guaranty, recourse to the parent or letter of credit from another lending institution; plus

(b) Without double counting in relation to such Project Debt, all Breakage Costs payable by Developer as a result of prepayment of the outstanding amounts of such Project Debt, subject to Developer and the Lenders mitigating all such costs to the extent reasonably possible; minus

(c) To the extent it is a positive amount, the aggregate of:

(i) So much of the amounts under clauses (a) and (b) above that constitute or accumulate by reason of (A) accrued interest that Developer failed to pay when due, including any such interest that has been added to principal, or (B) default rates of interest, late charges and penalties, including any such items added to principal;

(ii) All amounts, refunds, and reimbursements, including costs of early termination of interest rate and inflation rate hedging, swap, collar or cap

arrangements and other Breakage Costs, payable by the Lenders to Developer as a result of prepayment of outstanding amounts of such Project Debt; and

(iii) All other amounts received by the Lenders of such Project Debt on or after the Early Termination Date and before the date on which any compensation is payable by IFA to Developer as a result of insurance or enforcing any other rights they may have, to the extent such amounts reduce principal or accrued interest (or would have done so if not applied to default rates of interest, late charges or penalties).

The foregoing amount shall be determined without regard to any Refinancing that is excluded from Project Debt or that may occur between the date Notice of termination is delivered and the Early Termination Date.

Service Line means:

(a) A Utility line, the function of which is to directly connect the improvements on an individual property to another Utility line located off such property, which other Utility line connects more than one such individual line to a larger system, or

(b) Any cable or conduit that supplies an active feed from a Utility Owner's facilities to activate or energize IFA's or a local agency's lighting and electrical systems, traffic control systems, communications systems and/or irrigation systems.

Setting Date means the date that is 45 days before the Proposal Due Date.

Site means Project Right of Way and any temporary rights or interests that Developer may acquire in connection with the East End Crossing or the Utility Adjustments included in the Construction Work, including Project Specific Locations but excluding Toll Collection System Locations.

Snow and Ice Control Plan has the meaning set forth in Section 22.3.1.12.2 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Special Provisions has the meaning set forth in Section 101.53 of the Standard Specifications.

Spill Prevention Plan means the deliverable described at Table 25-1 of the Technical Provisions.

Stage 1 Design means pre-final design information as defined by Developer, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Stage 2 Design means pre-final design information as defined by Developer that is more complete than Stage 1 Design but not fully complete, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Standard Drawings means drawings published by the Department's Standards Committee at http://www.in.gov/dot/div/contracts/standards/drawings/index.html from time to time.

Standard Specifications means the Department's "Standard Specifications," included among the Project Standards set forth in the Table 26-1 to the Technical Provisions.

Starting Insurance Benchmarking Premiums has the meaning set forth in Section 17.1.9.6 of the Agreement.

State has the meaning set forth in Recital A of the Agreement, and such term includes the State's authorized representatives.

Step-in Notice means a Notice given by Collateral Agent at any time during the Cure Period in the case of the issuance of an IFA-Lender Notice or at any time following the receipt by IFA of a Lender Notice, in either case (i) upon the prior issuance of a Lender Notice or an IFA-Lender Notice, and (ii) except for an Incurable Developer Default, in which the Collateral Agent nominates the Step-in Party.

Step-in Party means (a) the Collateral Agent, a Lender or any entity that is wholly owned by a Lender or group of Lenders; or (b) any Person approved by IFA as a Substituted Entity in accordance with Section 21.6 of the Agreement.

Step-out Notice means a Notice given, at any time, by a Step-in Party giving not less than 30 days' prior notice to IFA of such Step-in Party's intent to terminate its obligations to IFA under Article 21 to the Agreement respecting the event giving rise to the Step-in Notice, in which event such Step-in Party shall be released from all obligations under Article 21 to the Agreement respecting the event giving rise to the Step-in Notice, except for any obligation or liability of the Step-in Party arising on or before the effective date set forth in the Step-out Notice.

Submittal means any document, work product or other written or electronic end product or item required under the PPA Documents to be delivered or submitted to IFA. "Submittal" does not include Notices or correspondence.

Subordinate Debt means the bona fide indebtedness for funds borrowed that (a) is held by any Equity Member or an Affiliate, or by a purchaser or assignee of such indebtedness held at any previous time by any Equity Member or Affiliate, and (b) is inferior in priority of payment and security to all Project Debt held by Persons who are not Equity Members or Affiliates.

Subordinated Security Documents means any Security Documents securing Subordinate Debt.

Substantial Completion means satisfaction of the criteria for completion of construction of each of Project Section as set forth in Sections 5.8.1 and 5.8.2 of the Agreement, as and when confirmed by IFA's issuance of a certificate in accordance with the procedures and within the time frame established in Sections 5.8.1 and 5.8.2 of the Agreement after occurrence of all the events and satisfaction of all the conditions therefor set forth in Section 5.8.2.1 of the Agreement.

Substantial Completion Date means the date that Substantial Completion has been achieved for the entire East End Crossing.

Substantial Completion Milestone Payment Adjustment means the amount determined in accordance with Sections 4.1 and 4.2 of Exhibit 10 (Payment Mechanism) to the Agreement.

Substantial Completion Milestone Payment Amount means the amount determined in accordance with Sections 4.1 and 4.2 of Exhibit 10 (Payment Mechanism) to the Agreement.

Substitute Accession Agreement means the agreement to be entered into by a Substituted Entity.

Substituted Entity means any person or entity selected by Lenders and approved by IFA in accordance with Section 21.8 of the Agreement to perform Developer's obligations and succeed to Developer's rights hereunder after any such Lender has acquired the Developer's Interest by foreclosure or other lawful means or has otherwise assumed possession and control of the East End Crossing.

Subsurface Utility Engineering (SUE) means an engineering process for accurately identifying the quality of subsurface utility information needed for highway and bridge plans, and for acquiring and managing that level of information during the development of a highway or bridge project, as more particularly described at the FHWA website http://www.fhwa.dot.gov/programadmin/sueindex.htm on the Setting Date.

Supplemental Final Environmental Impact Statement (SFEIS) means the certain "Supplemental Final Environmental Impact Statement and Section 4(f) Evaluation," signed by the Federal Highway Administration on April 20, 2012.

Supplier means any Person not performing work at or on the Site which supplies machinery, equipment, materials, hardware, software, systems or any other appurtenance to the East End Crossing to Developer or to any Contractor in connection with the performance of the Work. Persons who merely transport, pick up, deliver or carry materials, personnel, parts or equipment or any other items or persons to or from the Site shall not be deemed to be performing Work at the Site.

Surety means each properly licensed surety company, insurance company or other Person approved by IFA which has issued any of the Payment and Performance Bonds.

Sustainability Management Plan has the meaning set forth in Section 7.10 of the Technical Provisions.

Target means, for each Element of the East End Crossing, the target during the Operating Period for the measurement record set forth in the column headed "Target" in the Performance and Measurement Table.

Taxes means federal, State, local or foreign income, margin, gross receipts, sales, use, excise, transfer, consumer, license, payroll, employment, severance, stamp, business, occupation, premium, windfall profits, environmental (including taxes under Section 59A of the Internal Revenue Code of 1986, as amended), customs, permit, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal

property, registration, value added, alternative or add-on minimum, estimated or other taxes, levies, imposts, duties, fees or charges imposed, levied, collected, withheld or assessed at any time, whether direct or indirect, relating to, or incurred in connection with, the East End Crossing, the performance of the Work, the Milestone Payment, Availability Payments, other compensation or act, business, status or transaction of Developer, including any interest, penalty or addition thereto, and including utility rates or rents, in all cases whether disputed or undisputed.

Technical Provisions means the "East End Crossing (Louisville-Southern Indiana Ohio River Bridges Project), Technical Provisions," executed by the Parties concurrently with the Agreement, constituting the document describing the scope of the Work and related standards, criteria requirements, conditions, procedures, specifications and other provisions for the East End Crossing and/or the Utility Adjustments, as such provisions may be changed, added to, deleted or replaced pursuant to the Agreement.

Technology Enhancements means modifications, additions, refinements, substitutions, revisions, replacements and upgrades made to or in place of any computer systems or other technology or system (excluding the ITS) used for the operation of the East End Crossing, or to any related documentation, that accomplish incidental, performance, structural, or functional improvements. The term "Technology Enhancements" specifically includes modifications, updates, revisions, replacements and upgrades made to or in place of software, source code or any related documentation that correct errors or safety hazards or support new models of computer hardware with which the software is designed to operate. The term "Technology Enhancements" also includes new models of computer hardware, including computers, monitors, cameras, antenna, loops, lasers and lighting.

Temporary Traffic Control Plan means Developer's plan for temporary traffic control, which is a deliverable described in Section 12.3, and listed at Table 25-1, of the Technical Provisions.

Term has the meaning set forth in Section 2.1.7 of the Agreement.

Termination by Court Ruling means, except in the circumstances described in Section 5.3 or 5.4 of Exhibit 22 (Terms for Termination Compensation) to the Agreement, any of the following:

(a) Issuance of a final, non-appealable order by a court of competent jurisdiction to the effect that the Agreement and the Project Trust Agreement are void and/or unenforceable or impossible to perform in their entirety, except where void, unenforceable or impossible to perform by reason of Developer's acts, omissions, negligence, willful misconduct, fraud or breach of warranty or representation;

(b) Issuance of a final, non-appealable order by a court of competent jurisdiction (i) permanently enjoining or prohibiting performance or completion of the Construction Work for a material portion of the East End Crossing, except where such injunction or prohibition is attributable to Developer's acts, omissions, negligence, willful misconduct, fraud, breach of an obligation under the PPA Documents or violation of Law or an applicable Governmental Approval, or (ii) requiring the Department, either individually or in concert with KYTC and/or FHWA, to undertake additional or supplemental evaluations, studies or other

work under NEPA that, in the Department's sole discretion, is impracticable in light of the purpose and intent of the Agreement;

(c) Issuance of a final, non-appealable order by a court of competent jurisdiction upholding the binding effect on Developer or IFA of a Change in Law that causes impossibility of performance of a fundamental obligation by Developer or IFA under the PPA Documents or impossibility of exercising a fundamental right of Developer or IFA under the PPA Documents; or

(d) Occurrence of the circumstances described in Section 25.13.2 of the Agreement.

Termination Compensation means each measure of compensation, if any, owing from IFA to Developer upon termination of the Agreement prior to the stated expiration of the Term, as set forth in Exhibit 22 (Terms for Termination Compensation) to the Agreement.

Termination Date means (a) the date of expiration of the Term or (b) if applicable, the Early Termination Date.

Termination for Convenience has the meaning set forth in Section 20.1.1 of the Agreement.

Third Party Claims means any and all claims, disputes, disagreements, causes of action, demands, suits, actions, judgments, investigations or proceedings brought by a Person that is not a Party with respect to damages, injuries, liabilities, obligations, losses, costs, penalties, fines or expenses (including attorneys' fees and expenses) sustained or incurred by such Person.

Threatened or Endangered Species means any species listed by the USFWS as threatened or endangered pursuant to the Endangered Species Act, as amended, 16 U.S.C. §§ 1531, *et seq.* or any species listed as threatened or endangered pursuant to the State endangered species act.

TIFIA Loan means a loan from the United States Department of Transportation pursuant to the Transportation Infrastructure Finance and Innovation Act of 1998, § 1501 *et. seq.* of Public Law 105-178, as amended by the TEA 21 Restoration Act, Public Law 105-206 and the Safe, Accountable, Flexible, Effective Transportation Equity Act, A Legacy for Users, Public Law 109-59, codified as 23 U.S.C. §§ 601 *et seq.*, as further amended by the Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law 112-141.

Toll Collection System (TCS) means the electronic toll collection system for the East End Crossing, including its components, systems and subsystems (including the CSC, VPS, VES and AVCS, CSC Storefronts, kiosks and toll information signs), the hardware and physical infrastructure, and the related software.

Toll Collection System Locations or **TCS Locations** means all locations outside the Project Right of Way of any portion or component of the TCS that is intended by the PPA Documents to serve the East End Crossing, including the locations of (the) customer service center(s), storefronts, kiosks, toll information signs and dedicated communications lines and equipment.

Toll Operations Agreement has the meaning set forth in Section 14.6 of the Agreement.

Toll Operator has the meaning set forth in Section 14.3.2 of the Agreement. The Toll Systems Integrator and the Toll Operator may be the same firm.

Toll Policy has the meaning set forth in Section 14.4.1 of the Agreement.

Toll Policy Agreement has the meaning set forth in Section 14.4.1 of the Agreement.

Toll Revenue Collections Account has the meaning set forth in Exhibit 15 (Summary of Terms for Custody Agreement) to the Agreement.

Toll Revenue Fund means the trust account of that name established and maintained under the Project Trust Agreement.

Toll Revenues means all revenues actually received by or on behalf of IFA or KPTIA in connection with the Project or the tolling thereof, including:

(a) Gross user fees and tolling toll revenues;

(b) Administrative fees;

(c) violation charges;

(d) Other revenues from the Project or the Users thereof the disposition of which is not specifically addressed by an agreement regarding Business Opportunities;

(e) Proceeds of business interruption or other insurance against loss of revenues from operation of the Project;

(f) Payments from any Governmental Entity in replacement of or substitution for toll revenues;

(g) Amounts received pursuant to any collection or enforcement action, judgment or settlement with respect to any of the foregoing revenues;

(h) Amounts received as liquidated or other damages under contracts to which IFA is a party with respect to any of the foregoing revenues; and

(i) Interest earned on any of the foregoing amounts.

Toll Revenues exclude insurance proceeds, judgments and awards, to the extent they do not replace, reimburse, compensate or substitute for any of the foregoing revenues.

Toll System Collection Expenses means amounts payable as tolling operations and maintenance expenses by IFA under the Toll Operations Agreement.

Toll System Collection Expense Fund means the trust fund of that name established and maintained under the Project Trust Agreement.

Toll Systems Integrator means the Contractor with whom the State and the Commonwealth of Kentucky will contract to install the electronic toll collection system for the Project.

Tolling Body has the meaning set forth in Section 14.5.1 of the Agreement.

Tolling Infrastructure has the meaning given that term in Section 20.3 of the Technical Provisions.

Tolling Infrastructure Turnover Date means the date Developer is required to make the Tolling Infrastructure available to the Tolling Systems Integrator as provided in Section 20.6.1 of the Technical Provisions.

Total Float means the amount of time that any given activity or logically connected sequence of activities shown on the Project Schedule may be delayed before it will delay occurrence of either the Substantial Completion Date or the Final Acceptance Date. Such Total Float is generally identified as the difference between the early start date and late start date, or early completion date and late completion date, for each of the activities shown on the Project Schedule.

Total Project Capital Cost means the total capital cost for the East End Crossing set forth in Exhibit 2-I(2) (Capital Cost Table) to the Agreement.

Traffic Management Center (TMC) means, depending on the context (as determined by IFA), (a) within the existing and/or future Louisville-Southern Indiana Regional Traffic Management Center (TRIMARC) traffic operations center (in Louisville, Kentucky) or (b) the Indiana Department of Transportation Traffic Management Center (in Indianapolis, Indiana), in either case where information about the regional transportation network is collected and combined with other operational and control data to manage the regional transportation network and to produce traveler information.

Traffic Operations Plan means the deliverable described at Table 25-1 of the Technical Provisions.

Transponder means a wireless communications, monitoring or control device mounted in a vehicle that picks up and automatically responds to an incoming electronic signal from the toll zone TCS equipment, or any other technological device that serves the same purpose of identifying a vehicle on the East End Crossing for the purpose of recording a tolling transaction for automatic payment from a customer account associated with the particular device.

Transportation Management Plan (TMP) means Developer's plan for traffic management, prepared under the Project Management Plan and approved by IFA, which is a deliverable described at Table 25-1 of the Technical Provisions.

Tunnel has the meaning set forth in Section 16.1 of the Technical Provisions.

Tunnel Construction Manager is the Key Personnel listed at Exhibit 2-H to the Agreement.

Tunnel Emergency Response Plan means the deliverable described at Table 25-1 of the Technical Provisions.

Tunnel O&M Training Syllabus means the deliverable described at Table 25-1 of the Technical Provisions.

Tunnel Operations & Maintenance Manual means the deliverable described at Table 25-1 of the Technical Provisions.

Tunnel Work Plan means the deliverable described at Table 25-1 of the Technical Provisions.

Type 1 Utility Adjustment has the meaning set forth in Section 18.1.2 of the Technical Provisions.

Type 2 Utility Adjustment has the meaning set forth in Section 18.1.2 of the Technical Provisions.

Type 3 Utility Adjustment has the meaning set forth in Section 18.1.2 of the Technical Provisions.

Unavailability Adjustment has the meaning set forth in Section 3.4 of Exhibit 10 (Payment Mechanism) to the Agreement.

Unavailability Event means a Closure during the Operating Period that is either (a) not a Permitted Closure or (b) a Permitted Closure for Planned Maintenance during Period A, as set forth in Section 3.6 of Exhibit 10 (Payment Mechanism) to the Agreement.

Unavailability Type Factor has the meaning set forth in Section 3.5 of Exhibit 10 (Payment Mechanism) to the Agreement.

Uncured Noncompliance Points means Noncompliance Points assessed on account of breaches or failures that remain uncured. Uncured Noncompliance Points also includes Noncompliance Points assessed for breaches or failures identified by the assessment category "C" in Attachment 1 to Exhibit 12 (Noncompliance Points System and Persistent Developer Default) to the Agreement (no applicable cure period).

Unknown Utility means a Utility, other than a Service Line, where the Utility Information incorrectly indicates that the subject Utility does not exist anywhere within the boundary lines of the Project Right of Way or that is otherwise not identified with Reasonable Accuracy. If any discrepancy exists between the information provided by one component of the Utility Information and that provided by any other component of the Utility Information, only the more accurate information shall be relevant for purposes of this definition.

Uniform Act means the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, P.L. 91-646, as amended.

Use Agreement means that Master Use Agreement, by and between IFA and the Department, as amended from time to time.

Useful Life means, for an Element, the period following its first installation, or following its last reconstruction, rehabilitation, restoration, renewal or replacement, until the Element will next require reconstruction, rehabilitation, restoration, renewal or replacement.

User(s) means the registered owner of a vehicle traveling on the East End Crossing or any portion thereof.

Utilities Manager or **Utility Manager** has the meaning set forth in Section 18.2.1 of the Technical Provisions. The Utility Manager is a Key Personnel listed at Exhibit 2-H to the Agreement.

Utility or **utility** means and includes poles, plants, lines, trenches, bridges, tunnels, pipelines, and any other system for furnishing, producing, generating, transmitting, or distributing power, electricity, communications, telecommunications, water, gas, oil, petroleum products, coal or other mineral slurry, steam, heat, light, chemicals, air, sewage, drainage not connected with a highway drainage system, irrigation, or another substance. The term "Utility" or "utility" also includes a system for furnishing transportation of goods or persons by means of railway, tramway, cableway, conveyor, flume, canal, tunnel, pipeline, or a similar means. The term "Utility" or "utility" excludes (a) storm water facilities providing drainage for the Project ROW, (b) street lights and traffic signals, and (c) ITS and IVHS facilities. The necessary appurtenances to each Utility Owner Project shall be considered part of such Utility. Without limitation, any Service Line connecting directly to a Utility shall be considered an appurtenance to that Utility, regardless of the ownership of such Service Line.

Utility Adjustment means each relocation (temporary or permanent), abandonment, Protection in Place, removal (of previously abandoned Utilities as well as of newly abandoned Utilities), replacement, reinstallation, and/or modification of existing Utilities necessary to accommodate construction, operation, maintenance and/or use of the East End Crossing; provided, however, that the term "Utility Adjustment" shall not refer to any of the work associated with facilities owned by any railroad. For any Utility crossing the Project Right of Way, the Utility Adjustment Work for each crossing of the Project Right of Way by that Utility shall be considered a separate Utility Adjustment. For any Utility installed longitudinally within the Project Right of Way, the Utility Adjustment Work for each continuous segment of that Utility located within the Project Right of Way shall be considered a separate Utility Adjustment.

Utility Adjustment Master Plan has the meaning set forth in Section 18.5.5 of the Technical Provisions, and which is a deliverable described at Table 25-1 of the Technical Provisions.

Utility Adjustment Plans means the plans, specifications, and cost estimates furnished for a particular Utility Adjustment.

Utility Adjustment Work means all efforts and costs necessary to accomplish the required Utility Adjustments, including all coordination, design, design review, permitting, construction, inspection, maintenance of records, relinquishment of Existing Utility Property Interests, preparation of Utility Joint Use Acknowledgements, and acquisition of Replacement Utility Property Interests, whether provided by Developer or by the Utility Owners. The term also includes any reimbursement of Utility Owners that is Developer's responsibility pursuant to Section 5.5 of the Agreement. Any Utility Adjustment Work furnished or performed by Developer is part of the Work; any Utility Adjustment Work furnished or performed by a Utility Owner is not part of the Work.

Utility Damage Report has the meaning set forth in Section 18.5.4 of the Technical Provisions.

Utility Enhancement means a Betterment or a Utility Owner Project, as referenced in Section 5.5.6 of the Agreement.

Utility Information means the information regarding Utilities included in the Reference Information Documents, together with any other information IFA provided to Developer 30 days prior to the Proposal Date with regard to identification of Utilities. The Utility Information includes survey information regarding existing utilities; utility maps included as an overlay on the survey; SUE maps depicting existing Utilities potentially impacted by the East End Crossing, and other as-built maps for existing Utilities. In the event of any conflict within the various components of the Utility Information, the more accurate information will prevail.

Utility Owner means the owner or operator of any Utility (including both privately held and publicly held entities, cooperative utilities, and municipalities and other governmental agencies).

Utility Owner Project means the design and construction by or at the direction of a Utility Owner (or by Developer) of a new Utility other than as part of a Utility Adjustment. Betterments are not Utility Owner Projects. Utility Owner Projects are entirely the financial obligation of the Utility Owner.

Vibration Monitoring Plan means the deliverable described at Table 25-1 of the Technical Provisions.

Warning Notice means a Notice that IFA delivers to Developer pursuant to Section 19.2.9 of the Agreement.

Wellhead Protection Area (WHPA) (has the meaning set forth in Section 7.5.1.1 of the Technical Provisions.

Wind Engineering Report means the deliverable described at Table 25-1 of the Technical Provisions.

Wind Study Report means the deliverable described at Table 25-1 of the Technical Provisions.

WIZARD CB Radio means CB channel 19 (broadcasting to make Users aware of particular hazardous conditions).

Work means the work required to be furnished and provided by Developer under the PPA Documents, including all administrative, design, engineering, real property acquisition and occupant relocation, construction, Landscaping Work, Rehabilitation Work, Utility Adjustment, utility accommodation, support services, financing services, operations, maintenance and management services, except for those efforts which such PPA Documents expressly specify will be performed by Persons other than Developer-Related Entities.

Workforce Diversity and Small Business Performance Plan means Developer's plan for meeting the goals for on-the-job and other training in accordance with Exhibit 8 (Equal Employment Opportunity Trainees Special Provisions) to the Agreement. The Preliminary Diversity and Small Business Performance Plan is Exhibit 2-N (Developer's Preliminary Workforce Diversity and Small Business Performance Plan) to the Agreement.

EXHIBIT 2

DEVELOPER'S SCHEMATIC DESIGN OF EAST END CROSSING AND PROPOSAL COMMITMENTS

- 2-A Developer's Schematic Design
- 2-B Preliminary Project Baseline Schedule
- 2-C Financial Plan
- 2-D Proposal Commitments
- 2-E Preliminary Project Management Plan
- 2-F Initial Design and Construction Commitment
- 2-G Operations and Maintenance Plan
- 2-H Equity Members, Contractors and Key Personnel Commitments
- 2-I Cost Tables
  - 2-I(1) Summary Cost Table
  - 2-I(2) Capital Cost Table
  - 2-I(3) Operating Cost Table
- 2-J Termination for Convenience Calculation Method
- 2-K Equal Employment Opportunity Certification
- 2-L Developer's Preliminary DBE Performance Plan
- 2-M DBE Certification
- 2-N Developer's Preliminary Workforce Diversity and Small Business Performance Plan
- 2-O Buy America Certification
- 2-P Use of Contract Funds for Lobbying Certification
- 2-Q Debarment and Suspension Certification
- 2-R Form of Drug-Free Workplace Certification
- 2-S Form of Financial Close Certificate
- 2-T Form of IFA Bring-Down Certificate

EXHIBIT 2-A

Developer's Schematic Design

See Volume II CD

EXHIBIT 2-B

PRELIMINARY PROJECT BASELINE SCHEDULE

[attached]

Preliminary Project Baseline Schedule for Design and Construction

4.1.4 PRELIMINARY BASELINE SCHEDULES

WVB is committed to reaching Project substantial completion by October 31, 2016. This commitment is driven by:

- **Our past portfolio of successful projects,** coupled with the scheduling plan we have in place, provides assurance the construction is safely completed eight months ahead of IFA's requirement.
- **Increased investor confidence** that results from a shorter construction schedule, as reflected in the negotiated financing rates, offer better value for IFA.
- **Opportunity for IFA** to generate toll revenue eight months earlier than anticipated.

TIME AND BUDGET

WVB will open the East End Crossing to revenue-generating traffic by October 31, 2016 — eight months early.

GETTING STARTED: WVB has developed and implemented the preliminary PMP including IMS and Key Personnel and Task Managers during preliminary design. This allows WVB to hit the ground running upon commercial close and award of NTP 1. Key to WVB's efforts to coordinate the Project startup is issuing subcontracts, purchase orders, and utility agreements; performing field geotechnical analysis; and distributing updated designs to the key Project stakeholders.

WVB has gone through an iterative process to develop a list of proposed design units specifically created to expedite early construction activities. Critical design units identified:

- Section 4 Erosion and Sediment Control and Stormwater Pollution Prevention Plan
- Tunnel South Portal
- Section 5 Tower Foundations
- Section 4 Phase 1A MOT
- Ramp A Bridge and Roadway
- North River Road Drainage
- Harrods Creek Bridge Foundation

WVB is ready for close engagement with IFA, local stakeholders, emergency services, environmental agencies, and the general public to get the feedback required to generate and approve these early design units.

CRITICAL PATH: Tunnel construction is the Project's critical path. WVB's early design efforts to reduce the Tunnel length and optimize section properties supports our commitment to achieve substantial completion by October 31, 2016. The early design units for the Erosion and Sediment Control and the Tunnel South Portal are critical design activities to starting Tunnel excavation. Main span bridge work is near-critical and WVB's proposed early design units are planned to expedite foundation construction by fall of 2013.

SETTING MILESTONES: The milestones outlined in **Table 4.1-10** are those listed in Exhibit 4 of the PPA. These dates are included as milestone activities in the Preliminary Project Baseline Schedule and reflect the logic and durations carefully developed throughout the proposal and bid process.

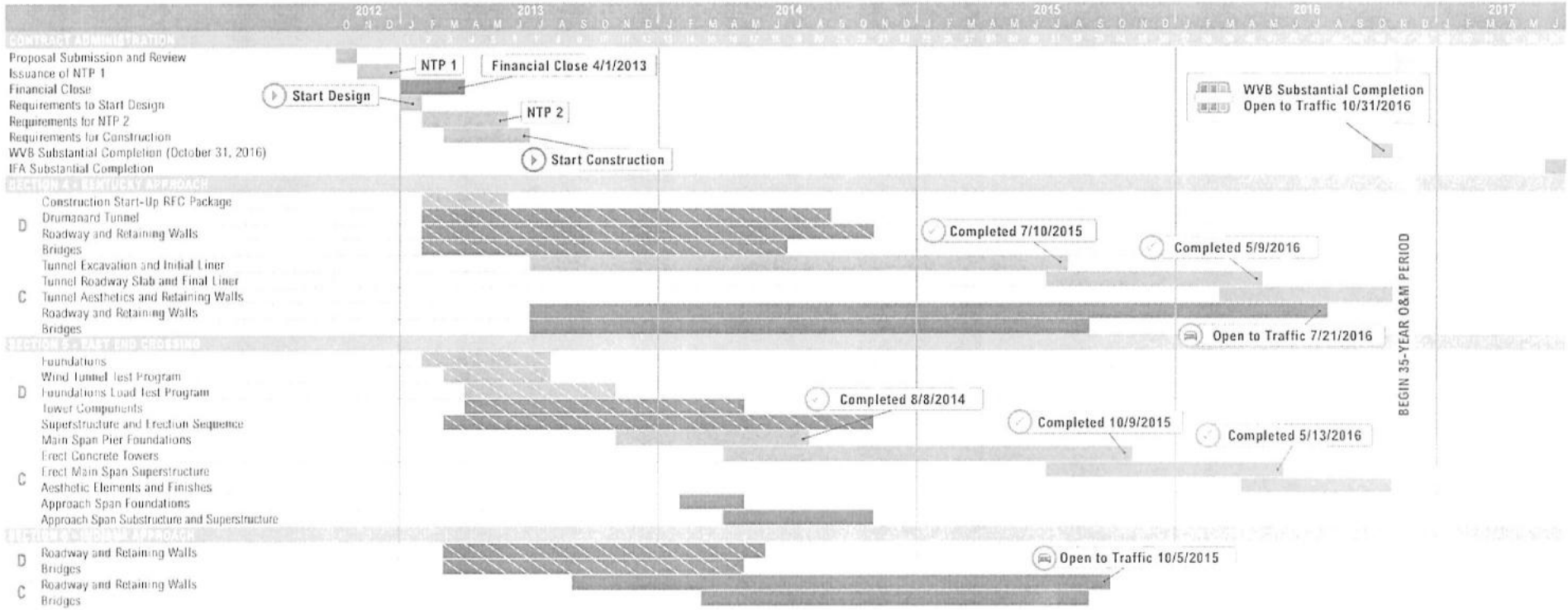
Roadway Sections 4 up to US 42 and Section 6 up to Salem Road is available for opening at the milestone dates of July 21, 2016, and October 5, 2015, respectively. **Opening areas of the Project a combined 31 months ahead of IFA's substantial completion requirement** increases public access to Salem Road and reduces traffic impacts, therefore enhancing public perception.

Table 4.1-11 is a summary schedule indicating the milestones and WVB's overall approach to scheduling the Project. Further details of our approach, including O&M details, are provided within Section 4.2.2.2 and 4.3.2.2 along with the schedule narrative and full preliminary P6 schedule provided in the Volume 2 Appendices.

TABLE 4.1-10 WVB'S TARGET MILESTONE DATES

Milestone	Description	Date
1	Complete Main Span Pier Foundations	8/8/14
2	Complete Tunnel Excavation & Initial Liner	7/10/15
3	Complete Main Span Towers	10/9/15
4	Complete Western Limits of Section 6 Roadway	10/5/15
5	Complete Eastern Limits of Section 4 Roadway	7/21/16
6	Complete Final Tunnel Liner	5/9/16
7	Complete Main Span Superstructure Erection	5/13/16
8	Substantial Completion	10/31/16

TABLE 4.1-11 SUMMARY PRELIMINARY BASELINE SCHEDULE (FULL PRELIMINARY BASELINE SCHEDULE PROVIDED IN VOLUME 2 APPENDICES)



Highlights to Getting Started

NTP 1 12/20/2012

- Submit DBE Performance Plan with Executive Agreement
- Submit Workforce Diversity and SBE Performance Plan with Executive Agreement
- Submit Insurance Policies

Start Design 1/19/2013

- Approve DBE Performance Plan
- Approve Project Management Plan (A)
- Host Design Workshop
- Identify Design Units
- Conduct Environmental Compliance and Mitigation Training
- Approved Design Review Plan and Schedule

NTP 2 5/8/2013

- Reach Financial Close
- Submit Payment Bond and Performance Security
- Establish Project Office
- Host Utility Owner Meetings
- Approve Project Baseline Schedule
- Approve WD and SBE Performance Plan

Start Construction 6/3/2013

- Approve Project Management Plan (B)
- Host MOT Meeting
- Submit Temporary Traffic Control Plan
- Approve Access and Mobility Plan
- Approve Environmental/Stormwater Pollution Prevention Plans

Critical and Near Critical Activities | Non-Critical Activities | Design | Milestone Date | Start Design | Start Construction | Completed | Open to Traffic

EXHIBIT 2-C

FINANCIAL PLAN

[attached]

FORM P

FINANCIAL PLAN SUMMARY

1. SOURCES AND USES OF FUNDS

Sources of Funds	Total	Percent of total	Model reference
Bank / Bond (Non-PAB)		0%	
PABs	697,518,714	59%	'Output - Project'!P45+'Output - Project'!P49
Equity	81,885,495	7%	'Output - Project'!P51
Interest earned on accounts	2,675,664	1%	'Output - Project'!P53
Current Period Operational Revenue		0%	
Milestone Payments	392,000,000	33%	Output - Project'!P43
		0%	
Total Sources of Funds	1,174,079,874	100%	

Uses of Funds	Total	Percent of total	Model reference
Project Development Costs	25,795,590	2%	'Output - Project'!AM44
Development and Capital Costs	763,000,000	65%	Output - Project'!AM43
Contingencies		0%	n/a
Financing Costs	124,866,138	11%	'Output - Project'!AM47+'Output - Project'!AM49+'Output - Project'!AM50+'Output - Project'!AM51
Working Capital	19,092,370	2%	Output - Project'!AM54
Debt Service Reserve Account	11,857,307	1%	'Output - Project'!AM53
Reserve 1 (As Needed)		0%	n/a
Reserve 2 (As Needed)		0%	n/a
Reserve 3 (As Needed)		0%	n/a
SPV Costs	26,920,000	2%	'Output - Project'!AM45
Tax paid / (refunded)	603,414	0%	Output - Project'!AM46
Senior Milestone Bond Repayment	195,987,956	16%	'Output - Project'!AM52

Deductibles Contingency Expense Paid	5,957,099	1%	'Output - Project'!AM48
Total Uses of Funds	1,174,079,874	100%	

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2. EQUITY INVESTMENT ANALYSIS AND DESCRIPTION

Firm / consortium member	Equity investment			Model reference
	Amount (E)	% over total equity	Amount (D)	
Bilfinger Berger PI International Holding GmbH ("BBI")	27,295,165	33%		Input - Financing'!D70
Walsh Investors, LLC ("Walsh")	27,295,165	33%		Input - Financing'!D71
VINCI Concessions S.A.S ("VINCI")	27,295,165	33%		Input - Financing'!D72
		0%		
		0%		
		0%		
		0%		
TOTAL	81,885,495	100%	-	

3. FINANCING DATA

3.1. KEY FINANCING DATA

Key financing data	Value	Model reference
NPV of project cash flows at 5%	1,025,012,330	MAP!AA19 + MAP!AI19
Nominal post-SPV-tax project IRR	6.41%	Returns & Ratios'!D459
Real post-SPV-tax project IRR	3.80%	Returns & Ratios'!D458
Nominal pre-SPV-tax project IRR	6.79%	Returns & Ratios'!D446
Real pre-SPV-tax project IRR	4.17%	Returns & Ratios'!D445
Nominal post-SPV-tax equity IRR	10.34%	Returns & Ratios'!D370
Real post-SPV-tax equity IRR	7.68%	Returns & Ratios'!D369
Nominal pre-SPV-tax equity IRR	11.53%	Returns & Ratios'!D355
Real pre-SPV-tax equity IRR	8.84%	Returns &

		Ratios'!D354
Nominal debt IRR	4.70%	Returns & Ratios'!D490
Real debt IRR	2.19%	Returns & Ratios'!D489
Minimum DSCR	1.25x	Returns & Ratios'!D228
Average DSCR	1.41x	Returns & Ratios'!D228
Minimum PLCR	1.38x	Returns & Ratios'!D228
Average PLCR	1.64x	Returns & Ratios'!D228
Minimum LLCR	1.29x	Returns & Ratios'!D252
Average LLCR	1.40x	Returns & Ratios'!D252

Debt type *	Amount	Base rate **
Private Activity Bonds	697,518,714	see 6. below

* Senior debt, bonds, mezzanine debt, etc.

4. SENSITIVITIES

Model Sensitivity Analysis

Changes in interest rate from pre-proposal submittal

	Upward Movement				Downward Movement				
Year	50bps	100bps	150bps	200bps	50bps	100bps	150bps	200bps	Model Reference
	34,303	36,054	40,341	42,731	30,816	29,674	28,711	28,522	Input - Operation'!D21
2016	6,272	6,592	7,376	7,813	5,634	5,425	5,249	5,215	Map'!M22:M456
2017	38,106	40,051	44,812	47,468	34,232	32,963	31,894	31,684	Map'!M22:M456
2018	39,058	41,052	45,932	48,655	35,088	33,787	32,691	32,476	Map'!M22:M456
2019	40,035	42,078	47,081	49,871	35,965	34,632	33,508	33,288	Map'!M22:M456
2020	41,034	43,129	48,256	51,116	36,863	35,496	34,345	34,119	Map'!M22:M456
2021	42,061	44,208	49,464	52,396	37,786	36,385	35,205	34,973	Map'!M22:M456
2022	43,113	45,314	50,701	53,706	38,730	37,295	36,085	35,848	Map'!M22:M456
2023	44,191	46,446	51,968	55,048	39,698	38,227	36,987	36,744	Map'!M22:M456

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2024	45,294	47,606	53,266	56,422	40,689	39,181	37,910	37,661	Map'!M22:M456
2025	46,428	48,798	54,599	57,835	41,708	40,162	38,859	38,604	Map'!M22:M456
2026	47,589	50,018	55,964	59,281	42,751	41,166	39,831	39,569	Map'!M22:M456
2027	48,778	51,268	57,363	60,763	43,820	42,195	40,827	40,558	Map'!M22:M456
2028	49,996	52,548	58,795	62,280	44,914	43,249	41,846	41,571	Map'!M22:M456
2029	51,248	53,864	60,267	63,839	46,038	44,331	42,893	42,611	Map'!M22:M456
2030	52,529	55,210	61,774	65,435	47,189	45,440	43,966	43,677	Map'!M22:M456
2031	53,842	56,590	63,318	67,071	48,369	46,576	45,065	44,769	Map'!M22:M456
2032	55,186	58,003	64,899	68,745	49,576	47,739	46,190	45,886	Map'!M22:M456
2033	56,568	59,455	66,524	70,466	50,817	48,934	47,346	47,035	Map'!M22:M456
2034	57,982	60,942	68,187	72,228	52,088	50,157	48,530	48,211	Map'!M22:M456
2035	59,432	62,465	69,892	74,034	53,390	51,411	49,743	49,416	Map'!M22:M456
2036	60,915	64,025	71,636	75,882	54,723	52,694	50,985	50,650	Map'!M22:M456
2037	62,440	65,628	73,430	77,782	56,093	54,014	52,261	51,918	Map'!M22:M456
2038	64,001	67,268	75,266	79,726	57,495	55,364	53,568	53,216	Map'!M22:M456
2039	65,601	68,950	77,147	81,719	58,933	56,748	54,907	54,546	Map'!M22:M456
2040	67,239	70,671	79,073	83,759	60,404	58,165	56,278	55,908	Map'!M22:M456
2041	68,922	72,441	81,053	85,856	61,916	59,621	57,687	57,308	Map'!M22:M456
2042	70,646	74,252	83,079	88,003	63,464	61,111	59,129	58,740	Map'!M22:M456
2043	72,412	76,108	85,156	90,203	65,050	62,639	60,607	60,209	Map'!M22:M456
2044	74,219	78,008	87,282	92,455	66,674	64,203	62,120	61,712	Map'!M22:M456
2045	76,078	79,961	89,467	94,769	68,344	65,810	63,675	63,257	Map'!M22:M456
2046	77,979	81,960	91,704	97,139	70,052	67,456	65,267	64,838	Map'!M22:M456
2047	79,929	84,009	93,996	99,567	71,804	69,142	66,899	66,459	Map'!M22:M456
2048	81,924	86,106	96,343	102,053	73,596	70,868	68,569	68,119	Map'!M22:M456
2049	83,975	88,262	98,755	104,608	75,439	72,642	70,286	69,824	Map'!M22:M456
2050	86,075	90,468	101,224	107,223	77,325	74,458	72,043	71,569	Map'!M22:M456
2051	73,301	77,043	86,202	91,311	65,850	63,409	61,352	60,949	Map'!M22:M456
2052	-	-	-	-	-	-	-	-	Map'!M22:M456

5. PROPOSAL DEVELOPMENT COSTS

Cost Item	Total	Model reference
Proposer's Financial Advisor	3,505,590	Input - Construction'!D72
Proposer's Financial Advisor Expenses	30,000	Input - Construction'!D73
Proposer's Development Fee	17,000,000	Input - Construction'!D74
Proposer's Legal Advisor	2,150,000	Input - Construction'!D75
Bond trustee initial fee	10,000	Input - Construction'!D76
Proposer's Tax & Accounting Advisor	465,000	Input - Construction'!D77
Proposer's Insurance Advisor	30,000	Input - Construction'!D78
Proposer's Model Audit Costs	80,000	Input -

Cost Item	Total	Model reference
		Construction'!D79
Finance - Legal Costs	1,935,000	Input - Construction'!D80
Finance - Technical Advisor	120,000	Input - Construction'!D81
Finance - Insurance Advisor	25,000	Input - Construction'!D82
Communications/PR	100,000	Input - Construction'!D83
Printing	125,000	Input - Construction'!D84
Contingency	220,000	Input - Construction'!D85
TOTAL	25,795,590	Input - Construction'!D87

6. BENCHMARK RATES AND CREDIT SPREADS

Facility	Benchmark identification / description	Benchmark Rate (A%)	Credit Spread (credit margin) (B%)	Total Interest Rate (A% + B%)	Assumed Ratings	Approximate Average Life of the Financing Instruments
Facility C - Senior Milestone Bond	AAA MMD	0.79%	1.75%	2.54%	BBB	5.75*
Facility D - Senior LT Bond - PABs Series 1	AAA MMD	n/a	n/a	n/a	n/a	n/a
Facility D - Senior LT Bond - PABs Series 2	AAA MMD	n/a	n/a	n/a	n/a	n/a
Facility D - Senior LT Bond - PABs Series 3	AAA MMD	2.83%	1.25%	4.08%	BBB	24.9
Facility D - Senior LT Bond - PABs Series 4	AAA MMD	2.83%	1.30%	4.13%	BBB	32.1
Facility D - Senior LT Bond - PABs Series 5	AAA MMD	2.83%	1.50%	4.33%	BBB	36.0

*assumed to be prepaid approximately 3.75 years from Financial Close, in which case the average life is c.3.75 years

7. MAP ESCALATION

Percentage of MAP subject to fixed escalation of 2.5%	Percentage of MAP subject to CPI escalation
80%	20%

Proposer: NB East End Partners

Date: 10/26/12

Signature: [signature]

Title: Authorized Representative

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EXHIBIT 2-D

PROPOSAL COMMITMENTS

Attachment 1: **Proposal Commitments**

Attachment 2: **ATC's**

Attachment 1 to Exhibit 2-D

Proposal Commitments

Commitment No.	Proposal Location	Proposal Commitment
1.	Volume 1, Executive Summary, pages 7-8 and Volume 2, Preliminary Performance Plan, Page 18	Developer shall exceed 9% DBE, with anticipated achievement of the Proposal goal of 9.23% participation. Developer shall take affirmative efforts to achieve the increased participation goals. Developer shall provide a monthly report of such efforts to IFA.
2.	Volume 1, Executive Summary, pages 8-9	Developer shall pay for and sponsor a partnering meeting with IFA and INDOT to establish lines of communication, goals and meeting schedules for stakeholder groups.
3.	Volume 1, Executive Summary, page 10	Developer shall develop the Handback Plan to be fully implemented no later than 6 years prior to the end of the Term.
4.	Volume 2, Preliminary Performance Plans, Section 4.1.1, Sheet 7	The Construction Manager, the Bridge Construction Manager, the Tunnel Construction Manager and the Construction QC Manager shall be fully committed, full-time to the East End Crossing for the period from NTP1 until Final Acceptance.
5.	Volume 2, Preliminary Performance Plans, Section 4.1.1, Sheet 7	The Project Manager and Deputy Project Manager shall be fully committed, full-time to the East End Crossing for the period from NTP1 through the end of the Term.
6.	Volume 2, Preliminary Performance Plans, Section 4.1.1, Sheet 7	The Environmental Compliance Manager shall be fully committed, full-time to the East End Crossing, for the period from NTP1 to commencement of the Operating Period.

7.	Volume 2, Preliminary Performance Plans, Section 4.1.1, Sheet 13	On or before the Effective Date, Developer shall, at its expense, hold a project partnering meeting to establish lines of communication, goals, and meeting schedules, as appropriate, for stakeholder groups, and shall continue such partnering meetings on a no less than quarterly schedule throughout the Term.
8.	Volume 2, Preliminary Performance Plans, Section 4.1.1, Sheet 13, Table 4.1.5	Developer shall (a) hold weekly maintenance of traffic (MOT) meetings with INDOT and KYTC (together, or separately, and as appropriate as to each) to mitigate impacts of the Work on the public and (b) provide monthly updates to Emergency Services regarding MOT activities.
9.	Volume 2, Preliminary Performance Plans, Section 4.1.1, Sheet 14	Developer shall cause its Contractor, Guthrie/Mayes, to lead a team consisting of the Project Manager, the Construction Manager, the Aesthetics Manager, the MOT Manager, the Safety Manager and the DBE Coordinator in the active and regular use of social media to notify the public rapidly of incident alerts and to provide for two-way communications concerning road conditions, project progress and suggestions for avoiding closures. Such program shall include use of smartphone "apps" to make all such information more easily accessible. Developer shall monitor web pages and comment threads, providing prompt responses and encouraging respectful and productive information exchange through widely-used social media outlets.
10.	Volume 2, Preliminary Performance Plans, Section 4.1.1, page 15	Developer shall establish a project website with a live-feed webcam for residents to stay up-to-date on construction progress.
11.	Volume 2, Preliminary Performance Plans, Page 19	Developer shall meet targets of 15% minority workforce and 10% female workforce during the Term.
12.	Volume 2, Preliminary Performance Plans, Section 4.1.2, page 19	Developer shall provide a mentor/protégé program to C. Lee Construction Services and Messier & Associates Inc. as part of Developer's DBE-related obligations.

13.	Volume 2, Preliminary Performance Plans, Section 4.1.2, page 19	Developer shall, at its expense, provide training at no cost to DBE firms in safety (OSHA 10 and 30 hour programs), Superintendent and Foreman training, Project Engineer training, Crane Awareness, and Profit / Loss Statement Training.
14.	Volume 2, Preliminary Performance Plans, Section 4.1.2, page 19	Developer shall expedite the process for payment to DBEs, undertaking reasonable efforts to process payments in a manner that accommodates the cash flow needs of DBEs.
15.	Volume 2, Preliminary Performance Plans, Section 4.1.3, page 20	Developer shall implement an internship/co-op program that provides internships and training for a minimum of 10 high school and college co-op minority and female interns and trainees.
16.	Volume 2, Preliminary Performance Plans, Section 4.1.3, page 20	Developer and its Lead Engineer, Jacobs Engineering, and its sub-consultants shall employ a minimum of four design trainees throughout the design phase of the Work.
17.	Volume 2, Preliminary Performance Plans, Section 4.1.3, page 20	For design and construction Work, Developer and its Subcontractors shall employ a minimum of 14 professional trainees for a minimum of 800 hours per trainee.

<table>
<tr><td>18.</td><td>Volume 2, Preliminary Performance Plans, Section 4.1.3, page 21</td><td>Developer shall employ no fewer than 65 trade trainees as set forth below:<table><tr><th>Trade</th><th>Number</th></tr><tr><td>Pile Driver</td><td>5</td></tr><tr><td>Iron Worker</td><td>10</td></tr><tr><td>Carpenters</td><td>13</td></tr><tr><td>Operating Engineers</td><td>12</td></tr><tr><td>Laborers</td><td>25</td></tr><tr><td>Total</td><td>65</td></tr></table></td></tr>
<tr><td>19.</td><td>Volume 2, Preliminary Performance Plans, Section 4.1.3, page 23</td><td>Developer shall provide induction training for all team members and relevant supply chain members covering project purpose, scope, basic safety, environmental risks/requirements, quality and site specific issues.</td></tr>
<tr><td>20.</td><td>Volume 2, Preliminary Performance Plans, Section 4.1.3, page 23</td><td>Developer shall provide on-going training throughout the Term that is role- and task-specific, as well as general training for all team members. Training includes:
supervisor training
technical training
environmental, safety and quality training
human resources training
project management training
insurance and legal training</td></tr>
<tr><td>21.</td><td>Volume 2, Preliminary Performance Plans, Section 4.1.6, page 31 & 32</td><td>Developer shall include within the Environmental Compliance and Mitigation Plan design team training of all East End Crossing environmental requirements and constraints, induction training to address key environmental concerns, and provide for periodic "brown bag" talks during construction with the design team to address environmental concerns.</td></tr>
</table>

22.	Volume 2, Preliminary Performance Plans, Section 4.1.6, page 31 & 32	Developer shall provide environmental progress summaries to IFA monthly during construction. Such summaries shall describe environmental performance, on-site avoidance efforts, and mitigation activities during the preceding month.
23.	Volume 2, Preliminary Performance Plans, Section 4.1.6, page 33	Developer shall, during the final Punch List stage of construction, coordinate a workshop with IFA and INDOT to address and confirm the sustainability principles to be implemented during the Operating Period.
24.	Volume 2, Preliminary Performance Plans, Section 4.1.6, page 34	Developer shall review and update the Sustainability Management Plan monthly at sustainability specialist team meetings to ensure that such plan remains relevant, meets contractual and regulatory requirements and meets IFA/INDOT sustainability-related expectations.
25.	Volume 2, Preliminary Performance Plans, Section 4.1.6, page 35	Developer shall develop and implement a risk management plan, which shall include the obligation for Developer to develop and maintain a risk register that will be discussed and updated at all project review meetings, with the most significant risks reviewed at monthly senior management team meetings with IFA and INDOT.
26.	Volume 2, Preliminary Performance Plan, Section 4.1.7, page 37	Developer shall ensure that all electronic data collected or generated by the East End Crossing will be routinely backed up with sufficient frequency (no less than once every twenty-four (24) hours) to an encrypted, secure "cloud" provider.
27.	Volume 2, Preliminary Performance Plans, Section 4.2.1.1, page 42	Developer's stay cable system shall be designed and constructed with a 75 year design service life.

28.	Volume 2, Preliminary Performance Plans, Section 4.2.1.1, page 42	The East End Bridge superstructure shall utilize, in each case where appropriate, HPS 70W steel for girders and high performance concrete for deck panels and tower construction, and either or both for other key structural members.
29.	Volume 2, Preliminary Performance Plans, Section 4.2.1.2, page 46	Developer shall design the Tunnel electrical system to conform to NFPA 502 standards to enable systems operation for evacuation and first responders in the event of a fire.
30.	Volume 2, Preliminary Performance Plans, Section 4.2.1.2, Page 47 & 48	Developer blasting operations shall occur during daylight hours only. Developer drilling operations outside of the Tunnel shall occur during daylight hours only.
31.	Volume 2, Preliminary Performance Plans, Section 4.2.1.2, page 48	Developer shall provide weekly blasting schedule updates to the public.
32.	Volume 2, Preliminary Performance Plans, Section 4.2.1.2, page 48	Developer shall provide 24 hour emergency contact information to the public.
33.	Volume 2, Preliminary Performance Plans, Section 4.2.1.3, page 51	Developer shall provide for temporary traffic staging to allow for long trailer vehicles, including those that contain shipments of 140 ft wind turbine blades.

34.	Volume 2, Preliminary Performance Plans, Section 4.2.13, page 51	Prior to NTP2, Developer shall hold public meetings with affected subdivision residents adjacent to Wolf Pen Branch Road regarding traffic sequencing during construction.
35.	Volume 2, Preliminary Performance Plans, Section 4.2.1.3, page 54.	Developer shall provide site-specific environmental training to all workers before such workers are permitted to enter any wellhead protection area.
36.	Volume 2, Preliminary Performance Plans, Section 4.2.1.3, page 56 and 82	Developer shall use a 50 year concrete pavement design for pavement to be placed within the O&M Limits. At handback and in the Handback Plan, Developer shall provide 12 year useful life for pavement.
37.	Volume 2, Preliminary Performance Plans, 4.2.1.4, Page 59 and 78	Developer shall install "integral end bents" for RID Bridges 6 & 7 and semi-integral end bents for Bridges 9 – 12.
38.	Volume 2, Preliminary Performance Plans, 4.2.1.5, Page 60	Developer shall engage Contractor James H. Drew, Corp. to perform all Work relating to installation of the ITS.
39.	Volume 2, Preliminary Performance Plans, 4.2.1.5, Page 61	Developer shall activate DMS, CCTV and HAR at the earliest possible time in order to support communication with TMC and TRIMARC during construction.

40.	Volume 2, Preliminary Performance Plans, Section 4.2.1.7, page 64 and 65	Developer shall erect approach spans to eliminate piers within the Louisville Water Company sludge lagoon.
41.	Volume 2, Preliminary Performance Plans, Section 4.2.1.7, page 65, Figure 4.2-21; see also page 54, Figure 4.2-12 for detail of haul road	Developer shall install a construction berm with liners for the haul road (consisting in shot rock and stone caps) and laydown yards within wellhead protection area.
42.	Volume 2, Preliminary Performance Plans, Section 4.2.1.7, page 65, Figure 4.2-21	In connection with the design and construction of Section 4 of the East End Crossing, Developer shall bulk head and safe load the existing 10" sanitary sewer line in the Shadow Wood subdivision, as will be described in the Utility Agreement with the Metropolitan Sewer District.
43.	Volume 2, Preliminary Performance Plans, Section 4.2.1.7, page 65	Developer will conduct pre- and post-construction video surveys, continuous monitoring during blasting, and a post-construction follow-up video survey one year after construction for the 60" Louisville Water Company line.
44.	Volume 2, Preliminary Performance Plans, Section 4.2.2.1, page 70	Developer shall create a project charter based on Developer's vision, values and objectives and the requirements of the PPA Documents; with all of its Subcontractors and team members to sign the charter when completed.

45.	Volume 2, Preliminary Performance Plans, Section 4.3.1, Page 78	Developer shall perform full deck replacement of the existing SR265 structures at the SR62 / Port Rd interchange, rather than the rehabilitation discussed in the relevant RID.
46.	Volume 2, Preliminary Performance Plans, Section 4.3.1, Page 78	Developer shall provide a structural health monitoring system that incorporates current structural health monitoring technology.
47.	Volume 2, Preliminary Performance Plans, Section 4.3.1.1, page 78, Figure 4.3-1 (legend of inset in lower right-hand corner)	Developer shall provide at its O&M building dedicated public parking for at least ten vehicles for users of the shared use path.
48.	Volume 2, Preliminary Performance Plans, Section 4.3.1.1, page 79	During the Operating Period, Developer shall patrol the O&M Limits 24 hours/day, 7 days/week.
49.	Volume 2, Preliminary Performance Plans, Section 4.3.1.1, page 80	Prior to the commencement of the Operating Period, Developer shall develop a "Project Emergency Plan," detailing Developer's actions in case of an Emergency and establishing lines of communication with emergency responders, INDOT, KYTC, law enforcement agencies and other relevant private sector responders (e.g., towing and hazardous materials contractors).
50.	Volume 2, Preliminary Performance Plans, Section 4.3.1.1, page 81	During the Operating Period, Developer shall conduct safety audits to assess project safety, to identify and implement areas for improvement, and to review newly-developed industry best practices. Mitigation measures introduced by Developer will be recorded in writing, reported to IFA and INDOT and monitored to assess effectiveness, to include analysis of near-misses, in addition to actual incidents and accidents.

51.	Volume 2, Preliminary Performance Plans, Section 4.3.1.2, page 84	During the Operating Period, Developer shall power-wash all bridge structures after each winter season, except for certain corrosion-sensitive elements of the East End Bridge Main Spans, such as, but not limited to, the weathering steel structure, where power-washing can cause premature deterioration of the corrosion protection.
52.	Volume 2, Preliminary Performance Plans, Section 4.3.1.2e, page 84	Developer shall inspect facilities within the O&M limits daily for graffiti. Developer shall remove all graffiti from bridge structures within 24 hours from the earlier of receipt of notice or knowledge thereof and from high mast towers and gantries within 72 hours. Developer shall apply an anti-graffiti coating on all bridge abutment and wall surfaces in the O&M Limits.
53.	Volume 2, Preliminary Performance Plans, Section 4.3.1.2g, page 86 and 90	Except as set forth in the next sentence, Developer shall conduct in-depth inspections on all structures within the O&M Limits every two years. For the East End Bridge, Developer shall conduct an in-depth inspection every six years with underwater inspections every four years.
54.	Volume 2, Preliminary Performance Plans, Section 4.3.1.2, page 86	Developer shall engage Advitam as in-house systems monitoring specialist for risk-based analysis relating to the East End Crossing.
55.	Volume 2, Preliminary Performance Plans, Section 4.3.1.2, page 86	Developer shall license and use Eversense software to collect ORB sensor data for the Term.
56.	Volume 2, Preliminary Performance Plans, Section 4.3.1.3, page 90	Developer shall surface-seal concrete decks and barriers at least every four years starting at commencement of the Operating Period and continuing through the Term.

57.	Volume 2, Preliminary Performance Plans, Section 4.3.2.1, page 93	Developer, through VINCI Concessions SAS, shall provide annual, on-site best practices O&M training to all O&M personnel regarding operation and maintenance of the East End Bridge.
58.	Volume 2, Preliminary Performance Plans, Section 4.3.2.1, page 94	Developer shall have in place a fully-staffed O&M team no later than one month prior to Substantial Completion.
59.	Volume, Preliminary Performance Plan, Page 96	Developer shall ensure that any O&M facility has a public reception area with appropriate technical information about the East End Bridge. Developer shall also utilize a process reasonably acceptable to IFA for receiving and handling customer complaints.
60.	Volume 2 Appendix Aesthetic and Landscaping Concept Master Plan page P-8.	Developer shall use LED lighting in all handrail located in Project Section 5, which lighting shall be aimed at the pathway and installed in a manner to prevent light pollution.

61.	Volume 2 Appendix Aesthetic and Landscaping Concept Master Plan	Developer shall further develop the aesthetic plan contained in its Proposal such that the initial aesthetic plan delivered to IFA for its review includes preliminary pricing estimates for all applicable costs subject to payment out of the Landscaping Work Allowance, as set forth in the PPA Documents: • LED lighting in the median (Page P-6) • Faux-finish wall treatments at the bridge at Wolf Pen Branch Road (Page P-9) • Decorative post lighting at the Wolf Pen Branch Road overpass (Page P-9) • Faux-finish treatment on all concrete surfaces at Harrods Creek overpass (Page P-9) • Wood guardrail along River Road under the Harrods Creek overpass (Page P-9) • Decorative black metal fence on the overpass at Wolf Pen Branch Road (Page P-10) • Steel Backed timber guardrail along Wolf Pen Branch Road (Page P-11) • Stamped asphalt crosswalk at Wolf Pen Branch Road (Page P-11) • Faux stone finish for both the north and south portals of the Tunnel (Pages P-20-22) • Faux limestone finishes on concrete surfaces of Indiana bridges (as indicated) (Page P-26) • Threshold berm between both Rosewell House and the roadway and Belleview Estate and the roadway (Page P-28). • Faux stone concrete barrier in the approaches to the East End Bridge (Page P-29). • Faux stone finish for noise walls in Kentucky, while those in Indiana will be faux limestone (Page P-34) • Faux stone PVC fence adjacent to residences along the railway line.(Page P-34). • Four-rail white wood fencing along Wolf Pen Branch Road adjacent to residences (Page P-34).

62.	General	Developer's commitments under this Exhibit 2-D also include compliance with all statements, offers, terms, concepts or designs set forth in the Proposal that can reasonably be interpreted as (a) offers to provide higher quality items than otherwise required by the PPA Documents, (b) offers to perform services or meet standards in addition to or better than those otherwise required by the PPA Documents, or (c) terms or designs that are more advantageous to IFA than the requirements of the PPA Documents, in each case, as reasonably determined by IFA. IFA shall provide Notice to Developer of any such items set forth in the preceding sentence, as and when so determined. Such items shall be subject to review and comment by Developer within fifteen (15) days after receipt of such Notice to confirm whether each of the items accurately reflects Developer's commitment in the Proposal and is not otherwise a covenant of Developer or already addressed in the PPA Documents. After the expiration of such fifteen (15) day period, and after reviewing any comments received from Developer, IFA shall provide final Notice to Developer of each item to be deemed a commitment under this Exhibit 2-D, based upon IFA's reasonable determination that such commitment accurately reflects Developer's proposal and is not otherwise a covenant of Developer or already addressed in the PPA Documents. Such items shall be deemed a commitment under this Exhibit 2-D and part of the Work, upon receipt by Developer of such final Notice from IFA. Developer may dispute IFA's determination regarding any such commitment described in this paragraph 62 according to the Dispute Resolution Procedures. Such commitments, together with the other commitments set forth in this Exhibit 2-D, shall have the priority for purposes of the order of precedence in the Agreement as set forth in Section 1.2.3.1 thereof.

Attachment 2 to Exhibit 2-D

ATCs

WVB	4	Brookhollow Way Alternate Route - Connect S Brookhollow Way to Boulder Creek Subdivision
WVB	5	Tunnel Shortening - Move S Portals 220' N, move N. Portals 50' south, reduce pillar at south portal to 35'.
WVB	6	Ramp A Modifications - Single Point Intersection w/ US 42
WVB	9	East End Bridge - Uncoated weathering Steel
WVB	15	Alternative shoulder pavement design

[see attached]

Indiana Finance Authority
One North Capitol, Suite 900
Indianapolis, IN 46204

August 24, 2012

Sidney Florey, Project Executive
WVB East End Partners
1260 East Summit Street
Crown Point, Indiana 46307

RE: East End Crossing RFP, ATC WVB #3

Dear Mr. Florey:

The Indiana Finance Authority ("IFA") has reviewed the Alternative Technical Concept ("ATC") no. WVB #3 submitted on August 17, 2012 by WVB East End Partners in response to the Request for Proposals for the East End Crossing issued by the IFA on July 31, 2012 (as amended, the "RFP").

IFA's response to the referenced ATC is included in Attachment 1.

IFA appreciates your continued interest in the East End Crossing.

Sincerely,

Jacob Blasdel
IFA Project Manager

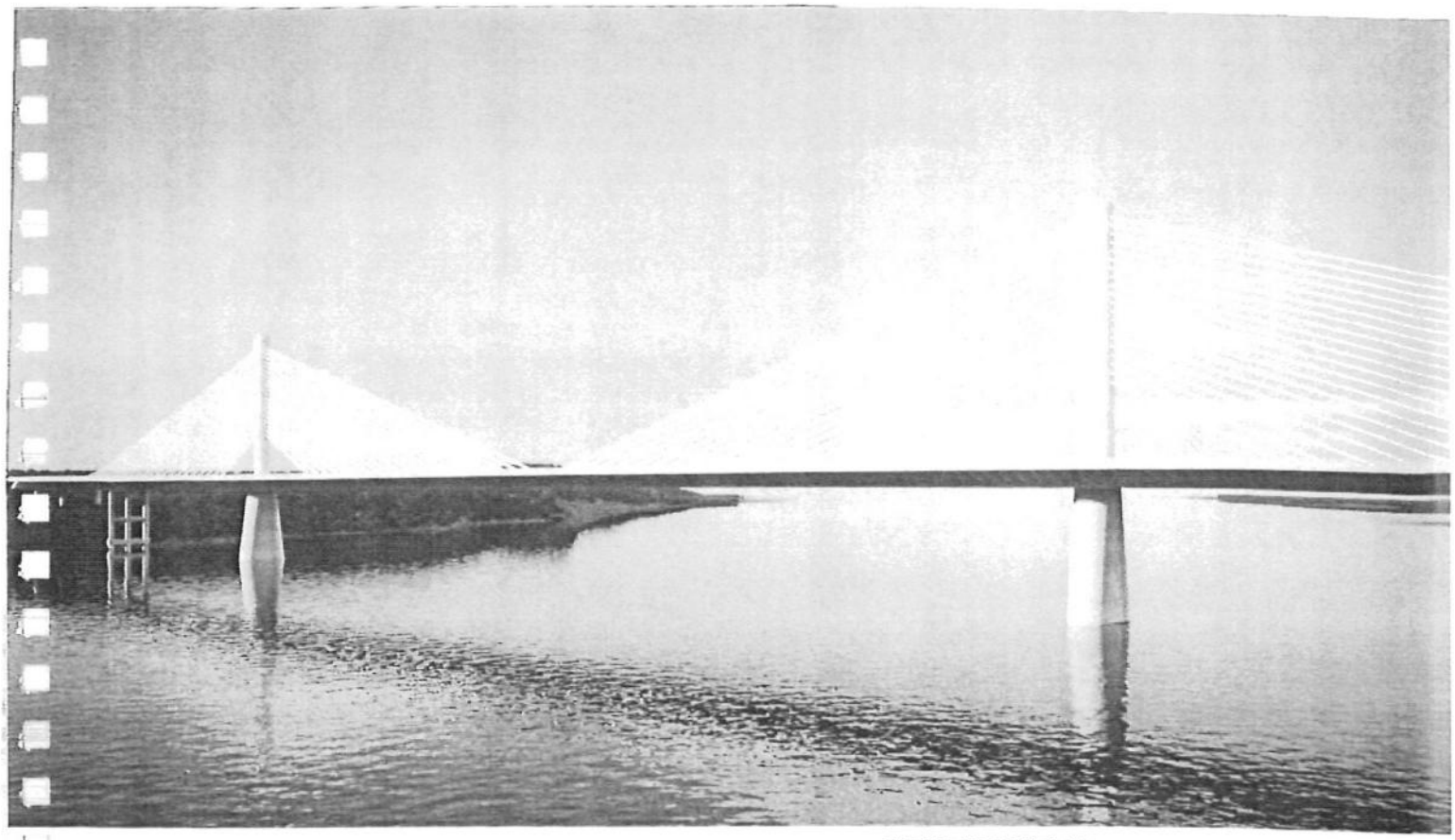
Attachment

ATTACHMENT 1

WVB East End Partners

August 24, 2012

1. ATC WVB #3 – The ATC appears to be within the requirements of the RFP as revised by Addendum #1 (Table 9-32) and does not qualify as an ATC, provided, however, that should it turn out that the concept as incorporated into the Proposal is not within the requirements of the RFP, IFA reserves the right to require compliance with the requirements of the RFP and PPA Documents (without regard to the submittal), in which event the Proposer will not be entitled to modify its Proposal or obtain a Change Order for additional compensation or a time extension under the Agreement. Please note the revised Level of Service requirements appearing in Addendum #1(Table 11-1).



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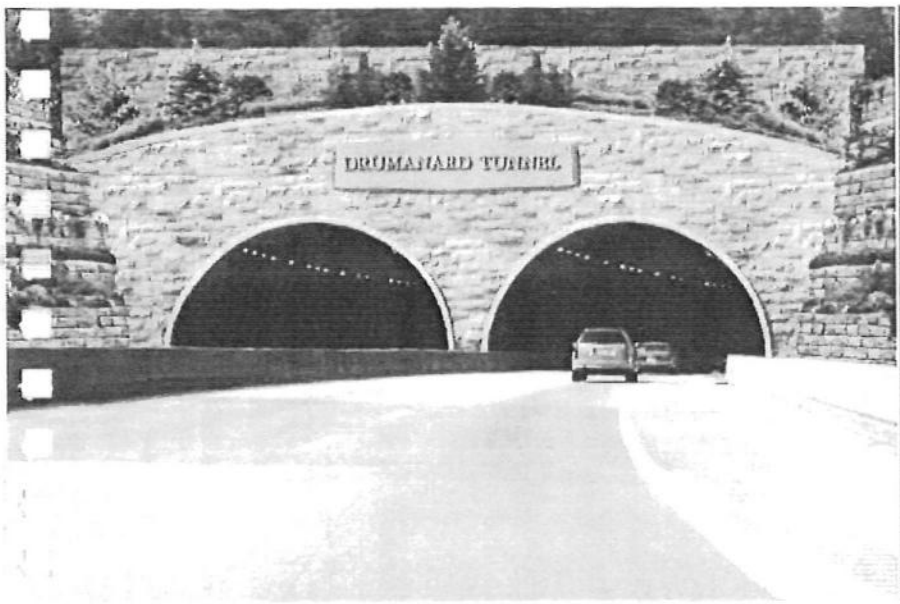


Ohio River Bridges Project

The East End Crossing
Confidential ATCs

ATC - No. 3

Submitted to:

Indiana Finance Authority
One North Capitol Avenue, Suite 900
Indianapolis, Indiana 46204
Attention: Sarah Rubin
Telephone: 317.234.7701
Fax: 317.232.6786
Email Address: rfq@ifa.in.gov

Submitted by:

WVB East End Partners

WVB East End Partners
1260 East Summit Street
Crown Point, Indiana 46307
Phone : 315.207.3905

WALSH VINCI BRUNGER BERGER JACOBS

WVB East End Partners (WVB) submits the following ATC to IFA for review and approval per the requirements of the East End Crossing ITP.

PART 1: OVERALL DESCRIPTION OF THE ATC

(a) Sequential ATC number identifying the Proposer and the ATC number

WVB East End Partners

ATC No. 3: Section 6 - Roundabout Interchange

(b) Description and conceptual drawings of the configuration of the ATC, including necessary design exceptions and a traffic operational analysis, if applicable.

Conceptual Drawings Begin on Page 6.

The preliminary design proposed in the RFP consists of a Diverging Diamond Interchange (DDI) at the SR 62 / SR 265 interchange and a semi directional ramp interchange at the SR 265 / Port Road interchange.

WVB East End Partners (WVB) proposes that a Roundabout Interchange with a Collector-Distributor (C-D) system for the SR 265 / SR 62 / Port Road complex interchange be constructed as described below and as shown on the attached conceptual drawings.

SR 265 / SR 62 Interchange

Convert the proposed Diverging Diamond Interchange into a multi-lane Roundabout Interchange with right-turn by pass lanes.

SR 265 / Port Road Interchange

Convert the northern half of the interchange into a single-lane roundabout with by-pass lane and modify the southern half of the interchange by re-routing the EB SR 265 to SB Port Road movement through a C-D.

Modified Ramp Movements (See attached drawings for ramp labels)

a. EB SR 265 to SR 62 off-ramp movement (IR-3) will be realigned closer to SR 265 due to the new geometry of the south roundabout at SR 62. This modification will widen Structure No 17 (EB SR 265 over Railroad) and eliminate Structure No 18 (IR-3 over Railroad). This ramp will provide access to northbound SR 62 through the roundabout interchange, and southbound SR 62 through a right-turn bypass lane. Southbound Port Road will also be accessed through this ramp by continuing east through the roundabout on a C-D lane.

b. WB SR 265 to SR 62 off-ramp movement (IR-4) will be modified as a by-pass lane through the north roundabout at Port Road.

c. NB Port Road to WB SR 265 on-ramp movement (IR-5) will be modified by connecting the north roundabout at Port Road to WB SR 265 with a parallel freeway entrance ramp to maintain free flow access from Port Road to WB SR 265.

d. NB Port Road to SR 62 movement (IR-6) will access SR 62 via the Port Road roundabout exiting to the C-D lane (IR-4).

e. WB SR 265 to SB Port Road off-ramp movement (IR-7) will be modified by utilizing the WB SR 265 to SR 62 exit ramp (IR-4), entering at the north roundabout on Port Road, circulating through the roundabout, and exiting to SB Port Road.

f. EB SR 265 to SB Port Road off-ramp movement (IR-8) will be re-routed via exit ramp IR-3 through the roundabout and onto the C-D lane (IR-9). This modification will allow the elimination of Structure No. 24 (IR-8 over IR-9). This modification will also eliminate the need to add a third travel lane and widen Structure No. 20 (SR 265 EB over SR 62).

g. SR 62 to SB Port Road movement (IR-10) will exit the C-D lane (IR-9) and merge with SB Port Road.

h. NB Port Road to EB SR 265 on-ramp movement (IR-11) will utilize IR-9 to the eventual EB SR 265 parallel entrance ramp to maintain free flow access from Port Road to EB SR 265.

Typical Sections

For SR 62, the typical section will be modified to a five-lane section under the SR 265 bridges (two southbound lanes and three northbound lanes) with the roundabout ATC as compared to the 8-lane section of the RFP DDI preliminary design.

For Port Road, the typical section will be revised to a two-lane section over SR 265 (one lane in each direction) as compared to the three-lane section under SR 265 with the RFP preliminary design.

Grade Separation

The grade separation for SR 265 at Port Road will be modified such that SR 265 will be lowered and Port Road will be raised to go over SR 265. Structure 21 (WB SR 265 over Port Road), 22 (EB SR 265 over Port Road), and 23 (IR-9 over Port Road) will be eliminated and new Structure 25 (Port Road over SR 265) and new 26 (Port Road over IR-9) will be added.

Traffic Operations Analysis

The Roundabout Interchange concept was developed as an innovative and creative concept aimed towards value engineering efforts for this complex interchange. Similar to a DDI, a

roundabout interchange is also one of the variations of a standard diamond interchange. Several single and multilane roundabout interchanges have been built throughout the US with firm plans to build many more of this interchange type on various state and federal highway facilities across the nation as well as in Indiana, thus demonstrating the familiarity and acceptance of the roundabout interchange. Roundabouts are gaining popularity due to their proven track record of providing safer and more efficient traffic flow. The entries at the roundabouts are flared and deflected, causing drivers to slow down and making intersections safer. Slower speeds reduce the severity of potential crashes and allow drivers and pedestrians more time to react to each other, thus increasing safety. In fact, studies by the Insurance Institute for Highway Safety show that roundabouts have:

- 90 percent fewer fatal crashes
- 76 percent less crashes with injury
- 30-40 percent reduction in pedestrian crashes
- 10 percent less bicycle crashes
- Fewer conflict points, meaning fewer opportunities for crashes

This ATC will replace the two signalized ramp terminals of the DDI along SR 62 with two multilane roundabouts which are unsignalized with approaching traffic yielding to the circulatory traffic. Since traffic entering the roundabout has to wait only if a gap is not available, it helps keep the flow of traffic moving through the network. This effectively reduces the overall vehicular delay as well as the stops typically associated with signalized intersections.

The proposed ATC design outperforms the RFP design and is supported by traffic analysis which provides traffic operations and level of service (LOS) along the system as good as, and in some instances better than, the operations of the RFP preliminary design. The following software tools were used to evaluate roadway capacities and to compute the LOS for the various roadway elements proposed on this ATC:

a) ARCADY 8 software developed by TRL to evaluate roundabout capacities
b) VISSIM 5.40 a traffic simulation software tool to determine the overall roundabout capacities as well as for the operational evaluation of the overall system
c) HCS2010 software for analysis of highway mainline segments, ramp junctions and weaving segments

The traffic forecasts for the design year (2030) were used to compute the LOS for this ATC. Capacity analysis and LOS for the roundabout ramp terminals along SR 62 and Port Road were computed using ARCADY 8. The capacity analysis outputs from the ARCADY 8 software tool are provided in Appendix A. Capacity analysis and LOS for the merge and diverge ramp junctions as well as the weaving segments were computed using HCS2010. The capacity analysis outputs from the HCS2010 software are provided in Appendix B. A VISSIM simulation model

was developed to check and confirm the capacities computed using the ARCADY 8 and HCS2010 software for the respective design elements. The ramp movements were evaluated in VISSIM to ensure there is no queue backing from the off-ramp terminus onto the mainline freeway. Figures 1 through 3 show the lane configuration of the proposed roundabouts at the SR 62 ramp terminals as well as at the north half of Port Road. Figures 4 through 6 show a snapshot from the VISSIM simulation model for the design year (2030) PM peak traffic. Table 1 below shows the comparison of the LOS between the proposed ATC and the RFP preliminary design.

Table 1 – LOS Comparison: ATC vs. RFP Preliminary Design

LOS Comparison: ATC vs. RFP Design				
	2030 Build LOS			
Facility Direction | Ramp Junction	ATC		RFP Design	
	AM Peak	PM Peak	AM Peak	PM Peak
Diverge Ramp Junctions				
SR 265 EB | SR 62 off-ramp (Diverge)	B	C	B	C
SR 265 EB | Port Road off-ramp (Diverge)	N/A	N/A	A	C
SR 265 WB | SR 62/Port Road off-ramp (Diverge)	C	B	N/A	N/A
SR 265 WB | SR 62 off-ramp (Diverge)	N/A	N/A	C	B
Merge Ramp Junctions				
SR 265 EB | Port Road/SR 62 on-ramp (Merge)	B	D	B	D
SR 265 WB | SR 62 on-ramp (Merge)	D	C	D	C
SR 265 WB | Port Road on-ramp (Merge)*	B	B	N/A	N/A
Weaving Segment				
SR 265 WB | Weave Between Port Road on/off-ramps*	N/A	N/A	C	C
Intersection	ATC		RFP Design	
SR 62 & SR 265 EB Ramp (South Terminal)	A	B	B	B
SR 62 & SR 265 WB Ramp via WB C-D (North Terminal)	A	A	B	B
Port Road & SR 265 WB Ramp (North Terminal)	A	A	N/A	N/A

*The Weaving Segment in the RFP Design is replaced with a Merge section under ATC. This is a traffic operational and safety improvement

Figure 1 - Lane Configuration – SR 62 & SR 265 Ramp Terminals (South Roundabout)
Figure 2 – Lane Configuration – SR 62 & SR 265 Ramp Terminals (North Roundabout)
Figure 3 – Lane Configuration – Port Road & SR 265 Ramp Terminals
Figure 4 – VISSIM Snapshot – SR 62 & EB SR 265 Off-Ramp Terminal (South Roundabout)
Figure 5 – VISSIM Snapshot – SR 62 & WB SR 265 Off-Ramp Terminal (North Roundabout)
Figure 6 – VISSIM Snapshot – Port Road & WB SR 265 Off-Ramp Terminal

The proposed ATC is much cleaner with far fewer decision points for traffic exiting/entering (i.e. merging/diverging) the SR 265 mainline as compared to the RFP design, thus increasing the overall mobility and operational efficiency and enhancing safety.

The proposed north roundabout at SR 62 & SR 265, as well as at Port Road & SR 265, will operate at LOS A in the AM and PM peaks during design year (2030). The proposed south roundabout at SR 62 & SR 265 will operate at LOS A in the AM Peak and LOS B in the PM peaks during design year (2030). The traffic operations and LOS for the proposed ATC is comparable, and in fact better than the RFP design, and achieved with an overall reduced footprint. The LOS for all the ramp merge and diverge locations of the proposed ATC will operate at the threshold LOS per Section 11 of the Technical Provisions. The ATC also reduces overall delay and number of stops as compared to the RFP preliminary design.

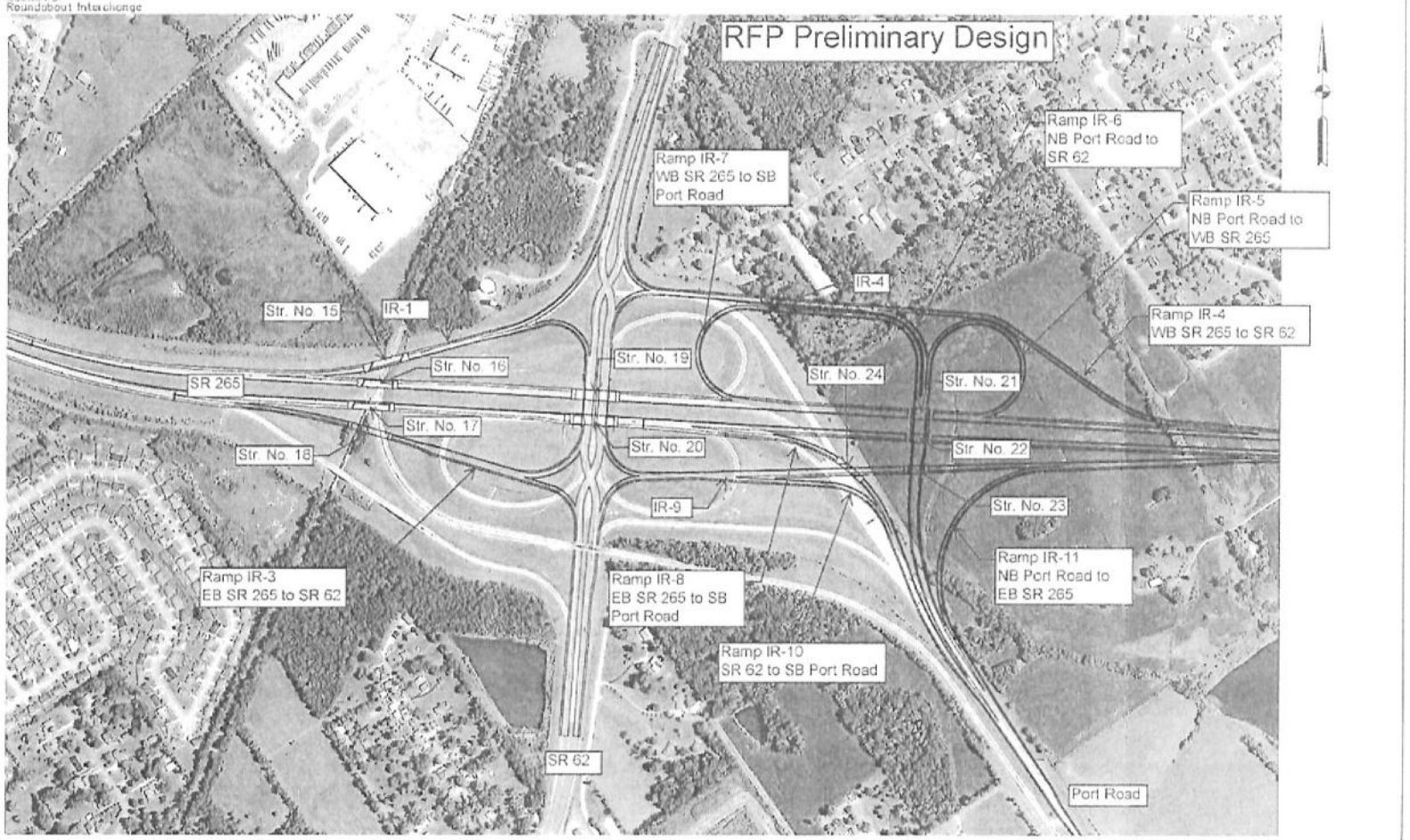
The proposed ATC will also provide a railroad crossing signal for railroad preemption along SR 62 SB direction which will be located north of the EB SR 265 off-ramp terminal. Provision of this signal will ensure that the EB SR 265 off-ramp movement heading NB on SR 62 as well as SB on Port Road via the thru movement on the EB C-D will have a potential to continue circulating without being impacted by the vehicles queuing or blocking the through ramp while the train is crossing. Additional warning signs will also be provided in the vicinity of the railroad tracks to warn the drivers. The proposed operations and impacts with the railroad crossing are anticipated to be no different than with the RFP preliminary design.

There will be no additional design exceptions with this ATC.

(c) ATC locations and Explanation of how the ATC will be used on the East End Crossing

The ATC is located at the SR 265/SR 62/Port Road complex interchange. The proposed layout as described above will be used in lieu of the diverging diamond interchange at SR 62 and semi-directional interchange at Port Road.

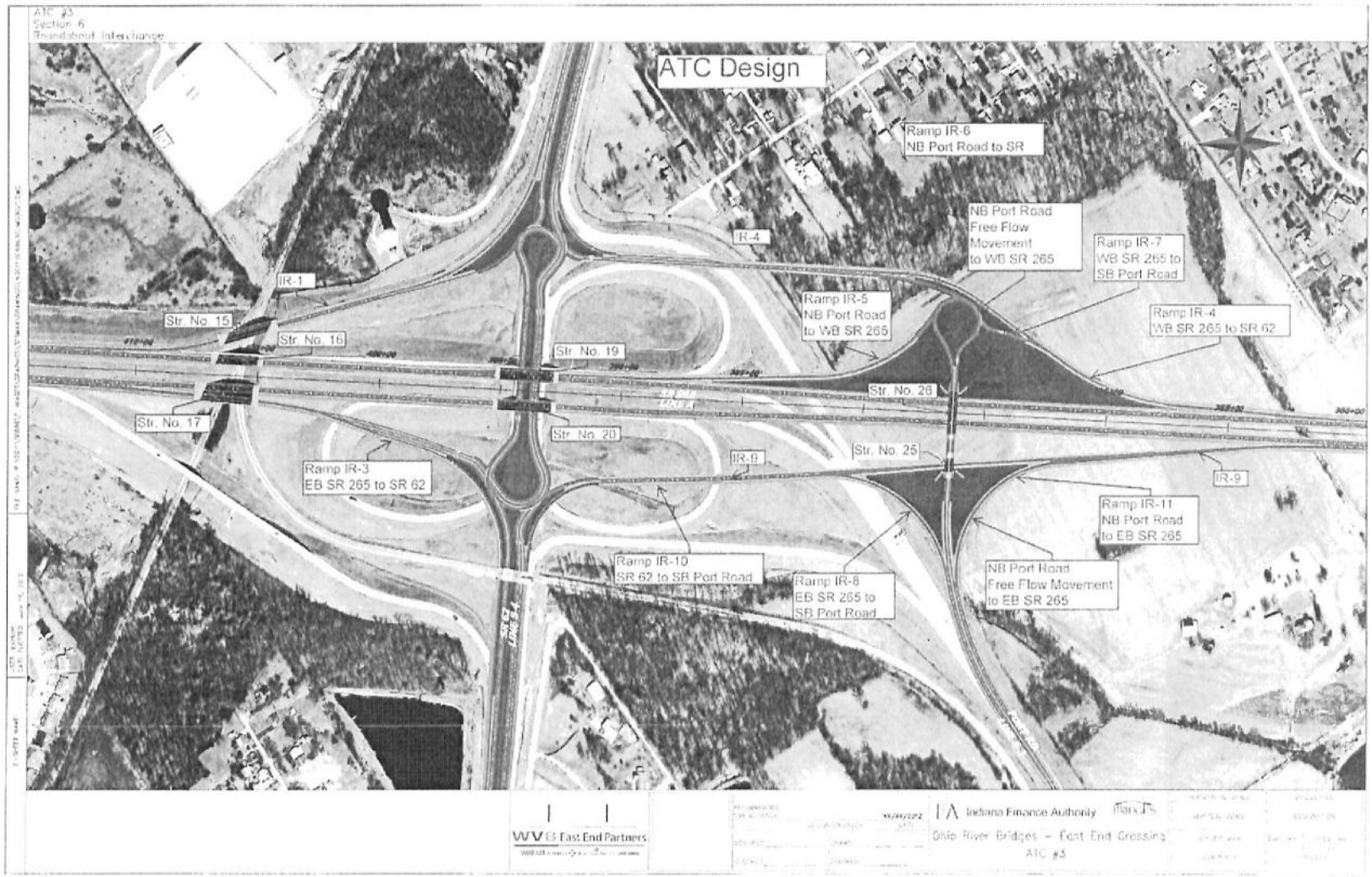
ATC #3
Section 6
Roundabout Interchange



WVB East End Partners

Indiana Finance Authority

Ohio River Bridges – East End Crossing
ATC #3


ATC #3
Section 6
Roundabout Interchange
ATC Design
Ramp IR-6
NB Port Road to SR
NB Port Road
Free Flow
Movement
to WB SR 265
Ramp IR-7
WB SR 265 to
SB Port Road
IR-4
IR-1
Ramp IR-5
NB Port Road
to WB SR 265
Ramp IR-4
WB SR 265 to SR 62
Str. No. 15
Str. No. 16
Str. No. 19
Str. No. 26
Str. No. 17
Str. No. 20
IR-9
Str. No. 25
IR-9
Ramp IR-3
EB SR 265 to SR 62
Ramp IR-11
NB Port Road
to EB SR 265
Ramp IR-10
SR 62 to SB Port Road
Ramp IR-8
EB SR 265 to
SB Port Road
NB Port Road
Free Flow Movement
to EB SR 265
WVB East End Partners
Indiana Finance Authority
Ohio River Bridges – East End Crossing
ATC #3

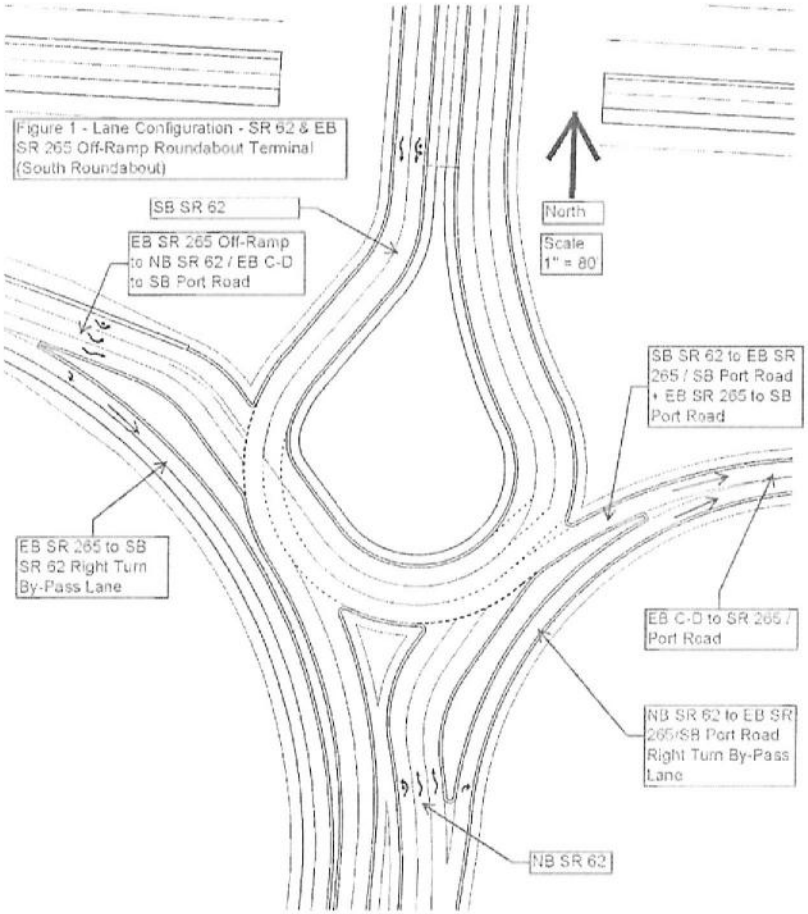


Figure 1 - Lane Configuration - SR 62 & EB SR 265 Off-Ramp Roundabout Terminal (South Roundabout)
SB SR 62
EB SR 265 Off-Ramp to NB SR 62 / EB C-D to SB Port Road
North
Scale 1" = 80'
SB SR 62 to EB SR 265 / SB Port Road + EB SR 265 to SB Port Road
EB SR 265 to SB SR 62 Right Turn By-Pass Lane
EB C-D to SR 265 / Port Road
NB SR 62 to EB SR 265/SB Port Road Right Turn By-Pass Lane
NB SR 62

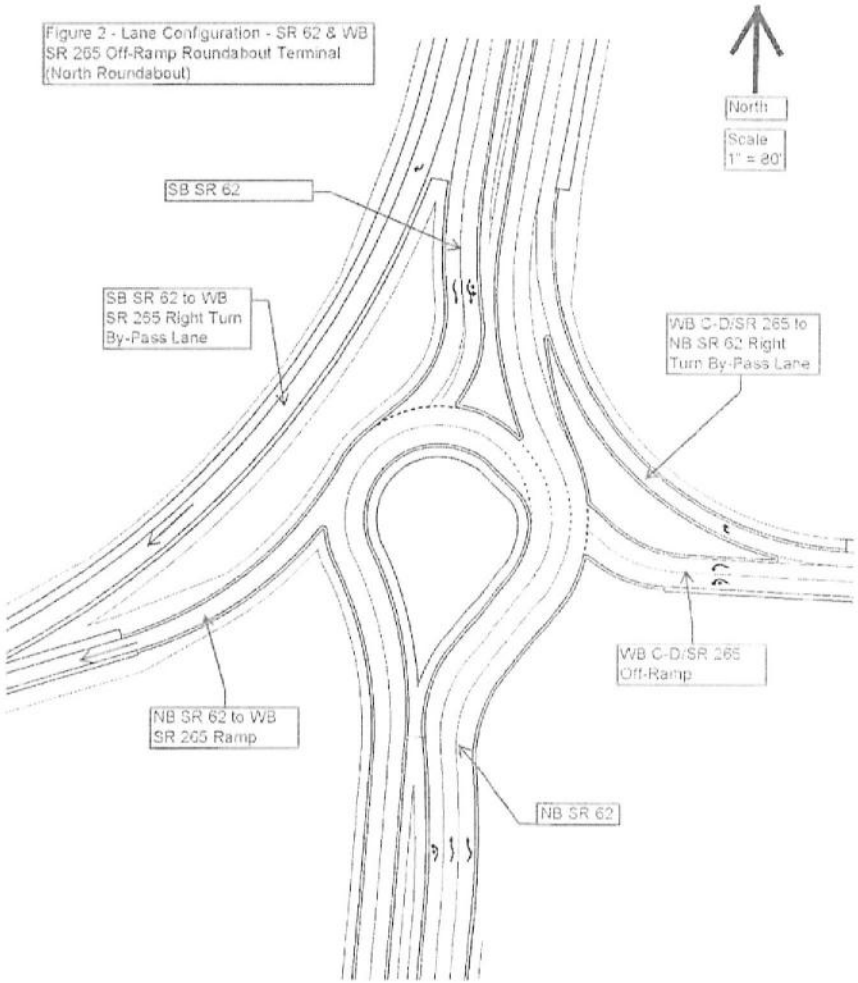
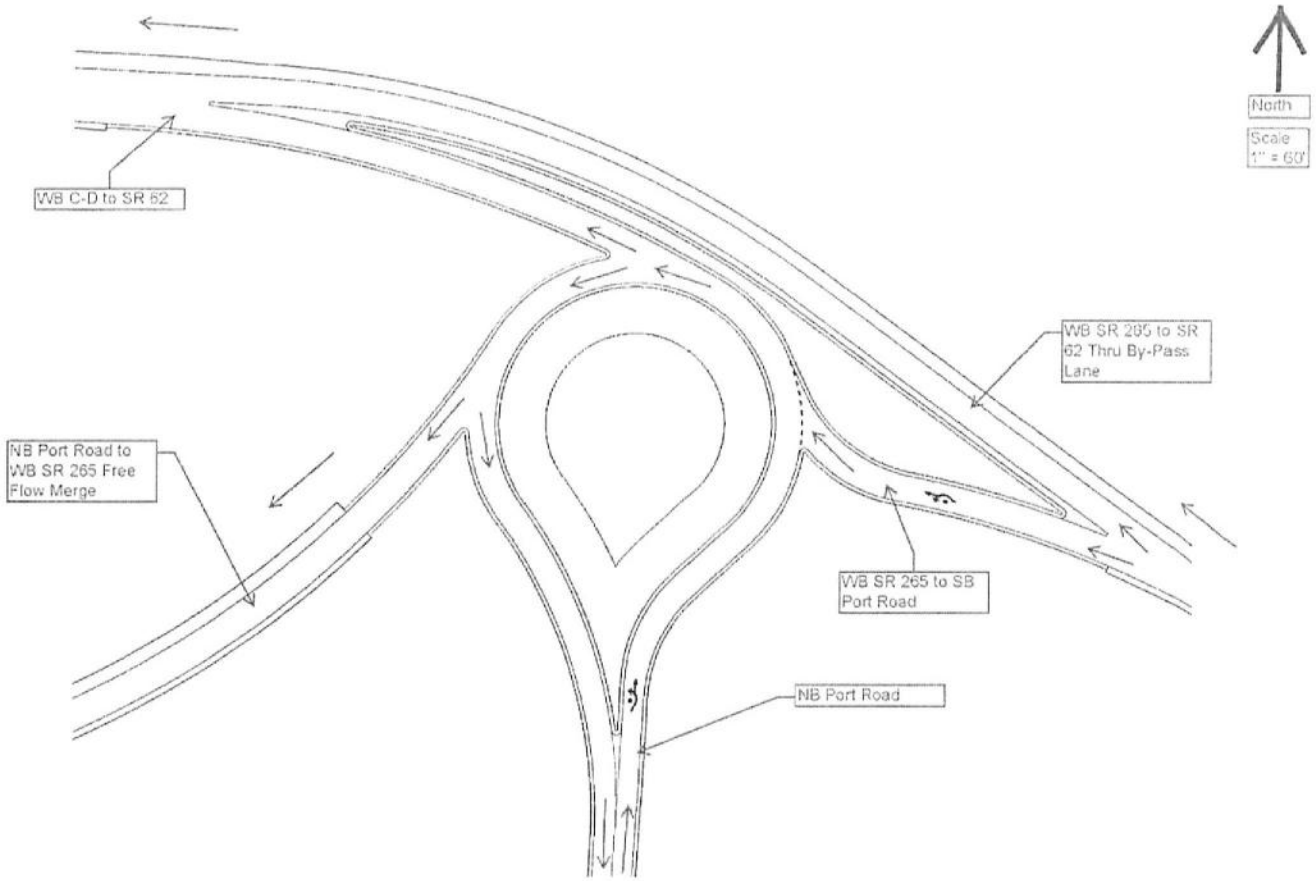


Figure 2 - Lane Configuration - SR 62 & WB SR 265 Off-Ramp Roundabout Terminal (North Roundabout)
North
Scale 1" = 80'
SB SR 62
SB SR 62 to WB SR 265 Right Turn By-Pass Lane
WB C-D/SR 265 to NB SR 62 Right Turn By-Pass Lane
WB C-D/SR 265 Off-Ramp
NB SR 62 to WB SR 265 Ramp
NB SR 62

Figure 3 - Lane Configuration - Port Road & SR 265 Roundabout



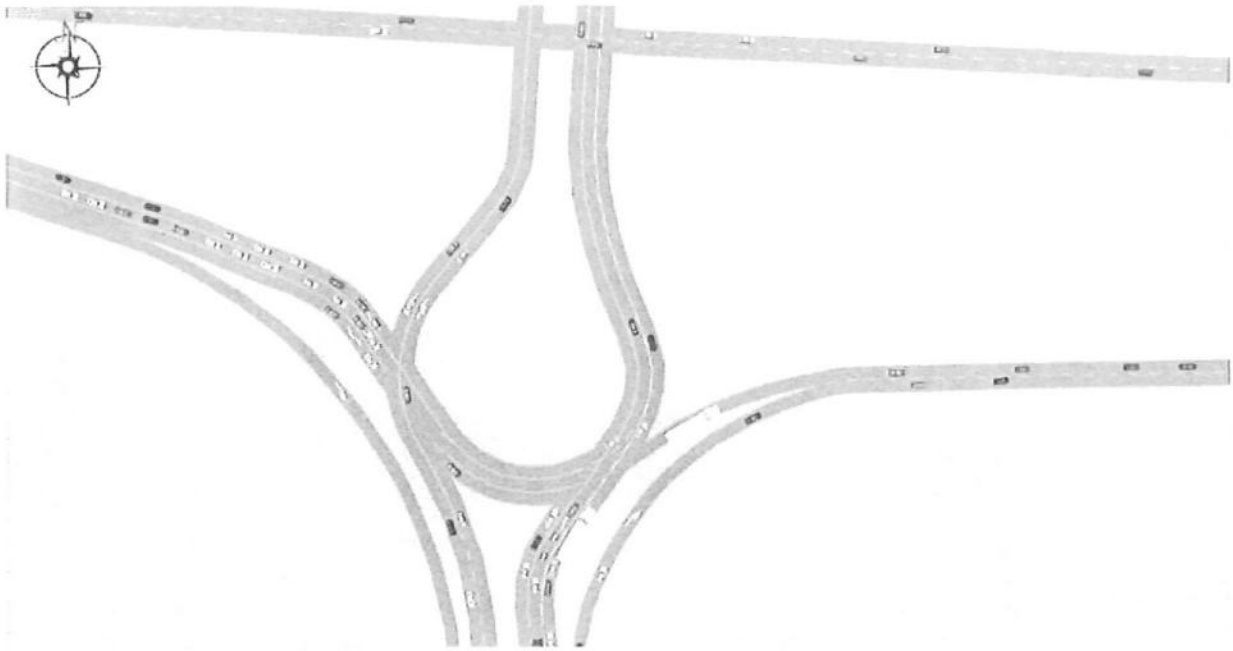


Figure 4 – VISSIM Snapshot PM Peak – SR 62 & SR 265 EB Off-Ramp Terminal (South Roundabout)

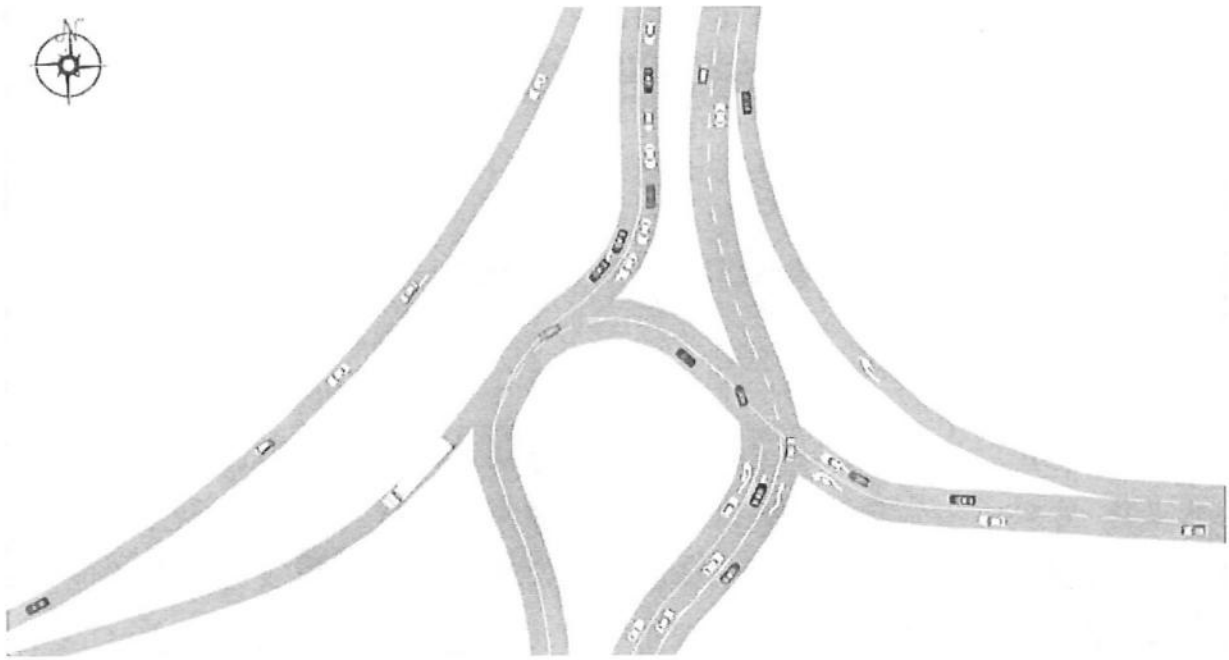


Figure 5 – VISSIM Snapshot PM Peak – SR 62 & SR 265 WB Off-Ramp Terminal (North Roundabout)

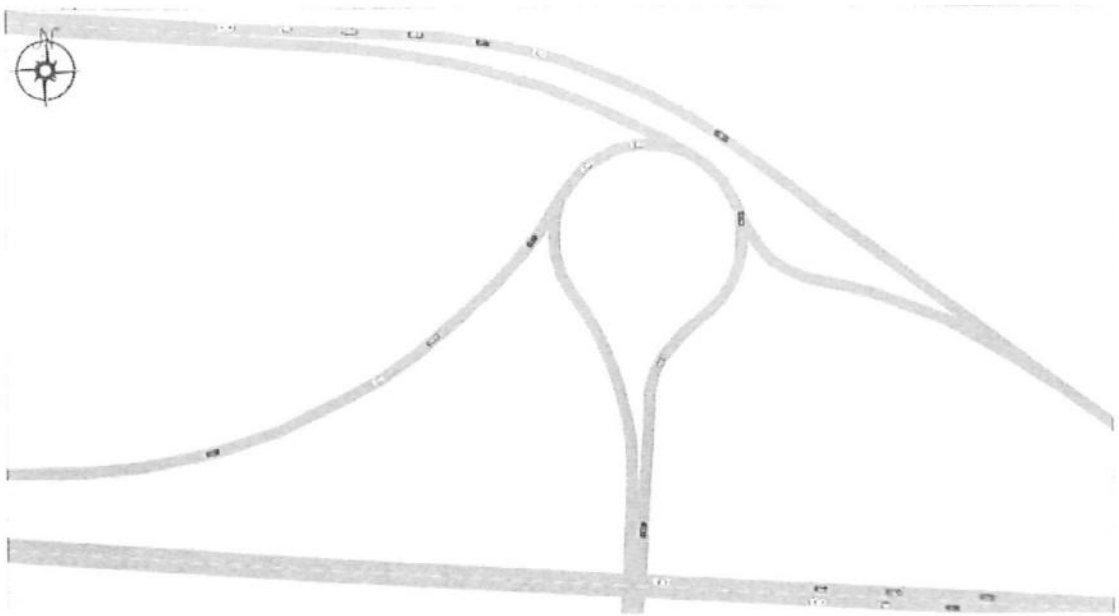


Figure 6 – VISSIM Snapshot PM Peak – Port Road & SR 265 WB Off-Ramp Terminal (North Roundabout)

The overall timeline for construction of the interchange will be drastically reduced with this ATC. The ATC will allow for construction during three main stages of traffic compared to five stages as shown on the RID drawings. The overall reduction in construction effort and reduced traffic stages will significantly lower the impacts to the motoring public and local communities. The interchange, however, is not on the critical path of the project as a whole and will not allow for a reduction in the time period to reach Substantial Completion.

PART 3: ATC ANALYSIS AND JUSTIFICATION

(i) References to requirements of the RFP which are inconsistent with the proposed ATC, an explanation of the nature of the deviations from said requirements, and a request for approval of such deviations.

Technical Provision (TP) 9.2.1 Item No. 14 states that all superelevation transitions shall be designed according to the American Association of State Highway and Transportation Officials (AASHTO) Geometric Design of Highways and Streets. The emax used in the superelevation calculations shall be 8 percent, AASHTO Method 5, unless specified differently in this Section 9. In addition, both Port Road and SR 62 are classified as urban roadways with design speeds of 30 mph and 45 mph per TP Tables 9-31 and 9-32 respectively. The proposed ATC will utilize a curb and gutter section on both SR 62 and Port Road for the roundabout intersection design. AASHTO Method 5 is typically only applied to rural highways, urban freeways, and high-speed urban streets but not low speed urban roadways like Port Road and SR 62. WVB requests that the superelevation calculations used for Port Road and SR 62 be allowed to follow AASHTO Method 2, Low-Speed Urban Streets criteria with design speeds of 30 mph and 45 mph respectively. WVB also requests that the roundabout design speed be equal to 20 mph.

Technical Provision (TP) 9.3.2 – 2b requires SR 62 to have a six lane section with depressed median. The proposed ATC roundabout interchange only requires two lanes southbound and three lanes northbound, comprising a five lane section on SR 62. This is supported by traffic operations analysis. Curb and gutter is proposed to create a raised median instead of the depressed median defined in the TP. Curb and gutter is necessary in a roundabout to provide a clear delineation for drivers to navigate the roadway, and also to encourage drivers to stay within the paved roadway while traversing the roundabout. Surface runoff will be collected from the roadway with a storm sewer system where curb and gutter is located. WVB requests approval to modify SR 62 within the roundabout interchange to a five lane section with raised median.

TP 9.3.2 Table 9-2 Project Limits for the Indiana Approach requires approximate station limits for the ramps within the SR 265/SR62/Port Road interchange. WVB requests approval to modify those ramps and station limits in accordance with the ATC.

TP 9.3.2 Table 9-2 Project Limits for the Indiana Approach requires Bridge No. 18 – Ramp "IR-3" over RR Des #0900240 at Sta. 313+55.99 to Sta. 316+05.00 "IR-3". WVB requests approval

for elimination of this requirement of the RFP and allow Bridge Structure No. 17 to be widened instead.

TP 9.3.2 Table 9-2 Project Limits for the Indiana Approach requires Bridge No. 21 – WB SR 265 over Port Road Des #0900246 at Sta. 375+26.25 to Sta. 376+66.75 "LA-WB" and Bridge No. 22 – EB SR 265 over Port Road Des #0900245 at Sta. 375+62.64 to Sta. 377+03.14 "LA-EB". WVB requests approval for elimination of these requirements of the RFP and allow a bridge on Port Road to be constructed over SR 265 instead.

TP 9.3.2 Table 9-2 Project Limits for the Indiana Approach requires Bridge No. 23 – Ramp "IR-9" over Port Road Des #0900247 at Sta. 917+15.88 to Sta. 918+49.00 "IR-9". WVB requests approval for elimination of this requirement of the RFP and allow a bridge on Port Road to be constructed over IR-9 instead.

TP 9.3.2 Table 9-2 Project Limits for the Indiana Approach requires Bridge No. 24 – Ramp "IR-8" over Ramp "IR-9" Des #1005117 at Sta. 812+15.66 to Sta. 813+94.96 "IR-8". WVB requests approval for elimination of this requirement of the RFP.

TP Table 9-17 lists the criteria for the construction of loop ramp IR-5. IR-5 will be eliminated and the NB Port Road to WB SR 265 movement will be made by exiting the Port Road roundabout to the new parallel entrance ramp to WB SR 265. WVB requests that the IR-5 ramp be designed as a parallel freeway entrance ramp instead of a loop ramp.

TP Table 9-19 lists the criteria for the construction of loop ramp IR-7. IR-7 will be eliminated and the movement from WB SR 265 to SB Port Road will utilize the IR-4 off-ramp to Port Road roundabout. The approach to the roundabout, and the roundabout itself, will be designed according *NCHRP Report 672: Roundabouts: an Informational Guide, Second Edition.* WVB requests that the WB SR 265 to SB Port Road movement be made through the Ramp IR-4 approach to the Port Road roundabout using applicable roundabout design criteria.

TP Table 9-20 shows the requirements for IR-8. IR-8 will be eliminated and the EB SR 265 to SB Port Road movement will be made by allowing traffic to exit SR 265 through IR-3, make a through movement through the SR 62 South roundabout, and exit to Port Road through the C-D lane (IR-9). WVB requests that IR-8 ramp be eliminated, and the EB SR 265 to SB Port Road movement be made through IR-3, the SR 62 south roundabout, and the IR-9 C-D lane.

TP Table 9-22 requires IR-10 to be designed using Interchange Ramp criteria. The SR 62 to SB Port Road movement (IR-10) connects a low speed C-D lane (IR-9) to an urban collector (Port Road) with a design speed of 30 mph. Since it is not making a direct connection with a freeway, it does not need to be designed to interchange ramp standards. WVB requests that IR-10 be designed using turning roadway design requirements with a design speed of 30 mph.

TP Table 9-22 states the requirements used to design IR-11. NB Port Road to EB SR 265 Ramp (IR-11) is connecting an urban collector (Port Road) with a design speed of 30 mph to a C-D

lane (IR-9). Since it is not making a direct connection with a freeway, it does not need to be designed to interchange ramp standards. WVB requests that the NB Port Road to EB SR 265 Ramp be designed using turning roadway design requirements with a design speed of 30-35 mph.

TP Table 9-31 states that Port Road is to be constructed with shoulder and auxiliary lane within the interchange. The proposed ATC will need a curb and gutter section with a storm sewer system along a portion of Port Road because of the implementation of the north roundabout at Port Road. In addition, an auxiliary lane will not be required within the interchange because of the elimination of IR-5. WVB requests that a portion of the Port Road be designed with a curb and gutter section and the elimination of auxiliary lane within the interchange.

TP 11.6.1 requires the installation of traffic signals at the two ramp terminals of SR 62 and SR 265 interchange. With the ATC roundabout interchange configuration, traffic signals are no longer needed, therefore WVB requests that the traffic signal requirement be eliminated.

TP 14.5.9 Bridge Structure No. 18 requires a bridge structure on SR 265 Exit Ramp IR-3 to be constructed over CSX & Port of Indiana Railroad at Sta 314+80.50 Line "IR-3". WVB requests approval for elimination of this requirement of the RFP and allow Bridge Structure No. 17 to be widened instead to accommodate this ramp traffic movement.

TP 14.5.6 Bridge Structure No. 15 requires the existing bridge superstructure on DRW Ramp IR-1 over CSX Railroad to be removed and replaced. This ATC moves the superelevation transition off of the bridge. WVB requests approval for elimination of this requirement of the RFP and allow the existing bridge deck to remain in place (except for 5' at each end for joint replacement) and be widened as necessary to accommodate the additional lane and shoulder width.

TP 14.5.11 Bridge Structure No. 20 requires the existing bridge structure on EB SR 265 over SR 62 to be widened to accommodate three 12-foot travel lanes. WVB requests approval for elimination of this requirement of the RFP because the ATC only requires two 12-foot travel lanes across this bridge structure.

TP 14.5.12 Bridge Structures No. 21 & 22 require bridge structures on SR 265 WB and EB to be constructed over Port Road at Sta 375+96.50 Line "LA-WB" and Sta 376+32.89 Line "LA-EB". WVB requests approval for elimination of this requirement of the RFP and allow a bridge on Port Road to be constructed over SR 265 instead.

TP 14.5.13 Bridge Structure No. 23 requires a bridge structure on SR 265 Ramp IR-9 to be constructed over Port Road at Sta 917+83.75 Line "IR-9". WVB requests approval for elimination of this requirement of the RFP and allow a bridge on Port Road to be constructed over Ramp IR-9 instead.

TP 14.5.14 Bridge Structure No. 24 requires a bridge structure on SR 265 Ramp IR-8 to be constructed over IR-9 at Sta 813+03.95 Line "IR-8". WVB requests approval for elimination of this requirement of the RFP.

(j) Analysis justifying use of the ATC and why the deviation, if any, from the requirements of the RFP should be allowed.

From the discussion in Part I (b) and Part III (i) above, the interchange type has been altered from the preliminary design shown in the RFP. With the introduction of the roundabout interchange, some of the design criteria will no longer be applicable. Therefore, a different set of design criteria are necessary to best fit the content of the interchange. Moreover, traffic operational analysis and the description of the ATC provided in Part 1 (b) justifies that the proposed ATC will operate at a comparable level of service and, in some instances, better than the base design thus enhancing the overall safety, mobility, and operational efficiency of the proposed system.

Roundabouts have been gaining momentum in the United States since the early 1990's. Over the past several years, there were several roundabouts and roundabout interchanges constructed within the State of Indiana. More and more communities in Indiana are familiar with roundabouts and their operation. A multilane roundabout interchange could be considered a non-standard interchange in the community. However, there are many more multilane roundabout interchanges in operation in the United States than diverging diamond interchanges, which are also be considered a non-standard interchange.

(k) Preliminary analysis of potential impacts on vehicular traffic (both during and after construction), community impact, safety, and life-cycle East End Crossing and infrastructure costs, including impacts on the cost of repair, maintenance and operation.

This ATC will have a positive impact on vehicular traffic. Roundabouts reduce the number of conflict points to 8 (Standard Diamond has 32 conflict points and DDI has 12 conflict points). The deflection on the roundabout approaches helps lower speeds and reduce severity of crashes. In addition, this ATC eliminates the possible wrong-way movements at the crossover of the RFP DDI preliminary design and the weaving segment along WB SR 265 between IR-5 and IR-7.

The roundabout intersections for this ATC have been designed to accommodate the turning movements of a WB-65 design vehicle and have also been designed to ensure that a semi tractor pulling a 140' long wind turbine blade trailer can maneuver through the intersection.

The infrastructure and maintenance costs are reduced for the ATC because of the following modifications:

a. Widen Structure No 17 in lieu of constructing new Structure 18.

b. Widen IR-3 to accommodate IR-8 traffic movement through this exit ramp:

   i. Eliminates the construction of IR-8 ramp

   ii. Reduces widening at Structure No 20

   iii. Eliminates Bridge No 24 and associated retaining wall length

c. Eliminate IR-7 and IR-5 ramp alignments and accommodate the respective ramp movements through roundabout at north half of Port Road.

d. Eliminates Structure No 21, 22, and 23 and replace with Structure No 25 (Port Road over SR 265) & 26 (Port Road over IR-9).

e. Widen Structure No 15 in lieu of replacing the existing bridge deck

f. Eliminates widening of Structure No. 20 to accommodate a third travel lane

g. Eliminates two traffic signals at the SR 62 ramp terminals from the RFP preliminary design and replaces with minor signal for the railroad preemption in the proximity of the south roundabout ramp terminal as identified in Part 2 (d) earlier.

(l) Preliminary analysis of potential impacts on environmental permitting (including comparison to the NEPA Approvals and an analysis of whether the Proposer believes an updated or supplemental EIS would or would not be required and why).

There will be no additional impacts to environmental permitting or NEPA Approvals associated with this ATC. The ATC is located completely within the footprint of the existing project and therefore is within the areas previously studied for the EIS, SFEIS, and environmental permits. No wetlands will be impacted by the ATC and no additional clearing of forested areas will be required. Impacts to Stream 3a, as described on the Application for Authorization to Discharge Dredged or Fill Material to Isolated Wetlands and/or Waters of the State (Indiana Department of Environmental Management 401 Permit), will be the same or reduced due to implementation of the ATC.

Since the ATC is located entirely within the footprint of the project described in the approved SFEIS, and will not adversely affect communities, cultural resources, or the natural environment, we do not believe an updated or supplemental EIS will be required.

(m) Additional right-of-way required to implement the ATC.

The proposed ATC reduces the amount of required right-of-way, allowing the excess to be used by IFA for other purposes such as an operations and maintenance facility. It could also be used for environmental mitigation if needed.

(n) Description of other projects where the ATC has been used, the degree of success or failure of such usage and names and contact information including phone numbers and e-mail addresses for project owner representatives that can confirm such statements.

Below is a brief description of other projects where multi-lane roundabout interchanges are either constructed or planned for construction in the near future:

- Keystone Parkway Roundabout Interchanges Project – Carmel, Indiana (Constructed)
  This award winning engineering excellence project has six roundabout interchanges (both single and multi-lane) on the five mile corridor that are operating successfully from the day they have been open to traffic. Additionally, the City of Carmel has several multi-lane roundabouts at grade that are operating successfully as well.

Contact Info of Project Owner Representatives:
Mayor Jim Brainard (City of Carmel)
Phone: (317) 571-2401
Email: jbrainard@carmel.in.gov
Mike McBride, PE (Director of Engineering – City of Carmel)
Phone: (317) 571-2441
Email: MMcBride@carmel.in.gov

- The New US 31 Hamilton County Project – Indiana (Under Construction)
  Following the success of the Keystone Parkway roundabout interchanges corridor, the US 31 project in Hamilton County has considered constructing single and multi-lane roundabout interchanges at several locations on this project. This project is currently under construction.

  Contact Info of Project Owner Representatives:
  Michael Cline, PE, PTOE (Commissioner – INDOT)
  Phone: 317-232-5523
  Email: mcline@indot.in.gov
  Gary Pence, PE (Project Manager – INDOT)
  Phone: 317-232-5198
  Email: gpence@indot.in.gov

- US 41 Project – Wisconsin (Under Construction)
  The overall goal of the US 41 Project is to improve the quality of life for the people who live, work or travel on or near this highway. To achieve this goal, WisDOT plans to build an attractive, high-quality highway that enhances the community and increases the overall safety. As part of this goal they have designed and planned to construct 40 roundabouts including several roundabout interchanges along the corridor. The multi-lane roundabout interchanges at US 41 & Breezewood Lane and US 41 & Scheuring Road are constructed and open to traffic. There are at least eight additional roundabout interchanges either under construction or planned for future construction (see below).
  - US 41 & 9th Street
  - US 41 & US 45
  - US 41 & Lineville Road
  - US 41 & Velp Avenue
  - US 41 & WIS 29
  - US 41 & Main Avenue
  - US 41 & WIS 54
  - US 41 & WIS 21

  Contact Info of Project Owner Representatives:
  Will Dorsey, PE (NE Region Director, Wisconsin DOT)
  Phone: (920) 492-5684

Email: Will.Dorsey@dot.wi.gov
This e-mail address is being protected from spambots. You need JavaScript enabled to view it Kris Schuller, US 41 Project Communications Manager
Phone: (920) 492-4109
Email: Kris.Schuller@dot.wi.gov

- I-95 & Ritchie Marlboro Road Roundabout Interchange – Maryland
  This award winning engineering excellence multi-lane roundabout interchange has been operating successfully since 2003. The Maryland State Highway Administration has several other single and multi-lane roundabout interchanges that are successfully operating on many of their state highways (see below).
  - MD 32 & Airfield Road
  - MD 295 & Arundel Mills Blvd
  - MD 100 & MD 103 (Meadow Ridge Rd)
  - MD 216 & US 29
  - MD 32 & Bruntswood Road
  - US 29 & Hopkins Road
  - MD 100 & MD 104
  - MD 5 & MD 231
  - I-270 & MD 80

  Contact Info of Project Owner Representatives:
  Mike Niederhauser
  Maryland State Highway Administartion,
  Office of Traffic and Safety, Hanover, MD
  Phone: (410) 787-5879

- Several Single and Multi-lane Roundabout Interchanges – Washington
  The Washington State DOT has constructed several single and multi-lane roundabout interchanges that are successfully operating on many of their state highway facilities (see below).
  - I-90 & SR 202
  - SR 16 & Burnham Drive
  - SR 240 & Benton County
  - I-5 & Dike Access Road
  - I-82 & Valley Mall Blvd
  - US 12 & Pine Street

  Contact Info of Project Owner Representatives:
  Brian Walsh
  State Traffic Design Engineer - Washington State Department of Transportation
  Phone: 360-705-7986

Email: walshb@wsdot.wa.gov
Jeffrey Shaw
Intersections Program Manager - FHWA Office of Safety
Phone: 708-283-3524
Email: jeffrey.shaw@dot.gov

- Several Multi-lane Roundabouts and Roundabout Interchanges – Michigan
  The state of Michigan has several multi-lane roundabouts both at grade and at the interchange ramp terminals that are successfully operating for past several years (see below). These are either under the jurisdiction of Michigan Department of Transportation or the local agencies.
  - I-94 & Main Street
  - US 23 & Geddes Road
  - I-75 & M-81
  - US 23 & Lee Road
  - M-53/18 ½ Mile Road & Van Dyke Ave

  Contact Info of Project Owner Representatives:
  Kirk T. Steudle, P.E. (Director/Commissioner – MDOT)
  Jeff Cranson, MDOT Director of Communications
  Phone: 517-335-3084

  Bob Felt (MDOT Office of Communications)
  Phone: 989-731-5090
  E-mail: feltb@michigan.gov

  James Lake (MDOT Office of Communications)
  Phone: 906-786-1830

There are many more single and multi-lane roundabout interchanges built in several other states including, but not limited to, Colorado, Kansas, Arizona, New York, Utah, Minnesota, etc.
FHWA Contact & Technical Representative for Multi-lane Roundabout Interchanges Successfully Implemented in Various States

Dr. Joe Bared – Project Manager
FHWA Turner-Fairbank Highway Research Center
Phone: (202) 493-3314
Email: joe.bared@dot.gov

(o) Description of added risks to IFA, the Department or third parties associated with implementing the ATC.

Due to the higher level of traffic safety, IFA will have a reduced risk from this ATC regarding safety to the traveling public.

(p) Estimate of any additional IFA, the Department, Developer and third party costs associated with implementation of the ATC.

None

(q) Estimate of any savings and additional toll or other revenue that would accrue to IFA and the Department should the ATC be approved and implemented.

In addition to the decrease in MAP due to the reduction of construction costs and developer O&M costs, this ATC also reduces the long-term O&M costs to IFA/INDOT. Also, with the additional right-of-way that is made available from this ATC, IFA is able to utilize this area for other measures such as mitigation and / or maintenance facility thus saving the IFA the costs of procuring additional right-of-way elsewhere for these measures.

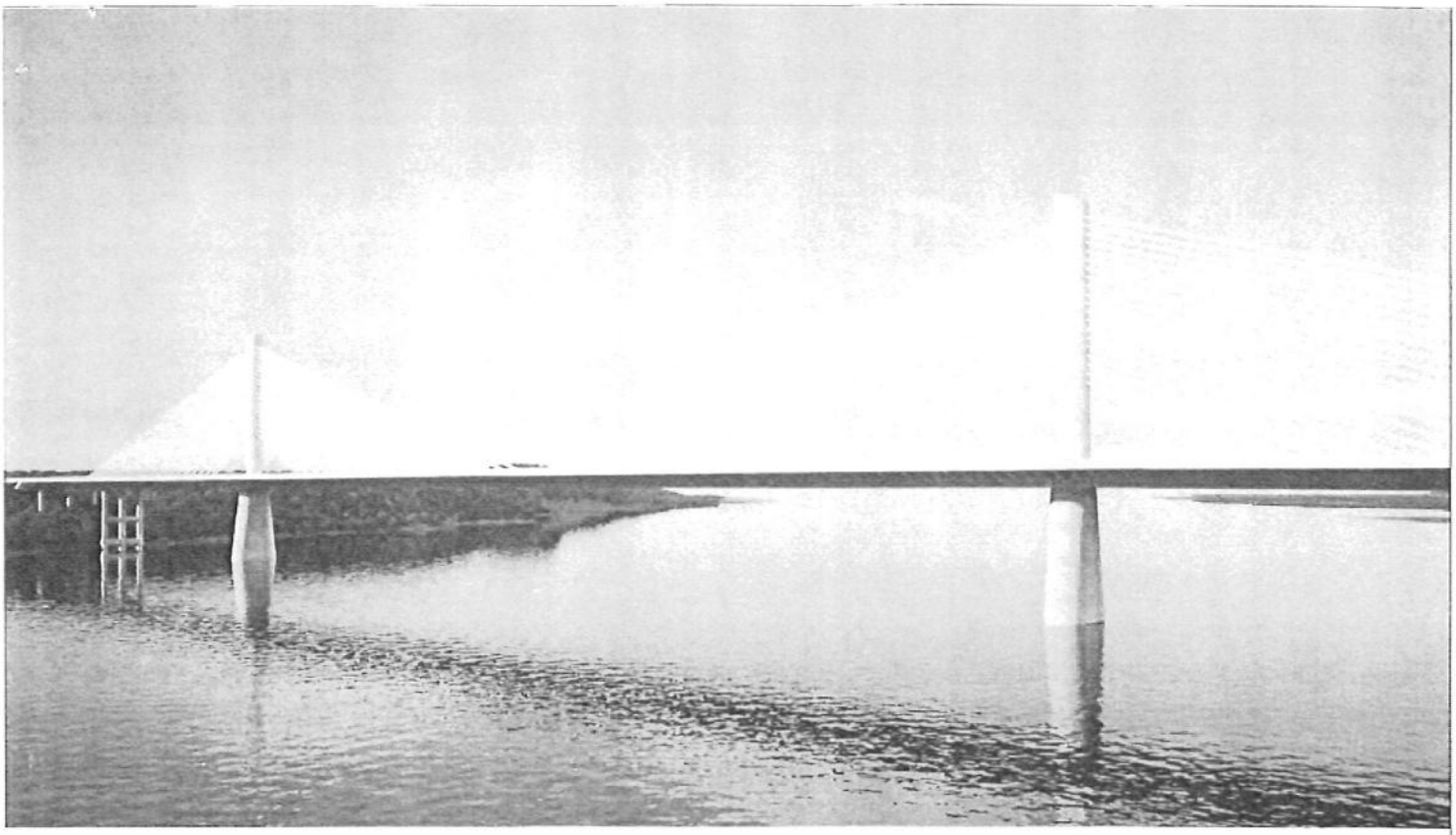
Lastly, with the revised interchange, no traffic signals and a reduction in lighting is required from the RID plan. This will reduce the utility cost to IFA/INDOT for the entire life of the interchange.

(r) Analysis of how the ATC is equal or better in quality and performance than the requirements of the RFP.

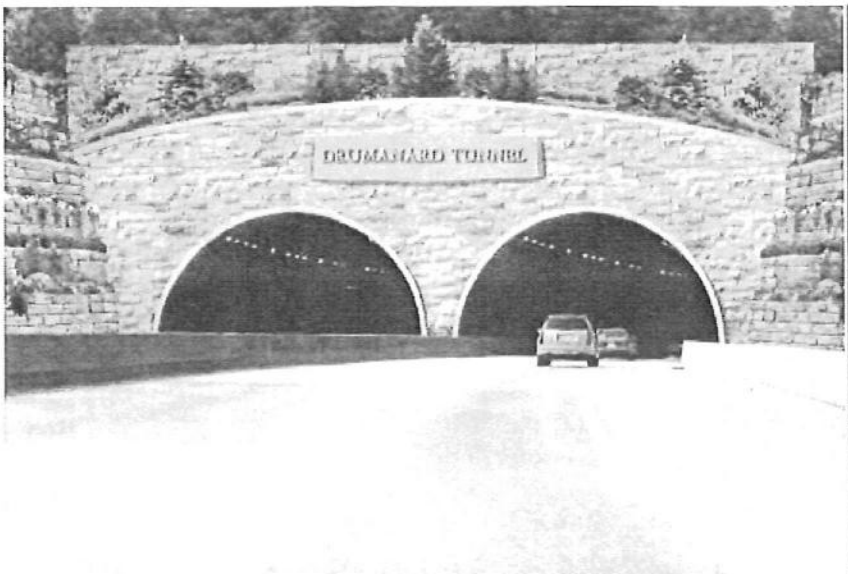
This ATC provides safety improvements, improved traffic operations, reduced environmental impact, reduced operations and maintenance costs, and reduced construction cost as compared to the requirements of the RFP. As mentioned previously in the traffic operations analysis, the ATC outperforms the RFP preliminary design. Additionally, roundabouts reduce overall vehicle emissions, unlike signalized intersections, which will result in a smaller carbon footprint for the area.

(s) Preliminary analysis of potential impacts on the MAP.

WVB's ATC #3 will provide a substantial reduction in construction costs of the SR 265 / SR 62 / Port Rd Interchange as well as provide a vast reduction in the Developer's maintenance cost during the O&M period. Based on the revised RFP dated June 22nd, 2012, the reduction to the MAP is estimated to be a minimum $900,000 discount. This MAP deduction equates to a Net Present Value reduction of **nearly $17.5 Million savings** to IFA. This MAP reduction is in addition to the continued maintenance savings that IFA / INDOT will realize in reduced maintenance costs throughout the lifetime of the interchange.



CONFIDENTIAL



Ohio River Bridges Project

The East End Crossing Confidential ATCs

ATC - No. 3

Submitted to:
Indiana Finance Authority
One North Capitol Avenue, Suite 900
Indianapolis, Indiana 46204
Attention: Jacob Blasdel
Telephone: 317.234.2113
Fax: 317.232.6786
Email Address: rfq@ifa.in.gov

Submitted by:
WVB East End Partners

WVB East End Partners
1260 East Summit Street
Crown Point, Indiana 46307
Phone : 315.207.3905

Appendix A – ARCADY8 Outputs Report (Roundabout Analysis)

ARCADY 8

Version: 8.0.0.296 [27 Feb 2012]
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Tel: +44 (0)1344 770758 E-mail: software@trl.co.uk Web: http://www.trlsoftware.co.uk

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Filename: ATC 3 - ORB - SR 62 & SR 265.arc8
Path: P:\2011\00886\C. Calcs_Data\Traffic Study\QC-QA Check\Arcady
Report generation date: 7/23/2012 9:56:37 AM

« (Default Analysis Set) - ORB - Alternate 2b (2030), PM
» Junction Network
» Arms
» Traffic Flows
» Entry Flows
» Direct/Resultant Flows
» Turning Proportions
» Vehicle Mix
» Results

Summary of junction performance

	AM							PM						
	Queue (Veh)	Delay (s)	RFC	LOS	Junction Delay (s)	Junction LOS	Network Residual Capacity	Queue (Veh)	Delay (s)	RFC	LOS	Junction Delay (s)	Junction LOS	Network Residual Capacity
A1 - ORB - Alternate 2b (2030)														
EB Ramps - SR 62 NB	0.77	3.53	0.44	A	5.58	A	28% [WB Ramps - SR 265 WB Exit]	3.72	10.75	0.80	B	10.15	B	15% [EB Ramps - SR 62 NB]
EB Ramps - SR 62 SB	2.86	6.78	0.75	A				4.84	9.96	0.84	A			
EB Ramps - SR 265 EB Exit	1.75	5.96	0.64	A				3.23	9.62	0.77	A			
WB Ramps - SR 62 NB	1.17	2.77	0.54	A	5.29	A		3.04	5.08	0.76	A	8.26	A	
WB Ramps - SR 265 WB Exit	1.18	7.31	0.55	A				1.12	10.91	0.53	B			
WB Ramps - SR 62 SB	1.55	6.04	0.61	A				3.87	10.30	0.80	B			

Values shown are the maximum values over all time segments. Delay is the maximum value of average delay per arriving vehicle. Junction LOS and Junction Delay are demand-weighted averages. Network Residual Capacity indicates the amount by which network flow could be increased before a user-definable threshold (see Analysis Options) is met.

"D7 - ORB - Alternate 2b (2030), AM" model duration: 8:00 AM - 8:15 AM
"D9 - ORB - Alternate 2b (2030), PM " model duration: 8:00 AM - 8:15 AM

Run using ARCADY 8.0.0.296 at 7/23/2012 9:56:24 AM

File summary

File Description

Title	ORB - ATC/VE Options
Location	
Site Number	
Date	5/17/2012
Version	
Status	(new file)

Identifier	
Client	INDOT/KYTC
Jobnumber	
Enumerator	ACE\hshah
Description	

Analysis Options

Vehicle Length (ft)	Do Queue Variations	Calculate Residual Capacity	Residual Capacity Criteria Type	RFC Threshold	Average Delay Threshold (s)	Queue Threshold (PCU)
18.86	✓	✓	Delay	0.85	36.00	20.00

Units

Distance Units	Speed Units	Traffic Units Input	Traffic Units Results	Flow Units	Average Delay Units	Total Delay Units	Rate Of Delay Units
ft	mph	Veh	Veh	perHour	s	-Min	perHour

(Default Analysis Set) - ORB - Alternate 2b (2030), PM

Data Errors and Warnings

Severity	Area	Item	Description
Warning	Geometry	EB Ramps - SR 62 NB - Roundabout Geometry	Effective flare length is over 30m, which is outside the normal range. Treat capacities with increasing caution.
Warning	Geometry	EB Ramps - SR 62 SB - Roundabout	Effective flare length is over 30m, which is outside the normal range. Treat capacities with increasing caution.

		Geometry	
Warning	Geometry	EB Ramps - SR 265 EB Exit - Roundabout Geometry	Effective flare length is over 30m, which is outside the normal range. Treat capacities with increasing caution.
Warning	Flow Arm 1	Analysis Options	Queue Variations cannot be calculated for the selected traffic profile type.
Warning	Flow Arm 2	Analysis Options	Queue Variations cannot be calculated for the selected traffic profile type.
Warning	Flow Arm 3	Analysis Options	Queue Variations cannot be calculated for the selected traffic profile type.
Warning	Flow Arm 4	Analysis Options	Queue Variations cannot be calculated for the selected traffic profile type.
Warning	Linked Roundabout	EB Ramps - SR 62 SB	Linked arm is using 'Closely Spaced' mode but internal storage space is 10 PCU, which may be too large. See User Guide for details.
Warning	Geometry	WB Ramps - SR 62 NB - Roundabout Geometry	Effective flare length is over 30m, which is outside the normal range. Treat capacities with increasing caution.
Warning	Geometry	WB Ramps - SR 265 WB Exit - Roundabout Geometry	Effective flare length is over 30m, which is outside the normal range. Treat capacities with increasing caution.
Warning	Geometry	WB Ramps - SR 62 SB - Roundabout	Effective flare length is over 30m, which is outside the normal range. Treat capacities with increasing caution.

		Geometry	
Warning	Flow Arm 1	Analysis Options	Queue Variations cannot be calculated for the selected traffic profile type.
Warning	Flow Arm 2	Analysis Options	Queue Variations cannot be calculated for the selected traffic profile type.
Warning	Flow Arm 3	Analysis Options	Queue Variations cannot be calculated for the selected traffic profile type.
Warning	Flow Arm 4	Analysis Options	Queue Variations cannot be calculated for the selected traffic profile type.
Warning	Linked Roundabout	WB Ramps - SR 62 NB	Linked arm is using 'Closely Spaced' mode but internal storage space is 10 PCU, which may be too large. See User Guide for details.

Analysis Set Details

Name	Roundabout Capacity Model	Description	Include In Report	Use Specific Demand Set(s)	Specific Demand Set(s)	Locked	Network Flow Scaling Factor (%)	Network Capacity Scaling Factor (%)	Reason For Scaling Factors
(Default Analysis Set)	ARCADY		✓				100.000	85.000	

Demand Set Details

Name	Scenario Name	Time Period Name	Description	Traffic Profile Type	Model Start Time (HH:mm)	Model Finish Time (HH:mm)	Model Time Period Length (min)	Time Segment Length (min)	Results For Central Hour Only	Single Time Segment Only	Locked	Run Automatically	Use Relationship	Relationship
ORB - Alternate 2b (2030), PM	ORB - Alternate 2b (2030)	PM		Varies by Arm	08:00	08:15	15	15		✓		✓		

Junction Network

Junctions

Junction	Name	Junction Type	Arm Order	Grade Separated	Large Roundabout	Do Geometric Delay	Junction Delay (s)	Junction LOS
1	EB Ramps	Roundabout	1,2,3,4				10.15	B
2	WB Ramps	Roundabout	1,2,3,4				8.26	A

Junction Network Options

Driving Side	Lighting	Road Surface	Network Residual Capacity (%)	First Arm Reaching Threshold
Right	Normal/unknown	(Mini-roundabouts only)	15	EB Ramps - SR 62 NB

Arms

Arms

Name	Name	Name	Description
EB Ramps	SR 62 NB	SR 62 NB	
EB Ramps	SR 265 EB Enter	SR 265 EB Enter	
EB Ramps	SR 62 SB	SR 62 SB	
EB Ramps	SR 265 EB Exit	SR 265 EB Exit	
WB Ramps	SR 62 NB	SR 62 NB	
WB Ramps	SR 265 WB Exit	SR 265 WB Exit	
WB Ramps	SR 62 SB	SR 62 SB	
WB Ramps	SR 265 WB Enter	SR 265 WB Enter	

Capacity Options

Name	Name	Minimum Capacity (PCU/hr)	Maximum Capacity (PCU/hr)	Assume Flat Start Profile	Initial Queue (PCU)
EB Ramps	SR 62 NB	0.00	99999.00		0.00
EB Ramps	SR 265 EB Enter	0.00	99999.00		0.00
EB Ramps	SR 62 SB	0.00	99999.00		0.00
EB Ramps	SR 265 EB Exit	0.00	99999.00		0.00
WB Ramps	SR 62 NB	0.00	99999.00		0.00
WB Ramps	SR 265 WB Exit	0.00	99999.00		0.00
WB Ramps	SR 62 SB	0.00	99999.00		0.00
WB Ramps	SR 265 WB Enter	0.00	99999.00		0.00

Roundabout Geometry

Name	Name	V - Approach road half-width (ft)	E - Entry width (ft)	l' - Effective flare length (ft)	R - Entry radius (ft)	D - Inscribed circle diameter (ft)	PHI - Conflict (entry) angle (deg)	Exit Only
EB Ramps	SR 62 NB	24.00	39.00	150.00	100.00	250.00	30.00	
EB Ramps	SR 265 EB Enter	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	✓
EB Ramps	SR 62 SB	24.00	28.00	150.00	100.00	250.00	30.00	
EB Ramps	SR 265 EB Exit	24.00	39.00	150.00	100.00	250.00	30.00	
WB Ramps	SR 62 NB	36.00	39.00	150.00	100.00	250.00	30.00	
WB Ramps	SR 265 WB Exit	24.00	28.00	150.00	100.00	190.00	30.00	
WB Ramps	SR 62 SB	24.00	28.00	150.00	100.00	190.00	30.00	
WB Ramps	SR 265 WB Enter	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	✓

Geometries for Arm C are measured opposite Arm B. Geometries for Arm A (if relevant) are measured opposite Arm D.

Bypass

Name	Name	Arm Has Bypass	Bypass Utilisation (%)
EB Ramps	SR 62 NB	✓	100
EB Ramps	SR 265 EB Enter		N/A
EB Ramps	SR 62 SB		N/A
EB Ramps	SR 265 EB Exit	✓	100
WB Ramps	SR 62 NB		N/A
WB Ramps	SR 265 WB Exit	✓	100
WB Ramps	SR 62 SB	✓	100
WB Ramps	SR 265 WB Enter		N/A

Pedestrian Crossings

Name	Name	Crossing Type
EB Ramps	SR 62 NB	None
EB Ramps	SR 265 EB Enter	None
EB Ramps	SR 62 SB	None
EB Ramps	SR 265 EB Exit	None
WB Ramps	SR 62 NB	None
WB Ramps	SR 265 WB Exit	None
WB Ramps	SR 62 SB	None
WB Ramps	SR 265 WB Enter	None

Slope / Intercept / Capacity

Roundabout Slope and Intercept used in model

Name	Name	Enter slope and intercept directly	Entered slope	Entered intercept (PCU/hr)	Final Slope	Final Intercept (PCU/hr)
EB Ramps	SR 62 NB		(calculated)	(calculated)	0.730	3320.900
EB Ramps	SR 265 EB Enter		(calculated)	(calculated)	Exit-only	Exit-only
EB Ramps	SR 62 SB		(calculated)	(calculated)	0.621	2599.868
EB Ramps	SR 265 EB Exit		(calculated)	(calculated)	0.730	3320.900
WB Ramps	SR 62 NB		(calculated)	(calculated)	0.778	3645.435
WB Ramps	SR 265 WB Exit		(calculated)	(calculated)	0.732	2599.868
WB Ramps	SR 62 SB		(calculated)	(calculated)	0.732	2599.868
WB Ramps	SR 265 WB Enter		(calculated)	(calculated)	Exit-only	Exit-only

The slope and intercept shown above include any corrections and adjustments

Traffic Flows

Demand Set Data Options

Default Vehicle Mix	Vehicle Mix Varies Over Time	Vehicle Mix Varies Over Turn	Vehicle Mix Varies Over Entry	Vehicle Mix Source	PCU Factor for a HV (PCU)	Default Turning Proportions	Estimate from entry/exit counts	Turning Proportions Vary Over Time	Turning Proportions Vary Over Turn	Turning Proportions Vary Over Entry
		✓	✓	HV Percentages	2.00				✓	✓

Entry Flows

General Flows Data

Name	Name	Profile Type	Use Turning Counts	Average Demand Flow (Veh/hr)	Flow Scaling Factor (%)
EB Ramps	SR 62 NB	PHF	✓	1775.00	100.000

EB Ramps	SR 265 EB Enter	Exit-only	✓	Exit-only	Exit-only
EB Ramps	SR 62 SB	PHF	✓	1600.00	100.000
EB Ramps	SR 265 EB Exit	PHF	✓	1425.00	100.000
WB Ramps	SR 62 NB	PHF	✓	2025.00	100.000
WB Ramps	SR 265 WB Exit	PHF	✓	625.00	100.000
WB Ramps	SR 62 SB	PHF	✓	2350.00	100.000
WB Ramps	SR 265 WB Enter	Exit-only	✓	Exit-only	Exit-only

Peak Hour Factor Data

Name	Name	Hourly Volume (Veh/hr)	Peak Hour Factor	Peak Time Segment
EB Ramps	SR 62 NB	1775.00	0.95	N/A
EB Ramps	SR 265 EB Enter	Exit-only	Exit-only	N/A
EB Ramps	SR 62 SB	1600.00	0.95	N/A
EB Ramps	SR 265 EB Exit	1425.00	0.95	N/A
WB Ramps	SR 62 NB	2025.00	0.95	N/A
WB Ramps	SR 265 WB Exit	625.00	0.95	N/A
WB Ramps	SR 62 SB	2350.00	0.95	N/A
WB Ramps	SR 265 WB Enter	Exit-only	Exit-only	N/A

Direct/Resultant Flows

Direct Flows Data

Time Segment	Name	Name	Direct Demand Entry Flow (Veh/hr)	DirectDemandEntryFlowInPCU (PCU/hr)	Direct Demand Exit Flow (Veh/hr)	Direct Demand Pedestrian Flow (Ped/hr)
08:00-08:15	EB Ramps	SR 62 NB	1868.42	2055.26	N/A	N/A
08:00-08:15	EB Ramps	SR 265 EB Enter	Exit-only	0.00	N/A	N/A
08:00-08:15	EB Ramps	SR 62 SB	1684.21	1852.63	N/A	N/A
08:00-08:15	EB Ramps	SR 265 EB Exit	1500.00	1650.00	N/A	N/A
08:00-08:15	WB Ramps	SR 62 NB	2131.58	2344.74	N/A	N/A
08:00-08:15	WB Ramps	SR 265 WB Exit	657.89	723.68	N/A	N/A
08:00-08:15	WB Ramps	SR 62 SB	2473.68	2721.05	N/A	N/A
08:00-08:15	WB Ramps	SR 265 WB Enter	Exit-only	0.00	N/A	N/A

Turning Proportions

Turning Counts or Proportions (Veh/hr) - EB Ramps (for whole period)

		To			
		1	2	3	4
From	1	0.000	625.000	1150.000	0.000
	2	Exit-only	Exit-only	Exit-only	Exit-only
	3	1100.000	500.000	0.000	0.000
	4	300.000	250.000	875.000	0.000

Arm 2 is exit only and so the above grid should be ignored for this Arm

Turning Proportions (Veh) - EB Ramps (for whole period)

		To			
		1	2	3	4
From	1	0.00	0.35	0.65	0.00
	2	0.25	0.25	0.25	0.25
	3	0.69	0.31	0.00	0.00
	4	0.21	0.18	0.61	0.00

Arm 2 is exit only and so the above grid should be ignored for this Arm

Turning Counts or Proportions (Veh/hr) - WB Ramps (for whole period)

		To			
		1	2	3	4
From	1	0.000	0.000	1800.000	225.000
	2	350.000	0.000	275.000	0.000
	3	1250.000	0.000	0.000	1100.000
	4	Exit-only	Exit-only	Exit-only	Exit-only

Arm 4 is exit only and so the above grid should be ignored for this Arm

Turning Proportions (Veh) - WB Ramps (for whole period)

		To			
		1	2	3	4
From	1	0.00	0.00	0.89	0.11
	2	0.56	0.00	0.44	0.00
	3	0.53	0.00	0.00	0.47

	4	0.25	0.25	0.25	0.25

Arm 4 is exit only and so the above grid should be ignored for this Arm

Vehicle Mix

Average PCU Per Vehicle - EB Ramps (for whole period)

		To			
		1	2	3	4
From	1	1.000	1.100	1.100	1.100
	2	Exit-only	Exit-only	Exit-only	Exit-only
	3	1.100	1.100	1.000	1.100
	4	1.100	1.100	1.100	1.000

Arm 2 is exit only and so the above grid should be ignored for this Arm

Heavy Vehicle Percentages - EB Ramps (for whole period)

		To			
		1	2	3	4
From	1	0.000	10.000	10.000	10.000
	2	Exit-only	Exit-only	Exit-only	Exit-only
	3	10.000	10.000	0.000	10.000
	4	10.000	10.000	10.000	0.000

Arm 2 is exit only and so the above grid should be ignored for this Arm.

Average PCU Per Vehicle - WB Ramps (for whole period)

	To

		1	2	3	4
From	1	1.000	1.100	1.100	1.100
	2	1.100	1.000	1.100	1.100
	3	1.100	1.100	1.000	1.100
	4	Exit-only	Exit-only	Exit-only	Exit-only

Arm 4 is exit only and so the above grid should be ignored for this Arm.

Heavy Vehicle Percentages - WB Ramps (for whole period)

		To			
		1	2	3	4
From	1	0.000	10.000	10.000	10.000
	2	10.000	0.000	10.000	10.000
	3	10.000	10.000	0.000	10.000
	4	Exit-only	Exit-only	Exit-only	Exit-only

Arm 4 is exit only and so the above grid should be ignored for this Arm.

Results

Results Summary for whole modelled period

Name	Name	Max RFC	Max Delay (s)	Max Queue (Veh)	Max LOS	Average Demand (Veh/hr)	Total Junction Arrivals (Veh)	Total Queueing Delay (Veh-min)	Average Queueing Delay (s)	Rate Of Queueing Delay (Veh-min/hr)	Inclusive Total Queueing Delay (Veh-min)	Inclusive Average Queueing Delay (s)
EB Ramps	**SR 62 NB**	0.80	10.75	3.72	B	1868.42	302.63	49.84	9.88	199.38	50.12	9.94
EB Ramps	**SR 265 EB Enter**	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only

EB Ramps	**SR 62 SB**	0.84	9.96	4.84	A	1684.21	421.05	64.25	9.16	256.99	64.60	9.21
EB Ramps	**SR 265 EB Exit**	0.77	9.62	3.23	A	1500.00	296.05	43.95	8.91	175.81	44.16	8.95
WB Ramps	**SR 62 NB**	0.76	5.08	3.04	A	2131.58	532.89	42.86	4.83	171.42	42.95	4.84
WB Ramps	**SR 265 WB Exit**	0.53	10.91	1.12	B	657.89	92.11	15.64	10.19	62.56	15.69	10.22
WB Ramps	**SR 62 SB**	0.80	10.30	3.87	B	2473.68	328.95	51.99	9.48	207.96	52.26	9.53
WB Ramps	**SR 265 WB Enter**	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only

ARCADY 8

Version: 8.0.0.296 [27 Feb 2012]
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Filename: ATC 3 - ORB - Port Rd & SR 265.arc8
Path: P:\2011\00886\C. Calcs_Data\Traffic Study\QC-QA Check\Arcady
Report generation date: 7/23/2012 10:10:25 AM

« (Default Analysis Set) - ORB - Alternate 2c (2030), AM
» Junction Network
» Arms
» Traffic Flows
» Entry Flows
» Direct/Resultant Flows
» Turning Proportions
» Vehicle Mix
» Results

Summary of junction performance

	AM							PM						
	Queue (Veh)	Delay (s)	RFC	LOS	Junction Delay (s)	Junction LOS	Network Residual Capacity	Queue (Veh)	Delay (s)	RFC	LOS	Junction Delay (s)	Junction LOS	Network Residual Capacity
A1 - ORB - Alternate 2c (2030)														
Port Road NB	0.67	4.56	0.40	A	3.20	A	148%	0.72	4.70	0.42	A	3.59	A	137%
SR 265 WB Exit	0.13	2.56	0.12	A			[Port Road NB]	0.13	2.58	0.12	A			[Port Road NB]

Values shown are the maximum values over all time segments. Delay is the maximum value of average delay per arriving vehicle. Junction LOS and Junction Delay are demand-weighted averages. Network Residual Capacity indicates the amount by which network flow could be increased before a user-definable threshold (see Analysis Options) is met.

"D3 - ORB - Alternate 2c (2030), AM" model duration: 8:00 AM - 8:15 AM
"D4 - ORB - Alternate 2c (2030), PM" model duration: 8:00 AM - 8:15 AM

Run using ARCADY 8.0.0.296 at 7/23/2012 10:10:22 AM

File summary

File Description

Title	ORB - ATC/VE Options
Location	
Site Number	
Date	5/17/2012
Version	
Status	(new file)
Identifier	
Client	INDOT/KYTC
Jobnumber	

Enumerator	ACE\hshah
Description	

Analysis Options

Vehicle Length (ft)	Do Queue Variations	Calculate Residual Capacity	Residual Capacity Criteria Type	RFC Threshold	Average Delay Threshold (s)	Queue Threshold (PCU)
18.86	✓	✓	Delay	0.85	36.00	20.00

Units

Distance Units	Speed Units	Traffic Units Input	Traffic Units Results	Flow Units	Average Delay Units	Total Delay Units	Rate Of Delay Units
ft	mph	Veh	Veh	perHour	s	-Min	perHour

(Default Analysis Set) - ORB - Alternate 2c (2030), AM

Data Errors and Warnings

Severity	Area	Item	Description
Warning	Geometry	Port Road NB - Roundabout Geometry	Effective flare length is over 30m, which is outside the normal range. Treat capacities with increasing caution.
Warning	Geometry	SR 265 WB Exit - Roundabout Geometry	Effective flare length is over 30m, which is outside the normal range. Treat capacities with increasing caution.
Warning	Flow Arm 1	Analysis Options	Queue Variations cannot be calculated for the selected traffic profile type.
Warning	Flow Arm 2	Analysis	Queue Variations cannot be calculated for the selected traffic profile type.

		Options	
Warning	Flow Arm 1-1	Analysis Options	Queue Variations cannot be calculated for the selected traffic profile type.
Warning	Flow Arm 4	Analysis Options	Queue Variations cannot be calculated for the selected traffic profile type.
Warning	Flow Arm 5	Analysis Options	Queue Variations cannot be calculated for the selected traffic profile type.
Warning	Linked Roundabout	Port Road NB	Linked arm is using 'Closely Spaced' mode but internal storage space is 10 PCU, which may be too large. See User Guide for details.

Analysis Set Details

Name	Roundabout Capacity Model	Description	Include In Report	Use Specific Demand Set(s)	Specific Demand Set(s)	Locked	Network Flow Scaling Factor (%)	Network Capacity Scaling Factor (%)	Reason For Scaling Factors
(Default Analysis Set)	ARCADY		✓				100.000	85.000	

Demand Set Details

Name	Scenario Name	Time Period Name	Description	Traffic Profile Type	Model Start Time (HH:mm)	Model Finish Time (HH:mm)	Model Time Period Length (min)	Time Segment Length (min)	Results For Central Hour Only	Single Time Segment Only	Locked	Run Automatically	Use Relationship	Relationship
ORB - Alternate 2c (2030), AM	ORB - Alternate 2c (2030)	AM		Varies by Arm	08:00	08:15	15	15		✓		✓		

Junction Network

Junctions

Name	Junction Type	Arm Order	Grade Separated	Large Roundabout	Do Geometric Delay	Junction Delay (s)	Junction LOS
WB Ramps	Roundabout	1,2,1-1,4,5				3.20	A

Junction Network Options

Driving Side	Lighting	Road Surface	Network Residual Capacity (%)	First Arm Reaching Threshold
Right	Normal/unknown	(Mini-roundabouts only)	148	Port Road NB

Arms

Arms

Name	Name	Description
Port Road NB	Port Road NB	
SR 265 WB Exit	SR 265 WB Exit	
Port Road SB	Port Road SB	
WB CD to SR 62	WB CD to SR 62	
SR 265 WB Enter	SR 265 WB Enter	

Capacity Options

Name	Minimum Capacity (PCU/hr)	Maximum Capacity (PCU/hr)	Assume Flat Start Profile	Initial Queue (PCU)
Port Road NB	0.00	99999.00		0.00
SR 265 WB Exit	0.00	99999.00		0.00

Port Road SB	0.00	99999.00		0.00
WB CD to SR 62	0.00	99999.00		0.00
SR 265 WB Enter	0.00	99999.00		0.00

Roundabout Geometry

Name	V - Approach road half-width (ft)	E - Entry width (ft)	l' - Effective flare length (ft)	R - Entry radius (ft)	D - Inscribed circle diameter (ft)	PHI - Conflict (entry) angle (deg)	Exit Only
Port Road NB	12.00	18.00	200.00	100.00	200.00	30.00	
SR 265 WB Exit	12.00	28.00	200.00	100.00	200.00	30.00	
Port Road SB	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	✓
WB CD to SR 62	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	✓
SR 265 WB Enter	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	✓

Geometries for Arm C are measured opposite Arm B. Geometries for Arm A (if relevant) are measured opposite Arm D.

Bypass

Name	Arm Has Bypass	Bypass Utilisation (%)
Port Road NB		N/A
SR 265 WB Exit	✓	100
Port Road SB		N/A
WB CD to SR 62		N/A
SR 265 WB Enter		N/A

Pedestrian Crossings

Name	Crossing Type
Port Road NB	None

SR 265 WB Exit	None
Port Road SB	None
WB CD to SR 62	None
SR 265 WB Enter	None

Slope / Intercept / Capacity

Roundabout Slope and Intercept used in model

Name	Enter slope and intercept directly	Entered slope	Entered intercept (PCU/hr)	Final Slope	Final intercept (PCU/hr)
Port Road NB		(calculated)	(calculated)	0.546	1640.977
SR 265 WB Exit		(calculated)	(calculated)	0.663	2323.156
Port Road SB		(calculated)	(calculated)	Exit-only	Exit-only
WB CD to SR 62		(calculated)	(calculated)	Exit-only	Exit-only
SR 265 WB Enter		(calculated)	(calculated)	Exit-only	Exit-only

The slope and intercept shown above include any corrections and adjustments

Traffic Flows

Demand Set Data Options

Default Vehicle Mix	Vehicle Mix Varies Over Time	Vehicle Mix Varies Over Turn	Vehicle Mix Varies Over Entry	Vehicle Mix Source	PCU Factor for a HV (PCU)	Default Turning Proportions	Estimate from entry/exit counts	Turning Proportions Vary Over Time	Turning Proportions Vary Over Turn	Turning Proportions Vary Over Entry
		✓	✓	HV Percentages	2.00				✓	✓

Entry Flows

General Flows Data

Name	Profile Type	Use Turning Counts	Average Demand Flow (Veh/hr)	Flow Scaling Factor (%)
Port Road NB	PHF	✓	500.00	100.000
SR 265 WB Exit	PHF	✓	1025.00	100.000
Port Road SB	Exit-only	✓	Exit-only	Exit-only
WB CD to SR 62	Exit-only	✓	Exit-only	Exit-only
SR 265 WB Enter	Exit-only	✓	Exit-only	Exit-only

Peak Hour Factor Data

Name	Hourly Volume (Veh/hr)	Peak Hour Factor	Peak Time Segment
Port Road NB	500.00	0.95	N/A
SR 265 WB Exit	1025.00	0.95	N/A
Port Road SB	Exit-only	Exit-only	N/A
WB CD to SR 62	Exit-only	Exit-only	N/A
SR 265 WB Enter	Exit-only	Exit-only	N/A

Direct/Resultant Flows

Direct Flows Data

Time Segment	Name	Direct Demand Entry Flow (Veh/hr)	DirectDemandEntryFlowInPCU (PCU/hr)	Direct Demand Exit Flow (Veh/hr)	Direct Demand Pedestrian Flow (Ped/hr)
08:00-08:15	Port Road NB	526.32	560.53	N/A	N/A
08:00-08:15	SR 265 WB Exit	1078.95	1176.32	N/A	N/A
08:00-08:15	Port Road SB	Exit-only	0.00	N/A	N/A
08:00-08:15	WB CD to SR 62	Exit-only	0.00	N/A	N/A
08:00-08:15	SR 265 WB Enter	Exit-only	0.00	N/A	N/A

Turning Proportions

Turning Counts or Proportions (Veh/hr) - WB Ramps (for whole period)

		To				
		1	2	1-1	4	5
From	1	0.000	0.000	0.000	325.000	175.000
	2	75.000	0.000	850.000	0.000	100.000
	1-1	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only
	4	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only
	5	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only

Arm 1-1 is exit only and so the above grid should be ignored for this Arm.
Arm 4 is exit only and so the above grid should be ignored for this Arm.
Arm 5 is exit only and so the above grid should be ignored for this Arm.

Turning Proportions (Veh) - WB Ramps (for whole period)

		To				
		1	2	1-1	4	5
From	1	0.00	0.00	0.00	0.65	0.35
	2	0.07	0.00	0.83	0.00	0.10
	1-1	0.20	0.20	0.20	0.20	0.20
	4	0.20	0.20	0.20	0.20	0.20
	5	0.20	0.20	0.20	0.20	0.20

Arm 1-1 is exit only and so the above grid should be ignored for this Arm.
Arm 4 is exit only and so the above grid should be ignored for this Arm.
Arm 5 is exit only and so the above grid should be ignored for this Arm.

Vehicle Mix

Average PCU Per Vehicle - WB Ramps (for whole period)

		To				
		1	2	1-1	4	5
From	1	1.000	1.100	1.100	1.100	1.000
	2	1.100	1.000	1.100	1.100	1.000
	1-1	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only
	4	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only
	5	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only

Arm 1-1 is exit only and so the above grid should be ignored for this Arm.
Arm 4 is exit only and so the above grid should be ignored for this Arm.
Arm 5 is exit only and so the above grid should be ignored for this Arm.

Heavy Vehicle Percentages - WB Ramps (for whole period)

		To				
		1	2	1-1	4	5
From	1	0.000	10.000	10.000	10.000	0.000
	2	10.000	0.000	10.000	10.000	0.000
	1-1	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only
	4	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only
	5	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only

Arm 1-1 is exit only and so the above grid should be ignored for this Arm
Arm 4 is exit only and so the above grid should be ignored for this Arm
Arm 5 is exit only and so the above grid should be ignored for this Arm

Results

Results Summary for whole modelled period

Name	Max RFC	Max Delay (s)	Max Queue (Veh)	Max LOS	Average Demand (Veh/hr)	Total Junction Arrivals (Veh)	Total Queueing Delay (Veh-min)	Average Queueing Delay (s)	Rate Of Queueing Delay (Veh-min/hr)	Inclusive Total Queueing Delay (Veh-min)	Inclusive Average Queueing Delay (s)
Port Road NB	0.40	4.56	0.67	A	526.32	131.58	9.68	4.42	38.74	9.69	4.42
SR 265 WB Exit	0.12	2.56	0.13	A	1127.97	46.05	1.93	2.51	7.71	1.93	2.51
Port Road SB	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only
WB CD to SR 62	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only
SR 265	Exit-	Exit-	Exit-	Exit-	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only	Exit-only

WB Enter	only	only	only	only							

Appendix B – HCS2010 Ramp Junction Analysis Outputs Report

RAMPS AND RAMP JUNCTIONS WORKSHEET

General Information / Site Information

Analyst	Hardik Shah	Freeway/Dir of Travel	SR 265/EB
Agency or Company	American Structurepoint, Inc.	Junction	Port Road
Date Performed	5/18/2012	Jurisdiction	INDOT
Analysis Time Period	AM Peak	Analysis Year	2030

Project Description: SR 265 & Port Road Interchange - Ohio River Bridges

Inputs

Upstream Adj Ramp		Downstream Adj Ramp
☐ Yes ☐ On	Number of Lanes, N: 2	☐ Yes ☐ On
☐ No ☐ Off	Acceleration Lane Length, L_A: 900	☐ No ☐ Off
L_{up} = 4250 ft	Deceleration Lane Length L_D:	L_{down} = ft
V_u = 1325 veh/h	Freeway Volume, V_F: 800	V_D = veh/h
	Ramp Volume, V_R: 500	
	Freeway Free-Flow Speed, S_{FF}: 55.0	
	Ramp Free-Flow Speed, S_{FR}: 35.0	

Conversion to pc/h Under Base Conditions

(pc/h)	V (Veh/hr)	PHF	Terrain	%Truck	%Rv	f_{HV}	f_p	$v = V/PHF \times f_{HV} \times f_p$
Freeway	800	0.92	Level	8	0	0.962	1.00	904
Ramp	500	0.92	Level	7	0	0.966	1.00	562
UpStream	1325	0.92	Level	8	0	0.962	1.00	1498
DownStream								

Merge Areas

Estimation of v_{12}

$V_{12} = V_F (P_{FM})$

L_{EQ} = (Equation 13-6 or 13-7)

P_{FM} = 1.000 using Equation (Exhibit 13-6)

V_{12} = 904 pc/h

V_3 or V_{av34} 0 pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_{FO}	1466	Exhibit 13-8		No

Flow Entering Merge Influence Area

	Actual	Max Desirable		Violation?
V_{R12}	1466	Exhibit 13-8	4600:All	No

Level of Service Determination (if not F)

$D_R = 5.475 + 0.00734\, v_R + 0.0078\, V_{12} - 0.00627\, L_A$

D_R = 11.0 (pc/mi/ln)

LOS = B (Exhibit 13-2)

Speed Determination

M_S = 0.275 (Exibit 13-11)

S_R = 51.4 mph (Exhibit 13-11)

S_0 = N/A mph (Exhibit 13-11)

S = 51.4 mph (Exhibit 13-13)

Diverge Areas

Estimation of v_{12}

$V_{12} = V_R + (V_F - V_R)P_{FD}$

L_{EQ} = (Equation 13-12 or 13-13)

P_{FD} = using Equation (Exhibit 13-7)

V_{12} = pc/h

V_3 or V_{av34} pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_F		Exhibit 13-8		
$V_{FO} = V_F - V_R$		Exhibit 13-8		
V_R		Exhibit 13-10		

Flow Entering Diverge Influence Area

	Actual	Max Desirable		Violation?
V_{12}		Exhibit 13-8		

Level of Service Determination (if not F)

$D_R = 4.252 + 0.0086\, V_{12} - 0.009\, L_D$

D_R = (pc/mi/ln)

LOS = (Exhibit 13-2)

Speed Determination

D_s = (Exhibit 13-12)

S_R = mph (Exhibit 13-12)

S_0 = mph (Exhibit 13-12)

S = mph (Exhibit 13-13)

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RAMPS AND RAMP JUNCTIONS WORKSHEET

General Information / Site Information

Analyst	Hardik Shah	Freeway/Dir of Travel	SR 265/EB
Agency or Company	American Structurepoint, Inc.	Junction	Port Road
Date Performed	5/18/2012	Jurisdiction	INDOT
Analysis Time Period	PM Peak	Analysis Year	2030

Project Description: SR 265 & Port Road Interchange - Ohio River Bridges

Inputs

Upstream Adj Ramp		Downstream Adj Ramp
☐ Yes ☐ On	Number of Lanes, N: 2	☐ Yes ☐ On
☐ No ☐ Off	Acceleration Lane Length, L_A: 900	☐ No ☐ Off
L_{up} = 4250 ft	Deceleration Lane Length L_D:	L_{down} = ft
V_u = 1425 veh/h	Freeway Volume, V_F: 2200	V_D = veh/h
	Ramp Volume, V_R: 1175	
	Freeway Free-Flow Speed, S_{FF}: 55.0	
	Ramp Free-Flow Speed, S_{FR}: 35.0	

Conversion to pc/h Under Base Conditions

(pc/h)	V (Veh/hr)	PHF	Terrain	%Truck	%Rv	f_{HV}	f_p	$v = V/PHF \times f_{HV} \times f_p$
Freeway	2200	0.92	Level	8	0	0.962	1.00	2487
Ramp	1175	0.92	Level	7	0	0.966	1.00	1322
UpStream	1425	0.92	Level	8	0	0.962	1.00	1611
DownStream								

Merge Areas

Estimation of v_{12}

$V_{12} = V_F (P_{FM})$

L_{EQ} = (Equation 13-6 or 13-7)

P_{FM} = 1.000 using Equation (Exhibit 13-6)

V_{12} = 2487 pc/h

V_3 or V_{av34} 0 pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_{FO}	3809	Exhibit 13-8		No

Flow Entering Merge Influence Area

	Actual	Max Desirable		Violation?
V_{R12}	3809	Exhibit 13-8	4600:All	No

Level of Service Determination (if not F)

$D_R = 5.475 + 0.00734\, v_R + 0.0078\, V_{12} - 0.00627\, L_A$

D_R = 28.9 (pc/mi/ln)

LOS = D (Exhibit 13-2)

Speed Determination

M_S = 0.434 (Exibit 13-11)

S_R = 49.4 mph (Exhibit 13-11)

S_0 = N/A mph (Exhibit 13-11)

S = 49.4 mph (Exhibit 13-13)

Diverge Areas

Estimation of v_{12}

$V_{12} = V_R + (V_F - V_R)P_{FD}$

L_{EQ} = (Equation 13-12 or 13-13)

P_{FD} = using Equation (Exhibit 13-7)

V_{12} = pc/h

V_3 or V_{av34} pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_F		Exhibit 13-8		
$V_{FO} = V_F - V_R$		Exhibit 13-8		
V_R		Exhibit 13-10		

Flow Entering Diverge Influence Area

	Actual	Max Desirable		Violation?
V_{12}		Exhibit 13-8		

Level of Service Determination (if not F)

$D_R = 4.252 + 0.0086\, V_{12} - 0.009\, L_D$

D_R = (pc/mi/ln)

LOS = (Exhibit 13-2)

Speed Determination

D_s = (Exhibit 13-12)

S_R = mph (Exhibit 13-12)

S_0 = mph (Exhibit 13-12)

S = mph (Exhibit 13-13)

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RAMPS AND RAMP JUNCTIONS WORKSHEET

General Information / Site Information

Analyst	Hardik Shah	Freeway/Dir of Travel	SR 265/WB
Agency or Company	American Structurepoint, Inc.	Junction	Port Road
Date Performed	5/18/2012	Jurisdiction	INDOT
Analysis Time Period	AM Peak	Analysis Year	2030

Project Description SR 62 & SR 265 Interchange - Ohio River Bridges

Inputs

Upstream Adj Ramp		Downstream Adj Ramp
☐ Yes ☐ On	Number of Lanes, N: 2	☐ Yes ☐ On
☐ No ☐ Off	Accaleration Lane Length, L_A: 900	☐ No ☐ Off
L_{up} = 1900 ft	Deceleration Lane Length L_D:	L_{down} = ft
V_u = 925 veh/h	Freeway Volume, V_F: 1900	V_D = veh/h
	Ramp Volume, V_R: 325	
	Freeway Free-Flow Speed, S_{FF}: 55.0	
	Ramp Free-Flow Speed, S_{FR}: 35.0	

Conversion to pc/h Under Base Conditions

(pc/h)	V (Veh/hr)	PHF	Terrain	%Truck	%Rv	f_{HV}	f_p	$v = V/PHF \times f_{HV} \times f_p$
Freeway	1900	0.92	Level	11	0	0.948	1.00	2179
Ramp	325	0.92	Level	25	0	0.889	1.00	397
UpStream	925	0.92	Level	8	0	0.962	1.00	1046
DownStream								

Merge Areas

Estimation of v_{12}

$V_{12} = V_F (P_{FM})$

L_{EQ} = (Equation 13-6 or 13-7)

P_{FM} = 1.000 using Equation (Exhibit 13-6)

V_{12} = 2179 pc/h

V_3 or V_{av34} 0 pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_{FO}	2576	Exhibit 13-8		No

Flow Entering Merge Influence Area

	Actual	Max Desirable		Violation?
V_{R12}	2576	Exhibit 13-8	4600:All	No

Level of Service Determination (if not F)

$D_R = 5.475 + 0.00734\, v_R + 0.0078\, V_{12} - 0.00627\, L_A$

D_R = 19.7 (pc/mi/ln)

LOS = B (Exhibit 13-2)

Speed Determination

M_S = 0.309 (Exibit 13-11)

S_R = 51.0 mph (Exhibit 13-11)

S_0 = N/A mph (Exhibit 13-11)

S = 51.0 mph (Exhibit 13-13)

Diverge Areas

Estimation of v_{12}

$V_{12} = V_R + (V_F - V_R)P_{FD}$

L_{EQ} = (Equation 13-12 or 13-13)

P_{FD} = using Equation (Exhibit 13-7)

V_{12} = pc/h

V_3 or V_{av34} pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_F		Exhibit 13-8		
$V_{FO} = V_F - V_R$		Exhibit 13-8		
V_R		Exhibit 13-10		

Flow Entering Diverge Influence Area

	Actual	Max Desirable		Violation?
V_{12}		Exhibit 13-8		

Level of Service Determination (if not F)

$D_R = 4.252 + 0.0086\, V_{12} - 0.009\, L_D$

D_R = (pc/mi/ln)

LOS = (Exhibit 13-2)

Speed Determination

D_s = (Exhibit 13-12)

S_R = mph (Exhibit 13-12)

S_0 = mph (Exhibit 13-12)

S = mph (Exhibit 13-13)

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RAMPS AND RAMP JUNCTIONS WORKSHEET

General Information / Site Information

Analyst	Hardik Shah	Freeway/Dir of Travel	SR 265/WB
Agency or Company	American Structurepoint, Inc.	Junction	Port Road
Date Performed	5/18/2012	Jurisdiction	INDOT
Analysis Time Period	PM Peak	Analysis Year	2030

Project Description SR 62 & SR 265 Interchange - Ohio River Bridges

Inputs

Upstream Adj Ramp		Downstream Adj Ramp
☐ Yes ☐ On	Number of Lanes, N: 2	☐ Yes ☐ On
☐ No ☐ Off	Acceleration Lane Length, L_A: 900	☐ No ☐ Off
L_{up} = 1900 ft	Deceleration Lane Length L_D:	L_{down} = ft
V_u = 500 veh/h	Freeway Volume, V_F: 1100	V_D = veh/h
	Ramp Volume, V_R: 325	
	Freeway Free-Flow Speed, S_{FF}: 55.0	
	Ramp Free-Flow Speed, S_{FR}: 35.0	

Conversion to pc/h Under Base Conditions

(pc/h)	V (Veh/hr)	PHF	Terrain	%Truck	%Rv	f_{HV}	f_p	$v = V/PHF \times f_{HV} \times f_p$
Freeway	1100	0.92	Level	11	0	0.948	1.00	1261
Ramp	325	0.92	Level	25	0	0.889	1.00	397
UpStream	500	0.92	Level	8	0	0.962	1.00	565
DownStream								

Merge Areas

Estimation of v_{12}

$V_{12} = V_F (P_{FM})$

L_{EQ} = (Equation 13-6 or 13-7)

P_{FM} = 1.000 using Equation (Exhibit 13-6)

V_{12} = 1261 pc/h

V_3 or V_{av34} 0 pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_{FO}	1658	Exhibit 13-8		No

Flow Entering Merge Influence Area

	Actual	Max Desirable		Violation?
V_{R12}	1658	Exhibit 13-8	4600:All	No

Level of Service Determination (if not F)

$D_R = 5.475 + 0.00734\, v_R + 0.0078\, V_{12} - 0.00627\, L_A$

D_R = 12.6 (pc/mi/ln)

LOS = B (Exhibit 13-2)

Speed Determination

M_S = 0.278 (Exibit 13-11)

S_R = 51.4 mph (Exhibit 13-11)

S_0 = N/A mph (Exhibit 13-11)

S = 51.4 mph (Exhibit 13-13)

Diverge Areas

Estimation of v_{12}

$V_{12} = V_R + (V_F - V_R) P_{FD}$

L_{EQ} = (Equation 13-12 or 13-13)

P_{FD} = using Equation (Exhibit 13-7)

V_{12} = pc/h

V_3 or V_{av34} pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_F		Exhibit 13-8		
$V_{FO} = V_F - V_R$		Exhibit 13-8		
V_R		Exhibit 13-10		

Flow Entering Diverge Influence Area

	Actual	Max Desirable		Violation?
V_{12}		Exhibit 13-8		

Level of Service Determination (if not F)

$D_R = 4.252 + 0.0086\, V_{12} - 0.009\, L_D$

D_R = (pc/mi/ln)

LOS = (Exhibit 13-2)

Speed Determination

D_s = (Exhibit 13-12)

S_R = mph (Exhibit 13-12)

S_0 = mph (Exhibit 13-12)

S = mph (Exhibit 13-13)

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RAMPS AND RAMP JUNCTIONS WORKSHEET

General Information / Site Information

Analyst	Hardik Shah	Freeway/Dir of Travel	SR 265/WB
Agency or Company	American Structurepoint, Inc.	Junction	SR 62
Date Performed	5/18/2012	Jurisdiction	INDOT
Analysis Time Period	AM Peak	Analysis Year	2030

Project Description: SR 62 & SR 265 Interchange - Ohio River Bridges

Inputs

Upstream Adj Ramp			Downstream Adj Ramp
☐ Yes ☐ On	Number of Lanes, N	2	☐ Yes ☐ On
	Acceleration Lane Length, L_A	1500	
☐ No ☐ Off	Deceleration Lane Length L_D		☐ No ☐ Off
L_{up} = 2200 ft	Freeway Volume, V_F	2200	L_{down} = ft
	Ramp Volume, V_R	1425	
V_u = 325 veh/h	Freeway Free-Flow Speed, S_{FF}	55.0	V_D = veh/h
	Ramp Free-Flow Speed, S_{FR}	35.0	

Conversion to pc/h Under Base Conditions

(pc/h)	V (Veh/hr)	PHF	Terrain	%Truck	%Rv	f_{HV}	f_p	v = V/PHF x f_{HV} x f_p
Freeway	2200	0.92	Level	13	0	0.939	1.00	2547
Ramp	1425	0.92	Level	8	0	0.962	1.00	1611
UpStream	325	0.92	Level	25	0	0.889	1.00	397
DownStream								

Merge Areas

Estimation of v_{12}

$V_{12} = V_F (P_{FM})$

L_{EQ} = (Equation 13-6 or 13-7)

P_{FM} = 1.000 using Equation (Exhibit 13-6)

V_{12} = 2547 pc/h

V_3 or V_{av34} 0 pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_{FO}	4158	Exhibit 13-8		No

Flow Entering Merge Influence Area

	Actual	Max Desirable		Violation?
V_{R12}	4158	Exhibit 13-8	4600:All	No

Level of Service Determination (if not F)

$D_R = 5.475 + 0.00734\, v_R + 0.0078\, V_{12} - 0.00627\, L_A$

D_R = 27.8 (pc/mi/ln)

LOS = C (Exhibit 13-2)

Speed Determination

M_S = 0.465 (Exibit 13-11)

S_R = 49.0 mph (Exhibit 13-11)

S_0 = N/A mph (Exhibit 13-11)

S = 49.0 mph (Exhibit 13-13)

Diverge Areas

Estimation of v_{12}

$V_{12} = V_R + (V_F - V_R) P_{FD}$

L_{EQ} = (Equation 13-12 or 13-13)

P_{FD} = using Equation (Exhibit 13-7)

V_{12} = pc/h

V_3 or V_{av34} pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_F		Exhibit 13-8		
$V_{FO} = V_F - V_R$		Exhibit 13-8		
V_R		Exhibit 13-10		

Flow Entering Diverge Influence Area

	Actual	Max Desirable		Violation?
V_{12}		Exhibit 13-8		

Level of Service Determination (if not F)

$D_R = 4.252 + 0.0086\, V_{12} - 0.009\, L_D$

D_R = (pc/mi/ln)

LOS = (Exhibit 13-2)

Speed Determination

D_s = (Exhibit 13-12)

S_R = mph (Exhibit 13-12)

S_0 = mph (Exhibit 13-12)

S = mph (Exhibit 13-13)

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RAMPS AND RAMP JUNCTIONS WORKSHEET

General Information / Site Information

Analyst	Hardik Shah	Freeway/Dir of Travel	SR 265/WB
Agency or Company	American Structurepoint, Inc.	Junction	SR 62
Date Performed	5/18/2012	Jurisdiction	INDOT
Analysis Time Period	PM Peak	Analysis Year	2030

Project Description: SR 62 & SR 265 Interchange - Ohio River Bridges

Inputs

Upstream Adj Ramp		Downstream Adj Ramp
☐ Yes ☐ On	Number of Lanes, N: 2	☐ Yes ☐ On
☐ No ☐ Off	Acceleration Lane Length, L_A: 1500	☐ No ☐ Off
L_{up} = 2200 ft	Deceleration Lane Length L_D:	L_{down} = ft
V_u = 325 veh/h	Freeway Volume, V_F: 1400	V_D = veh/h
	Ramp Volume, V_R: 1325	
	Freeway Free-Flow Speed, S_{FF}: 55.0	
	Ramp Free-Flow Speed, S_{FR}: 35.0	

Conversion to pc/h Under Base Conditions

(pc/h)	V (Veh/hr)	PHF	Terrain	%Truck	%Rv	f_{HV}	f_p	$v = V/PHF \times f_{HV} \times f_p$
Freeway	1400	0.92	Level	13	0	0.939	1.00	1621
Ramp	1325	0.92	Level	8	0	0.962	1.00	1498
UpStream	325	0.92	Level	25	0	0.889	1.00	397
DownStream								

Merge Areas

Estimation of v_{12}

$V_{12} = V_F (P_{FM})$

L_{EQ} = (Equation 13-6 or 13-7)

P_{FM} = 1.000 using Equation (Exhibit 13-6)

V_{12} = 1621 pc/h

V_3 or V_{av34} 0 pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_{FO}	3119	Exhibit 13-8		No

Flow Entering Merge Influence Area

	Actual	Max Desirable		Violation?
V_{R12}	3119	Exhibit 13-8	4600:All	No

Level of Service Determination (if not F)

$D_R = 5.475 + 0.00734\, v_R + 0.0078\, V_{12} - 0.00627\, L_A$

D_R = 19.7 (pc/mi/ln)

LOS = B (Exhibit 13-2)

Speed Determination

M_S = 0.304 (Exibit 13-11)

S_R = 51.0 mph (Exhibit 13-11)

S_0 = N/A mph (Exhibit 13-11)

S = 51.0 mph (Exhibit 13-13)

Diverge Areas

Estimation of v_{12}

$V_{12} = V_R + (V_F - V_R)P_{FD}$

L_{EQ} = (Equation 13-12 or 13-13)

P_{FD} = using Equation (Exhibit 13-7)

V_{12} = pc/h

V_3 or V_{av34} pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_F		Exhibit 13-8		
$V_{FO} = V_F - V_R$		Exhibit 13-8		
V_R		Exhibit 13-10		

Flow Entering Diverge Influence Area

	Actual	Max Desirable		Violation?
V_{12}		Exhibit 13-8		

Level of Service Determination (if not F)

$D_R = 4.252 + 0.0086\, V_{12} - 0.009\, L_D$

D_R = (pc/mi/ln)

LOS = (Exhibit 13-2)

Speed Determination

D_s = (Exhibit 13-12)

S_R = mph (Exhibit 13-12)

S_0 = mph (Exhibit 13-12)

S = mph (Exhibit 13-13)

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RAMPS AND RAMP JUNCTIONS WORKSHEET

General Information / Site Information

Analyst	Hardik Shah	Freeway/Dir of Travel	SR 265/EB
Agency or Company	American Structurepoint, Inc.	Junction	SR 62
Date Performed	5/18/2012	Jurisdiction	INDOT
Analysis Time Period	AM Peak	Analysis Year	2030

Project Description: SR 62 & SR 265 Interchange - Ohio River Bridges

Inputs

Upstream Adj Ramp		Downstream Adj Ramp
☐ Yes ☐ On	Number of Lanes, N: 2	☐ Yes ☐ On
☐ No ☐ Off	Acceleration Lane Length, L_A	☐ No ☐ Off
L_{up} = ft	Deceleration Lane Length L_D: 1500	L_{down} = 4500 ft
V_u = veh/h	Freeway Volume, V_F: 2100	V_D = 500 veh/h
	Ramp Volume, V_R: 1325	
	Freeway Free-Flow Speed, S_{FF}: 55.0	
	Ramp Free-Flow Speed, S_{FR}: 35.0	

Conversion to pc/h Under Base Conditions

(pc/h)	V (Veh/hr)	PHF	Terrain	%Truck	%Rv	f_{HV}	f_p	$v = V/PHF \times f_{HV} \times f_p$
Freeway	2100	0.92	Level	10	0	0.952	1.00	2397
Ramp	1325	0.92	Level	8	0	0.962	1.00	1498
UpStream								
DownStream	500	0.92	Level	8	0	0.962	1.00	565

Merge Areas

Estimation of v_{12}

$V_{12} = V_F (P_{FM})$

L_{EQ} = (Equation 13-6 or 13-7)

P_{FM} = using Equation (Exhibit 13-6)

V_{12} = pc/h

V_3 or V_{av34} = pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_{FO}		Exhibit 13-8		

Flow Entering Merge Influence Area

	Actual	Max Desirable		Violation?
V_{R12}		Exhibit 13-8		

Level of Service Determination (if not F)

$D_R = 5.475 + 0.00734\ v_R + 0.0078\ V_{12} - 0.00627\ L_A$

D_R = (pc/mi/ln)

LOS = (Exhibit 13-2)

Speed Determination

M_S = (Exibit 13-11)

S_R = mph (Exhibit 13-11)

S_0 = mph (Exhibit 13-11)

S = mph (Exhibit 13-13)

Diverge Areas

Estimation of v_{12}

$V_{12} = V_R + (V_F - V_R)P_{FD}$

L_{EQ} = (Equation 13-12 or 13-13)

P_{FD} = 1.000 using Equation (Exhibit 13-7)

V_{12} = 2397 pc/h

V_3 or V_{av34} = 0 pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_F	2397	Exhibit 13-8	4500	No
$V_{FO} = V_F - V_R$	899	Exhibit 13-8	4500	No
V_R	1498	Exhibit 13-10	2000	No

Flow Entering Diverge Influence Area

	Actual	Max Desirable		Violation?
V_{12}	2397	Exhibit 13-8	4400:All	No

Level of Service Determination (if not F)

$D_R = 4.252 + 0.0086\ V_{12} - 0.009\ L_D$

D_R = 11.4 (pc/mi/ln)

LOS = B (Exhibit 13-2)

Speed Determination

D_s = 0.563 (Exhibit 13-12)

S_R = 47.7 mph (Exhibit 13-12)

S_0 = N/A mph (Exhibit 13-12)

S = 47.7 mph (Exhibit 13-13)

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RAMPS AND RAMP JUNCTIONS WORKSHEET

General Information / Site Information

Analyst	Hardik Shah	Freeway/Dir of Travel	SR 265/EB
Agency or Company	American Structurepoint, Inc.	Junction	SR 62
Date Performed	5/18/2012	Jurisdiction	INDOT
Analysis Time Period	PM Peak	Analysis Year	2030

Project Description: SR 62 & SR 265 Interchange - Ohio River Bridges

Inputs

Upstream Adj Ramp		Downstream Adj Ramp
☐ Yes ☐ On	Number of Lanes, N: 2	☐ Yes ☐ On
☐ No ☐ Off	Acceleration Lane Length, L_A	☐ No ☐ Off
L_{up} = ft	Deceleration Lane Length L_D: 1500	L_{down} = 4500 ft
V_u = veh/h	Freeway Volume, V_F: 3600	V_D = 1175 veh/h
	Ramp Volume, V_R: 1425	
	Freeway Free-Flow Speed, S_{FF}: 55.0	
	Ramp Free-Flow Speed, S_{FR}: 35.0	

Conversion to pc/h Under Base Conditions

(pc/h)	V (Veh/hr)	PHF	Terrain	%Truck	%Rv	f_{HV}	f_p	v = V/PHF x f_{HV} x f_p
Freeway	3600	0.92	Level	10	0	0.952	1.00	4109
Ramp	1425	0.92	Level	8	0	0.962	1.00	1611
UpStream								
DownStream	1175	0.92	Level	8	0	0.962	1.00	1328

Merge Areas

Estimation of v_{12}

$V_{12} = V_F (P_{FM})$

L_{EQ} = (Equation 13-6 or 13-7)

P_{FM} = using Equation (Exhibit 13-6)

V_{12} = pc/h

V_3 or V_{av34} pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_{FO}		Exhibit 13-8		

Flow Entering Merge Influence Area

	Actual	Max Desirable		Violation?
V_{R12}		Exhibit 13-8		

Level of Service Determination (if not F)

$D_R = 5.475 + 0.00734\ v_R + 0.0078\ V_{12} - 0.00627\ L_A$

D_R = (pc/mi/ln)

LOS = (Exhibit 13-2)

Speed Determination

M_S = (Exibit 13-11)

S_R = mph (Exhibit 13-11)

S_0 = mph (Exhibit 13-11)

S = mph (Exhibit 13-13)

Diverge Areas

Estimation of v_{12}

$V_{12} = V_R + (V_F - V_R)P_{FD}$

L_{EQ} = (Equation 13-12 or 13-13)

P_{FD} = 1.000 using Equation (Exhibit 13-7)

V_{12} = 4109 pc/h

V_3 or V_{av34} 0 pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_F	4109	Exhibit 13-8	4500	No
$V_{FO} = V_F - V_R$	2498	Exhibit 13-8	4500	No
V_R	1611	Exhibit 13-10	2000	No

Flow Entering Diverge Influence Area

	Actual	Max Desirable		Violation?
V_{12}	4109	Exhibit 13-8	4400:All	No

Level of Service Determination (if not F)

$D_R = 4.252 + 0.0086\ V_{12} - 0.009\ L_D$

D_R = 26.1 (pc/mi/ln)

LOS = C (Exhibit 13-2)

Speed Determination

D_s = 0.573 (Exhibit 13-12)

S_R = 47.6 mph (Exhibit 13-12)

S_0 = N/A mph (Exhibit 13-12)

S = 47.6 mph (Exhibit 13-13)

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RAMPS AND RAMP JUNCTIONS WORKSHEET

General Information / Site Information

Analyst	Hardik Shah	Freeway/Dir of Travel	SR 265/WB
Agency or Company	American Structurepoint, Inc.	Junction	Port Road
Date Performed	5/18/2012	Jurisdiction	INDOT
Analysis Time Period	AM Peak	Analysis Year	2030

Project Description: SR 265 & Port Road Interchange - Ohio River Bridges

Inputs

Upstream Adj Ramp			Downstream Adj Ramp
☐ Yes ☐ On	Number of Lanes, N	2	☐ Yes ☐ On
☐ No ☐ Off	Acceleration Lane Length, L_A		☐ No ☐ Off
L_{up} = ft	Deceleration Lane Length L_D	700	L_{down} = 1900 ft
V_u = veh/h	Freeway Volume, V_F	2800	V_D = 325 veh/h
	Ramp Volume, V_R	925	
	Freeway Free-Flow Speed, S_{FF}	55.0	
	Ramp Free-Flow Speed, S_{FR}	35.0	

Conversion to pc/h Under Base Conditions

(pc/h)	V (Veh/hr)	PHF	Terrain	%Truck	%Rv	f_{HV}	f_p	$v = V/PHF \times f_{HV} \times f_p$
Freeway	2800	0.92	Level	11	0	0.948	1.00	3211
Ramp	925	0.92	Level	8	0	0.962	1.00	1046
UpStream								
DownStream	325	0.92	Level	25	0	0.889	1.00	397

Merge Areas

Estimation of v_{12}

$V_{12} = V_F (P_{FM})$

L_{EQ} = (Equation 13-6 or 13-7)

P_{FM} = using Equation (Exhibit 13-6)

V_{12} = pc/h

V_3 or V_{av34} pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_{FO}		Exhibit 13-8		

Flow Entering Merge Influence Area

	Actual	Max Desirable		Violation?
V_{R12}		Exhibit 13-8		

Level of Service Determination (if not F)

$D_R = 5.475 + 0.00734\, v_R + 0.0078\, V_{12} - 0.00627\, L_A$

D_R = (pc/mi/ln)

LOS = (Exhibit 13-2)

Speed Determination

M_S = (Exibit 13-11)

S_R = mph (Exhibit 13-11)

S_0 = mph (Exhibit 13-11)

S = mph (Exhibit 13-13)

Diverge Areas

Estimation of v_{12}

$V_{12} = V_R + (V_F - V_R)P_{FD}$

L_{EQ} = (Equation 13-12 or 13-13)

P_{FD} = 1.000 using Equation (Exhibit 13-7)

V_{12} = 3211 pc/h

V_3 or V_{av34} 0 pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_F	3211	Exhibit 13-8	4500	No
$V_{FO} = V_F - V_R$	2165	Exhibit 13-8	4500	No
V_R	1046	Exhibit 13-10	2000	No

Flow Entering Diverge Influence Area

	Actual	Max Desirable		Violation?
V_{12}	3211	Exhibit 13-8	4400:All	No

Level of Service Determination (if not F)

$D_R = 4.252 + 0.0086\, V_{12} - 0.009\, L_D$

D_R = 25.6 (pc/mi/ln)

LOS = C (Exhibit 13-2)

Speed Determination

D_s = 0.522 (Exhibit 13-12)

S_R = 48.2 mph (Exhibit 13-12)

S_0 = N/A mph (Exhibit 13-12)

S = 48.2 mph (Exhibit 13-13)

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RAMPS AND RAMP JUNCTIONS WORKSHEET

General Information / Site Information

Analyst	Hardik Shah	Freeway/Dir of Travel	SR 265/WB
Agency or Company	American Structurepoint, Inc.	Junction	Port Road
Date Performed	5/18/2012	Jurisdiction	INDOT
Analysis Time Period	PM Peak	Analysis Year	2030

Project Description: SR 265 & Port Road Interchange - Ohio River Bridges

Inputs

Upstream Adj Ramp			Downstream Adj Ramp
☐ Yes ☐ On	Number of Lanes, N	2	☐ Yes ☐ On
☐ No ☐ Off	Acceleration Lane Length, L_A		☐ No ☐ Off
L_{up} = ft	Deceleration Lane Length L_D	700	L_{down} = 1900 ft
V_u = veh/h	Freeway Volume, V_F	1600	V_D = 325 veh/h
	Ramp Volume, V_R	500	
	Freeway Free-Flow Speed, S_{FF}	55.0	
	Ramp Free-Flow Speed, S_{FR}	35.0	

Conversion to pc/h Under Base Conditions

(pc/h)	V (Veh/hr)	PHF	Terrain	%Truck	%Rv	f_{HV}	f_p	$v = V/PHF \times f_{HV} \times f_p$
Freeway	1600	0.92	Level	11	0	0.948	1.00	1835
Ramp	500	0.92	Level	8	0	0.962	1.00	565
UpStream								
DownStream	325	0.92	Level	25	0	0.889	1.00	397

Merge Areas

Estimation of v_{12}

$V_{12} = V_F (P_{FM})$

L_{EQ} = (Equation 13-6 or 13-7)

P_{FM} = using Equation (Exhibit 13-6)

V_{12} = pc/h

V_3 or V_{av34} pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_{FO}		Exhibit 13-8		

Flow Entering Merge Influence Area

	Actual	Max Desirable		Violation?
V_{R12}		Exhibit 13-8		

Level of Service Determination (if not F)

$D_R = 5.475 + 0.00734\, v_R + 0.0078\, V_{12} - 0.00627\, L_A$

D_R = (pc/mi/ln)

LOS = (Exhibit 13-2)

Speed Determination

M_S = (Exibit 13-11)

S_R = mph (Exhibit 13-11)

S_0 = mph (Exhibit 13-11)

S = mph (Exhibit 13-13)

Diverge Areas

Estimation of v_{12}

$V_{12} = V_R + (V_F - V_R)P_{FD}$

L_{EQ} = (Equation 13-12 or 13-13)

P_{FD} = 1.000 using Equation (Exhibit 13-7)

V_{12} = 1835 pc/h

V_3 or V_{av34} 0 pc/h (Equation 13-14 or 13-17)

Is V_3 or V_{av34} > 2,700 pc/h? ☐ Yes ☐ No

Is V_3 or V_{av34} > 1.5 * V_{12}/2 ☐ Yes ☐ No

If Yes, V_{12a} = pc/h (Equation 13-16, 13-18, or 13-19)

Capacity Checks

	Actual	Capacity		LOS F?
V_F	1835	Exhibit 13-8	4500	No
$V_{FO} = V_F - V_R$	1270	Exhibit 13-8	4500	No
V_R	565	Exhibit 13-10	2000	No

Flow Entering Diverge Influence Area

	Actual	Max Desirable		Violation?
V_{12}	1835	Exhibit 13-8	4400:All	No

Level of Service Determination (if not F)

$D_R = 4.252 + 0.0086\, V_{12} - 0.009\, L_D$

D_R = 13.7 (pc/mi/ln)

LOS = B (Exhibit 13-2)

Speed Determination

D_s = 0.479 (Exhibit 13-12)

S_R = 48.8 mph (Exhibit 13-12)

S_0 = N/A mph (Exhibit 13-12)

S = 48.8 mph (Exhibit 13-13)

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Indiana Finance Authority

Indiana Finance Authority
One North Capitol, Suite 900
Indianapolis, IN 46204

August 16, 2012

Sidney Florey, Project Executive
WVB East End Partners
1260 East Summit Street
Crown Point, Indiana 46307

RE: East End Crossing RFP, ATCs WVB #1, #2, #4 and #8

Dear Mr. Florey:

The Indiana Finance Authority ("IFA") has reviewed Alternative Technical Concepts ("ATC") nos. WVB #1, #2, #4, and #8 submitted by WVB East End Partners on August 2 and 3, 2012 in response to the Request for Proposals for the East End Crossing issued by the IFA on July 31, 2012 (as amended, the "RFP").

IFA's responses to the referenced ATCs are included in Attachment 1.

IFA appreciates your continued interest in the East End Crossing project.

Sincerely,

Jacob Blasdel
IFA Project Manager

Attachment

ATTACHMENT 1

WVB East End Partners

August 16, 2012

1. ATC WVB # 1 – The ATC does not qualify as an ATC and may not be included in the Proposer's Proposal.

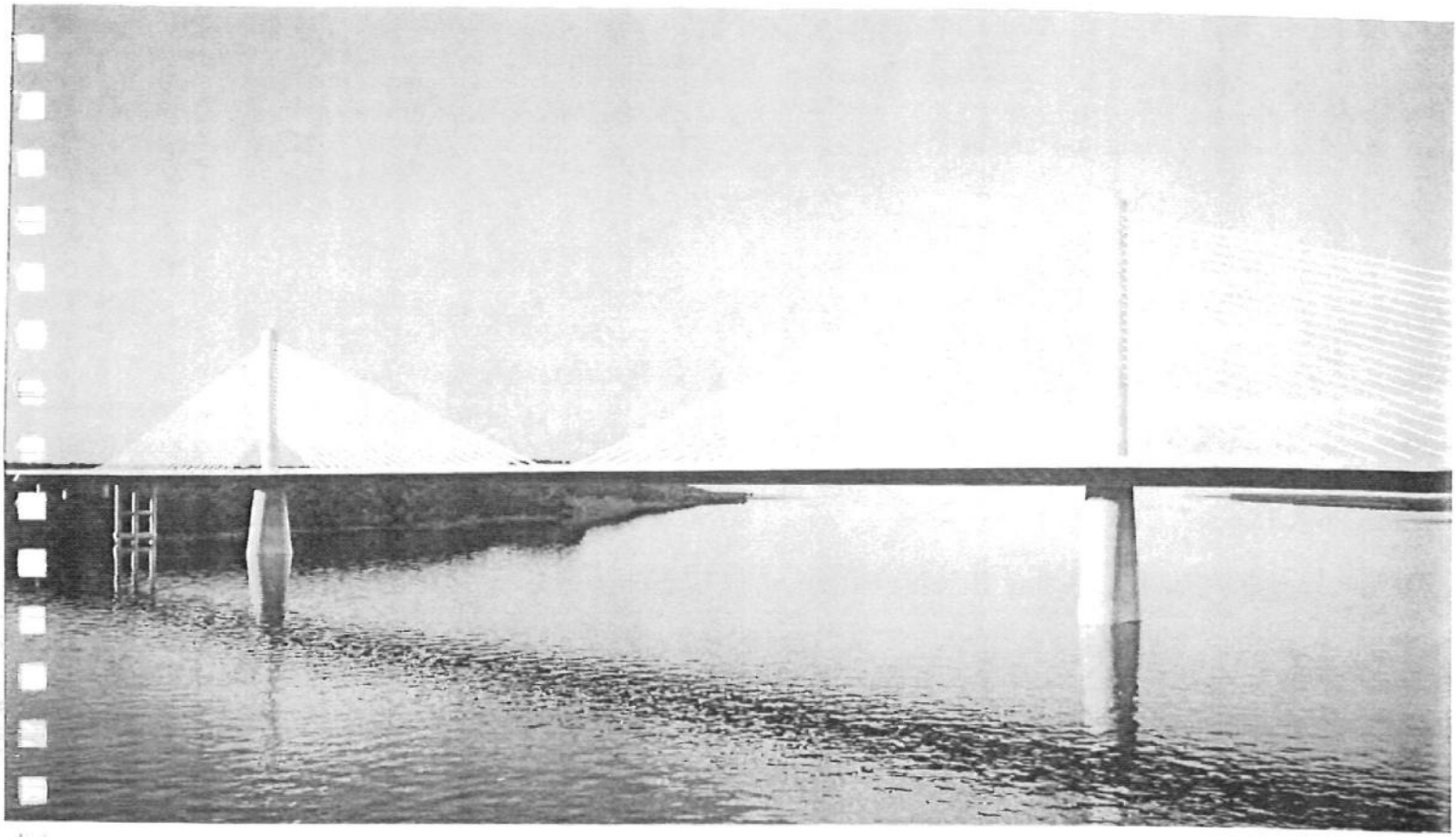
2. ATC WVB # 2 – The ATC does not qualify as an ATC and may not be included in the Proposer's Proposal.

3. ATC WVB # 4 – The ATC is acceptable for inclusion in the Proposal with the following conditions:

    - Developer shall be responsible and bear the schedule and monetary risk of any modifications to any Environmental Approvals required for or arising out of this ATC.
    - Developer shall be responsible and bear the schedule and monetary risk of any new or modified Governmental Approvals required for or arising out of this ATC.
    - Developer shall be responsible for all offsite roadway improvements as required by the local jurisdictions.
    - Developer shall be responsible for all public outreach and coordination with neighborhood associations and other public entities.
    - Any termination or cul-de-sac required for Brookhollow Way shall be accomplished outside of the Project ROW.

4. ATC WVB # 8 – The ATC is not acceptable for inclusion in the Proposal.

Please note that previously requested clarifications for ATC WVB #1 and ATC WVB #2 are no longer required because of the above responses. If the Proposer wishes additional clarifications regarding ATC WVB #4, the Proposer may provide a written request for clarification under Section 2.3.1 of the ITP.



CONFIDENTIAL

Ohio River Bridges Project

The East End Crossing
Confidential ATCs

ATC - No. 4

Submitted to:
Indiana Finance Authority
One North Capitol Avenue, Suite 900
Indianapolis, Indiana 46204
Attention: Sarah Rubin
Telephone: 317.234.7701
Fax: 317.232.6786
Email Address: rfq@ifa.in.gov

Submitted by:
WVB East End Partners

WVB East End Partners
1260 East Summit Street
Crown Point, Indiana 46307
Phone : 315.207.3905

WVB East End Partners (WVB) submits the following ATC to IFA for review and approval per the requirements of the East End Crossing ITP.

PART 1: OVERALL DESCRIPTION OF THE ATC

(a) Sequential ATC number identifying the Proposer and the ATC number

WVB East End Partners

ATC # 4 Section 6 Brookhollow Way Alternate Route

(b) Description and conceptual drawings of the configuration of the ATC, including necessary design exceptions and a traffic operational analysis, if applicable.

Conceptual Drawing on Page 2

The preliminary design proposed in the RFP requires Brookhollow Way to be realigned to fit between the proposed piers under the new SR 265 Bridge over Lentzier Creek. The realignment starts just west of Boulder Court, and then Brookhollow Way is to be relocated to tie into Brookview Drive. The existing Brookhollow Way pavement, along with the existing 3 barrel concrete box culvert, is to be removed within the limits of the realignment. A new bridge on Brookhollow Way is to be built over Lentzier Creek but under SR 265.

WVB East End Partners (WVB) proposes that an alternative access road be provided to the Boulder Creek Subdivision in order to eliminate the need for construction of a re-aligned Brookhollow Way and eliminate the need for construction of a new bridge on Brookhollow Way over Lentzier Creek under SR 265. This alternative access would be provided by coordinating with the Crystal Springs Subdivision developer to construct a new roadway connecting Boulder Ridge Drive to Patrol Road as depicted on the attached conceptual drawing. The proposed roadway would be located in such a way to minimize the environmental impacts to the existing wooded areas in its vicinity, will utilize most of the footprint of the recently platted right-of-way within the subdivision, and avoid the existing utility lift station. The new roadway would be designed to the same roadway design criteria as that required for Brookhollow Way and as coordinated with the current subdivision developer and River Ridge Development. Brookhollow Way would be removed under SR 265 and terminated on each side of new SR 265 with a cul-de-sac on the south side and a horizontal curve connecting to the existing Coyote Court cul-de-sac on the north side. The new right-of-way and future maintenance responsibilities for this alternative access roadway would be transferred to the controlling local agency which we believe would be Jeffersonville. The tie-in to the existing and proposed plotted subdivision roads will be coordinated with the developer and, in the future, will allow for dual egress to both Patrol Road and New Chapel Road.

There are two main reasons that have further developed the need for this ATC; maintenance of traffic for Brookhollow Way and future widening of structure 11/12. With the proposed Brookhollow Way and existing Brookhollow Way crossing the existing creek at nearly the same

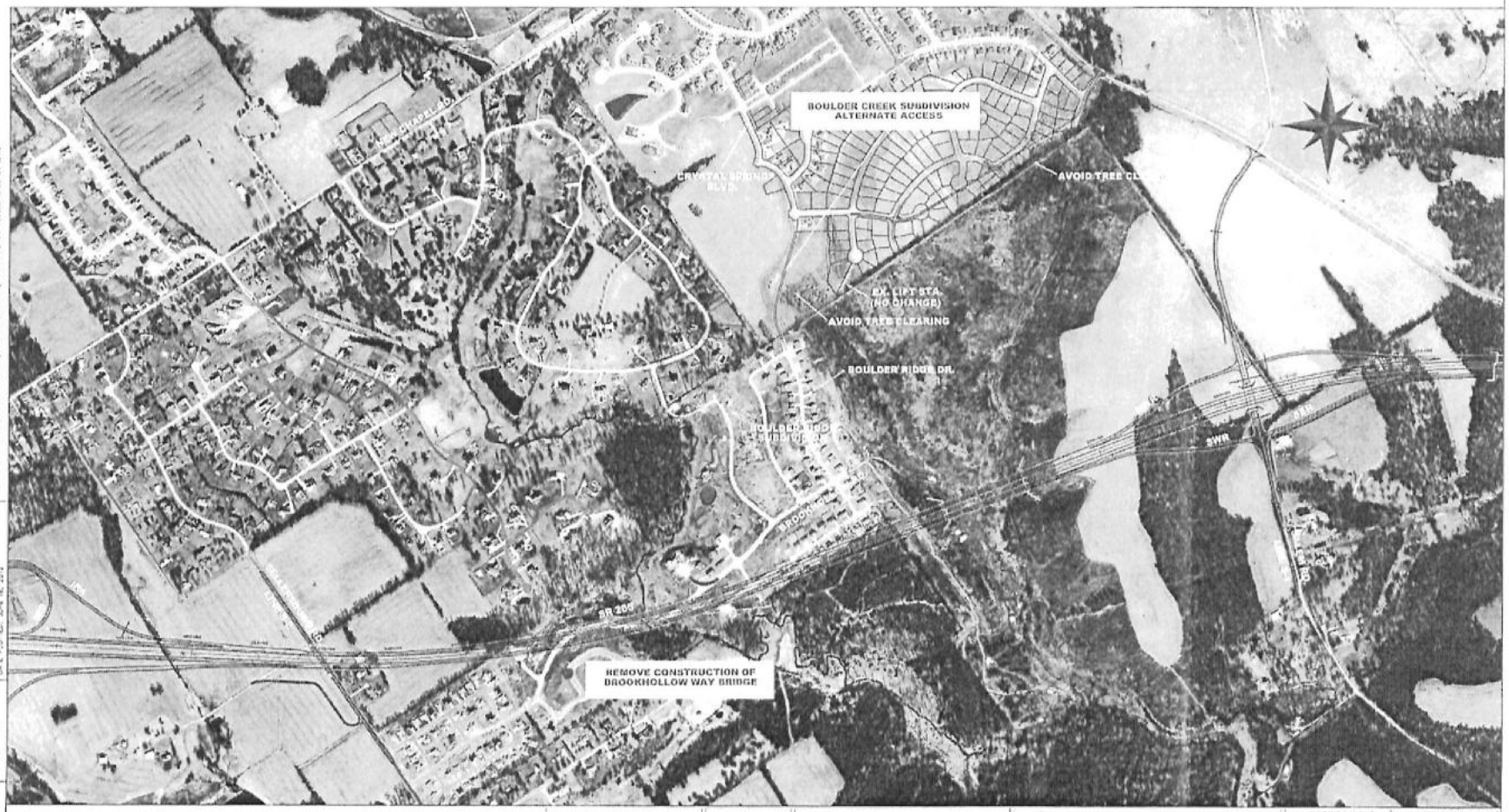
location and approximate 6 ft elevation difference, it will make it impossible to allow for uninterrupted traffic without immense temporary impacts to the existing floodplain and stream with a temporary bridge crossing that is off-line of the proposed and existing alignments. The RID layout of Brookhollow Way runs in-between the proposed piers of the mainline 265 structures 11 & 12. This layout does not allow for any space for a widened bridge pier for the mainline structure towards the median and would then require bridge widening to the outside which would further impact the existing floodplains, stream, wetlands and right-of-way.

(c) ATC locations and Explanation of how the ATC will be used on the East End Crossing

The location of the ATC is shown on the attached conceptual drawings and described above. The ATC will be used to remove construction of the Brookhollow Way Bridge over Lentzier Creek under SR 265 and the associated roadway realignment of Brookhollow Way. The exact location of the realigned Brookhollow Way will be coordinated with the subdivision developer and River Ridge Development to limit impacts to the environment, local community and utilities.

.

ATC #4
Section 6
Boulder Creek Subdivision Alternative Access



WVB East End Partners

Indiana Finance Authority

Ohio River Bridges – East End Crossing
ATC #4

PART 2: DISCUSSION OF CHANGES FROM THE ATC

SUMMARY OF CHANGES FROM ATC

(d) Roadway Operations	(e) Capital Maintenance	(f) Handback Requirements	(g) Life of Item	(h) Reduction in Completion Time
No	No	No	No	No

.

(d) Description of changes in roadway or operations requirements associated with the ATC, including ease of operations.

There would be no direct change in roadway operations associated with the ATC because Brookhollow Way is not included within the operations and maintenance limits of the project.

(e) Description of changes in routine or capital maintenance requirements associated with the ATC, including ease of maintenance.

There would be no change in routine or capital maintenance requirements associated with the ATC for Brookhollow Way as it is not included within the operations and maintenance limits of the project. However, with the removal of the Brookhollow Way Bridge, the 265 mainline bridges, 11 & 12, will be able to be designed and constructed for a more cost-effective bridge to limit bridge deck size and lower maintenance costs for the Developer and IFA after handback. Additionally, with removal of the local road underneath mainline 265, it will decrease the concerns of having motorists and pedestrians underneath the mainline bridge and increase the ease of maintenance for the mainline structure.

(f) Description of changes in Handback Requirements associated with the ATC

There would be no change in the handback requirements associated with the ATC because Brookhollow Way is not included within the operations and maintenance limits of the project.

(g) Description of changes in the anticipated life of the item(s) comprising or affected by the ATC.

There would be no change in the anticipated life of the items comprising or affected by the ATC because the new roadway would be designed to the same roadway design criteria as that required for Brookhollow Way in the RFP.

(h) Description of any reduction in the time period to reach Substantial Completion resulting from implementing the ATC, including, as appropriate, a description of method and commitments.

The ATC will allow for construction of the alternate Brookhollow Way connection prior to construction of mainline 265 which will allow for 100% uninterrupted access for Brookhollow Subdivision. This will remove the maintenance of traffic disruption to the local communities and residents and allow for faster completion of all bridge and roadway work near the Brookhollow subdivision. The overall time period to reach Substantial Completion will not be effected in any way and no additional time will be required due to this ATC.

PART 3: ATC ANALYSIS AND JUSTIFICATION

*(i) **References to requirements of the RFP which are inconsistent with the proposed ATC**, an explanation of the nature of the deviations from said requirements, and a request for approval of such deviations.*

Technical Provision (TP) 8.2.1 Table 8-3 Structure Table lists a Bridge at 4+68.21 – 8+67.66 "LS-5" as an anticipated waterway with a wet bridge crossing for Brookhollow Road over Lentzier Creek. WVB requests approval for elimination of this requirement of the RFP.

TP 9.2.2 item 8 states that the Developer shall not eliminate any traffic movements outlined in the Design Requirements (Section 9.3). WVB requests approval for elimination of the traffic movement on Brookhollow Way across the SR 265 right-of-way.

TP 9.3.2 item 4.b states that Brookhollow Way shall be realigned starting at Boulder Court and travel to the west on a new bridge over Lentzier Creek and under SR 265 before connecting with the north side of the Brookview Drive loop. The east side of the Brookview Drive loop shall be removed and the cul-de-sac on the east corner of Brookview Drive shall be reconstructed. Brookhollow Way shall remain operable to at least one lane of traffic throughout construction. WVB requests approval for elimination of all of those requirements of the RFP.

TP 9.3.2 Table 9-2 Project Limits for the Indiana Approach requires Bridge No. 13 – Brookhollow Way over Lentzier Des # TBD at Sta. 4+68.21 to Sta. 8+67.66 "LS-5" and requires Brookhollow Way from Sta. 0+50.00 to Sta. 15+19.31 "LS-5". WVB requests approval for elimination of these requirements of the RFP.

TP 9.3.4 Table 9-30 provides required roadway design data for Brookhollow Way (Line "LS-5"). WVB requests approval for elimination of this requirement of the RFP as it pertains to Brookhollow Way, and instead modify it as necessary to pertain to the new roadway proposed in the ATC.

TP 14.5.4 Bridge Structure No. 13 requires a bridge structure on Brookhollow Way to be constructed over Lentzier Creek at Station 6+66 Line "LS-5". WVB requests approval for elimination of this requirement of the RFP.

*(j) **Analysis justifying use of the ATC** and why the deviation, if any, from the requirements of the RFP should be allowed.*

As discussed previously, the deviation from the requirements of the RFP would be to allow WVB to eliminate Brookhollow Way. By visual inspection of an aerial map of the subject area, the combination of the existing roadway network and alternative access roadway will result in the ATC functioning as well as, or better than, the preliminary design shown in RFP. The subject area is bounded by New Chapel Road to the north, Utica-Sellersburg Road to the west and south, and Salem Road to the east. The traffic generated from the eastern part of the subdivision will have similar or better access to destination nodes within the region including much faster access to SR 265 and will help improve growth of River Ridge Development. Additionally, as noted below, the use of this ATC will now allow for future widening of the median on the mainline structures and will decrease widening costs and other impacts in the future. Lastly, the ATC will decrease the temporary and permanent impacts to the existing stream, floodplain and wetlands as well as decrease the construction and future impacts to the Brookhollow subdivision.

*(k) Preliminary analysis of **potential impacts on vehicular traffic** (both during and after construction), community impact, safety, and life-cycle East End Crossing and infrastructure costs, including impacts on the cost of repair, maintenance and operation.*

This ATC provides improved interstate and local roadway access. The alternative access roadway provides the residents of Boulder Creek Subdivision a more convenient and direct access to the new SR 265, via Patrol Road to the Salem Road interchange, than what is based on the preliminary design shown in the RFP. This alternative access roadway would also provide direct access to the new River Ridge Development area north of Patrol Road and help promote economic growth of the area.

This ATC provides improved safety and reduced impacts to the public during and after construction. The RFP requires that existing Brookhollow Way remain open to traffic during construction. Constructing an alternative access to Boulder Creek Subdivision prior to starting construction work on SR 265 will eliminate the need to maintain local traffic through a work zone. The result will greatly reduce the construction impact to motorists utilizing existing Brookhollow Way and improve safety for the traveling public and the construction workers. As a result of the alternative access, the time and frequency of local residents' exposure to traveling through a construction work zone will be lessened. This will improve the safety for the residents of the subdivision as well as other people traveling within the subdivision. Also, potential impacts to motorists within the subdivision in the future will be eliminated whenever INDOT adds the third travel lane on SR 265 and widens the SR 265 Bridges over Lentzier Creek. The RFP preliminary design would require this future widening to be performed directly over the proposed Brookhollow Way Bridge and cause further impacts to the public during this reconstruction work. Currently, the future widening might also require a complex pier element (straddlebent or post-tensioned cap) to be constructed in order to avoid future impacts to Brookhollow Way. The RFP preliminary design of the Brookhollow Way Bridge also requires a very steep grade on the bridge and a proposed low point on the bridge which are both a safety condition for a local roadway. The ATC would remove those safety concerns to the motoring

public traveling Brookhollow Way on the steep and potentially icy bridge during the winter months.

This ATC reduces impacts for maintenance and construction operations. As a result of the elimination of the realignment of Brookhollow Way under SR 265 and elimination of the associated bridge structure over Lentzier Creek, the SR 265 profile could be lowered to minimize the cost of the mainline bridges and approaching roadway embankment. The bridge removal and decrease in activities will allow for shorter construction duration within the subdivision area. Due to the removal of the Brookhollow Way Bridge, the overall maintenance of the local road would be reduced, and the maintenance concerns of the mainline SR 265 Bridge over Brookhollow Way would also be lessened due to the removal of the local roadway underneath. The overall decrease in construction and maintenance activities would lessen the construction traffic, material production, schedule and overall cost of the project and will greatly reduce impacts to the local residents and environment during construction and in the future. Additionally, the proposed development plans of the local community show a future connection between Boulder Creek Subdivision and Crystal Lake Subdivision with an additional tie-in to Patrol Road as shown with WVB's proposed alternate route. WVB will work with the subdivision developers and communities to build an alternate route that provides the best access for both the current and future residents of these subdivisions, and further propels the development of the area. WVB is committed to constructing the safest and most beneficial access route for Boulder Creek Subdivision that minimizes the total impacts to the residents now and in the future.

(l) Preliminary analysis of ***potential impacts on environmental permitting*** *(including comparison to the NEPA Approvals and an analysis of whether the Proposer believes an updated or supplemental EIS would or would not be required and why).*

The alternative access roadway is within areas previously investigated for the Environmental Impact Statement (EIS) including the Area of Potential Effect (APE) defined for Historical Resources. The work can then be accomplished by creating an Additional Information (AI) document to the EIS. The scope of work for the AI would include items consistent with preparation of a low level Categorical Exclusion (CE) document and would likely include additional wetland and waterway investigation, archaeology investigation, red flag investigation, and permit review. The AI can be completed in a significantly shorter period of time than a separate NEPA document (approximately two to three months for preparation). The alternative access roadway does not introduce any new impacts to streams, wetlands, or forested areas as evidenced by review of topographic maps, aerial photographs, and National Wetland Inventory Maps. It is located in a residential development area that was previously used for agricultural purposes, therefore we anticipate no major impacts to sensitive environmental resources. The 2.1 acres of additional right-of-way compared to the overall right-of-way impacted by the project is minimal and will not affect the AI. Due to the low likelihood of environmental impacts, we anticipate minimal agency review and approval time for the AI document.

Due to the elimination of the Brookhollow Way Bridge (three piers within the floodway), there will be less of an impact on Lentzier Creek and a reduction in overall impact to the local floodplain, wetlands, and stream. The work area will move from the environmentally sensitive

wetland/stream complex to an upland area. Additionally, with the removal of the Brookhollow Way Bridge, the mainline SR 265 Bridge over Lentzier Creek could also be altered to further reduce impacts to the local environment and community. The ATC will also improve the ability of wildlife to cross this area by eliminating the bridge and vehicular traffic over the crossing. The reduction in roadway construction near the stream will reduce sediment and erosion control impacts during construction and reduce the potential for roadway pollutants to enter the stream in the post construction condition. Modifications to the IFA provided permits, including the Indiana Department of Natural Resources Construction in a Floodway Permit, Indiana Department of Environmental Management Section 401 Water Quality Certification, and US Army Corps Section 404 permit, would be required. However, since the modification would include a reduction in impacts, no substantive delays in obtaining these government approvals is anticipated.

Lastly, the ATC will also remove the temporary construction impacts from the temporary access route and temporary stream crossing that would be required to allow for constant access of Brookhollow Way. The ATC removes not only permanent impacts to the environment but also temporary impacts due to the temporary crossing and construction of the permanent bridge in the floodplain.

(m) Additional right-of-way required to implement the ATC.

WVB East End Partners will coordinate with the Crystal Springs Subdivision developer to limit the amount of right-of-way, if any, that would be required to be purchased. It is believed that no additional right-of-way would actually be required as the roadway will be constructed within existing plotted roadways and coordinate with the Subdivision Developer. However, if the Developer does not approve of the plotted roadway, the ATC would require approximately 2.1 acres of additional right-of-way.

(n) ***Description of other projects where the ATC has been used****, the degree of success or failure of such usage and names and contact information including phone numbers and e-mail addresses for project owner representatives that can confirm such statements.*

Not applicable.

(o) Description of added risks to IFA, the Department or third parties associated with implementing the ATC.

There are no added risks to the IFA, the Department or third parties with this ATC. The Brookhollow & Crystal Springs subdivisions are already planned to be connected by current plotted roads to be constructed in the future. WVB East End Partners is requesting to construct this connection now with utilizing the already plotted roadways to achieve unrestricted access to Brookhollow Subdivision and provide a better means of egress to SR 265 and the area as a whole while limiting the current risks of environmental impacts.

(p) Estimate of any additional IFA, the Department, Developer and third party ***costs associated with implementation*** *of the ATC;.*

None

(q) Estimate of any ***savings and additional toll or other revenue*** *that would accrue to IFA and the Department should the ATC be approved and implemented.*

As a result of the elimination of the realignment of Brookhollow Way under SR 265 and elimination of the associated bridge structure over Lentzier Creek, the SR 265 profile could be lowered to minimize the cost of the mainline bridges and approaching roadway embankment. The proposed alternative access to the Boulder Creek Subdivision will allow us to deliver the project at a lower cost to IFA due to reductions in construction and maintenance. Additionally, future bridge maintenance costs will be eliminated for both the Developer and ultimately IFA.

(r) Analysis of how the ATC is equal or better in quality and performance than the requirements of the RFP.

As mentioned previously, by eliminating Brookhollow Way, the ATC will be equal or better in quality than the RFP requirements. In regards to the materials, the quality and performance will also meet the requirements of the RFP. The environmental footprint at the crossing will be reduced with less work in the sensitive area and will entirely remove the need for temporary impacts to the stream and floodplain limits. The traffic pattern for the neighborhoods will improve and construction impacts to the communities will be lessened. An added value in performance is by eliminating safety considerations for vehicles traveling through the construction zone and in permanent configuration of Brookhollow Way not driving up and down a steep roadway that is currently shown to have a low point on the bridge span underneath the mainline bridge structure.

(s) Preliminary analysis of ***potential impacts on the MAP****.*

In conjunction with a reduction in the construction and maintenance costs, WVB's ATC #4 will significantly decrease project impacts to the surrounding local community and environment. Based on the revised RFP dated June 22nd, 2012, the reduction to the MAP is estimated to be a minimum $70,000 discount. This MAP deduction equates to a Net Present Value reduction of **over $2.5 Million savings** to IFA in addition to the aforementioned safety, environment and community benefits.

Indiana Finance Authority

Indiana Finance Authority
One North Capitol, Suite 900
Indianapolis, IN 46204

August 30, 2012

Sidney Florey, Project Executive
WVB East End Partners
1260 East Summit Street
Crown Point, Indiana 46307

RE: East End Crossing RFP, ATC WVB #5

Dear Mr. Florey:

The Indiana Finance Authority ("IFA") has reviewed Alternative Technical Concept ("ATC") no. WVB #5 submitted on August 2, 2012 by WVB East End Partners in response to the Request for Proposals for the East End Crossing issued by the IFA on July 31, 2012 (as amended, the "RFP").

IFA's response to the referenced ATC is included in Attachment 1.

IFA appreciates your continued interest in the East End Crossing.

Sincerely,

Silvia Perez
IFA Project Manager

Attachment

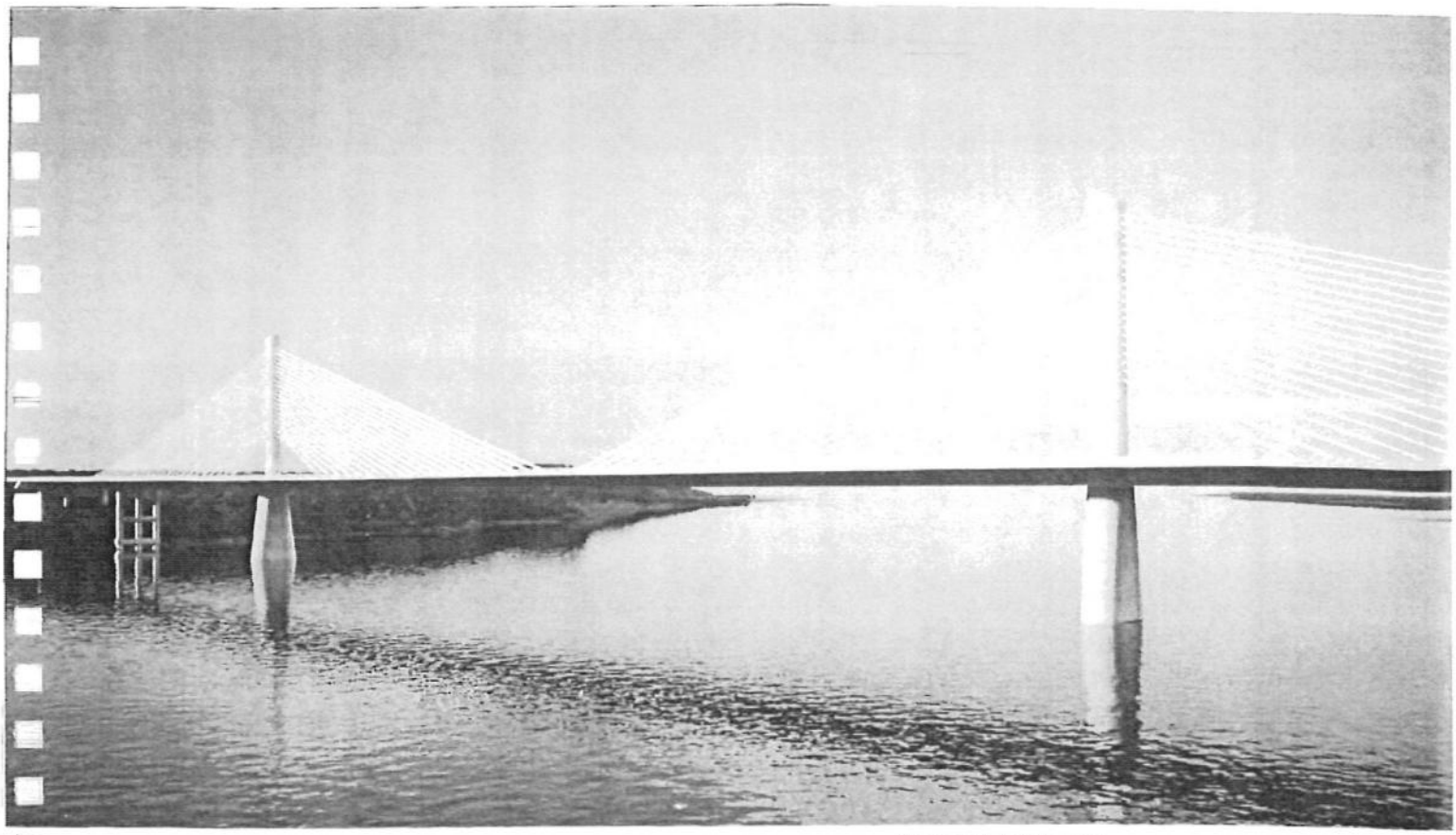
ATTACHMENT 1

WVB East End Partners

August 30, 2012

1. ATC WVB #5 – The ATC is acceptable for inclusion in the Proposal with the following conditions:
    - The Proposer shall demonstrate as part of Design Review and throughout the development of Design Documents that the global pillar stability has a minimum factor of safety of 1.4 for initial support of pillar and a minimum factor of safety of 2.0 for final support of pillar.
    - The Proposer shall be responsible and bear the schedule and monetary risk of any modifications to any Environmental Approvals required for or arising out of this ATC.
    - The Proposer shall be responsible and bear the schedule and monetary risk of any new or modified Governmental Approvals required for or arising out of this ATC.

If the Proposer wishes additional clarifications regarding an ATC submittal, the Proposer may provide a written request for clarification under Section 2.3.1 of the ITP.



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Ohio River Bridges Project

The East End Crossing
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ATC - No. 5

Submitted to:
Indiana Finance Authority
One North Capitol Avenue, Suite 900
Indianapolis, Indiana 46204
Attention: Sarah Rubin
Telephone: 317.234.7701
Fax: 317.232.6786
Email Address: rfq@ifa.in.gov

Submitted by:
WVB East End Partners

WVB East End Partners
1260 East Summit Street
Crown Point, Indiana 46307
Phone : 315.207.3905

WVB East End Partners (WVB) submits the following ATC to IFA for review and approval per the requirements of the East End Crossing ITP.

PART 1: OVERALL DESCRIPTION OF THE ATC

(a) Sequential ATC number identifying the Proposer and the ATC number

WVB East End Partners

ATC No. 5 Tunnel Shortening

(b) Description and conceptual drawings of the configuration of the ATC, including necessary design exceptions and a traffic operational analysis, if applicable.

Conceptual Drawing on Page 2

Exhibit ATC 5-A

As per the attached exhibit, WVB proposes the following

1. Shift the south tunnel portals from Sta. 106+00.00 to 108+20.00. This shortens the south end of the tunnels by 220 feet.
2. Shift the north tunnel portals from Sta. 125+50.00 to 125+00.00. This shortens the north end of the tunnels by 50 feet.
3. Change the pillar width at the south portal from 40-foot to 35-foot and have the pillar width widen to 40-foot within the tunnel limits.

(c) ATC locations and Explanation of how the ATC will be used on the East End Crossing

As described above within item (b), the ATC locations are at the south and north tunnel portals. The ATC will be used to shorten the tunnels. Additionally, the 35-foot pillar will improve constructability adjacent to tight right-of-way east of the northbound south tunnel portal.

East End Partners

Ohio River Bridges - East End Crossing

SECTION 4 EXHIBIT ATC 5-A

PART 2: DISCUSSION OF CHANGES FROM THE ATC

SUMMARY OF CHANGES FROM ATC

(d) Roadway Operations	(e) Capital Maintenance	(f) Handback Requirements	(g) Life of Item	(h) Reduction in Completion Time
No	Yes	No	No	Yes

(d) Description of changes in roadway or operations requirements associated with the ATC, including ease of operations.

No changes in roadway operations will result from the ATC. The shortened tunnel will improve emergency response operations by requiring escaping motorists and emergency responders to traverse less distance in emergency situations.

(e) Description of changes in routine or capital maintenance requirements associated with the ATC, including ease of maintenance.

Shortening the tunnel by 270 feet will decrease the number and length of high cost items including Fire Life Safety systems, ventilation, lighting, and tunnel drainage, thus decreasing the maintenance cost to KYTC for the entire life of the tunnel structure.

(f) Description of changes in Handback Requirements associated with the ATC

Not applicable

(g) Description of changes in the anticipated life of the item(s) comprising or affected by the ATC.

No changes in anticipated life of the tunnels or tunnel approaches will result from the ATC.

(h) Description of any reduction in the time period to reach Substantial Completion resulting from implementing the ATC, including, as appropriate, a description of method and commitments.

The tunnels are on the project critical path. Shortening the tunnels will reduce the time required to achieve substantial completion of the project and will allow for toll collection to begin earlier.

PART 3: ATC ANALYSIS AND JUSTIFICATION

*(i) **References to requirements of the RFP which are inconsistent with the proposed ATC**, an explanation of the nature of the deviations from said requirements, and a request for approval of such deviations.*

1. Tunnel shortening: Book 2, 9.3.1, #5 reads *"KY 841 shall be built through a Tunnel that features a 40-foot constant pillar width between northbound and southbound roadways from Sta. 106+00.00 to Sta. 125+50.00."* As described above within item (b), we are proposing to shorten the tunnel shifting the south portal from Sta. 106+00.00 to Sta. 108+20.00 and the north portal from Sta. 125+50.00 to 125+00.00.
2. Pillar width: Book 2, 9.3.1, #5 reads *"KY 841 shall be built through a Tunnel that features a 40-foot constant pillar width between northbound and southbound roadways from Sta. 106+00.00 to Sta. 125+50.00."* As described above within item (b), we are proposing to change the pillar width at the south portal from 40-foot to 35-foot.

*(j) **Analysis justifying use of the ATC** and why the deviation, if any, from the requirements of the RFP should be allowed.*

Shortening the tunnels does not result in any negative impacts to traffic operations either during or after construction. By shortening the tunnel, motorist and emergency responder safety is improved and project cost and schedule are reduced as noted above. The results from this ATC will provide IFA/KYTC benefits during construction and throughout the life of the tunnel structure.

*(k) Preliminary analysis of **potential impacts on vehicular traffic** (both during and after construction), community impact, safety, and life-cycle East End Crossing and infrastructure costs, including impacts on the cost of repair, maintenance and operation.*

The aforementioned revisions will not impact vehicular traffic either during or after construction.

As described above within item (e) "Shortening the tunnel by 270 feet will decrease the number and length of high cost items, thus decreasing the maintenance cost to KYTC".

*(l) Preliminary analysis of **potential impacts on environmental permitting** (including comparison to the NEPA Approvals and an analysis of whether the Proposer believes an updated or supplemental EIS would or would not be required and why).*

No impacts to environmental permitting will result from the ATC.

(m) Additional right-of-way required to implement the ATC.

No additional right-of-way will be required to implement the ATC.

*(n) **Description of other projects where the ATC has been used**, the degree of success or failure of such usage and names and contact information including phone numbers and e-mail addresses for project owner representatives that can confirm such statements.*

Not applicable.

(o) Description of added risks to IFA, the Department or third parties associated with implementing the ATC.

No added risks to the IFA, the Department, or third parties will result from implementing the ATC and, as noted above, a shortened tunnel will further reduce risks of accidents occurring within the tunnel limits.

*(p) Estimate of any additional IFA, the Department, Developer and third party **costs associated with implementation** of the ATC;.*

No additional costs to the IFA, the Department, Developer, or third parties will result from implementing the ATC.

*(q) Estimate of any **savings and additional toll or other revenue** that would accrue to IFA and the Department should the ATC be approved and implemented.*

In additional to the significant construction costs savings, IFA/KYTC will realize substantial long-term O&M costs savings due to reduction in the quantity of high cost specialty items by nearly 15% with the shortened tunnel. Additionally, due to the shortened tunnel length, WVB East End Partners will be able to complete the tunnel construction faster and allow for an earlier opening of traffic and toll collection.

(r) Analysis of how the ATC is equal or better in quality and performance than the requirements of the RFP.

As the ATC simply shortens the tunnel and changes the south portal pillar width, it does not result in any changes to material quality or performance verses the requirements of the RFP. With that said, the shortened tunnel does provide enhanced performance in the most critical emergency scenarios. The shortened tunnel will require escaping motorists and emergency responders to traverse less distance in emergency situations.

*(s) Preliminary analysis of **potential impacts on the MAP**.*

WVB's ATC #5 will provide a substantial reduction in construction costs of the Drumanard Tunnel. Based on the revised RFP dated June 22nd, 2012, the reduction to the MAP is estimated to be a minimum $1,100,000 discount. This MAP deduction equates to a Net Present Value reduction of **nearly $21 Million savings** to IFA. This MAP reduction is in addition to the

significant maintenance savings that IFA / KYTC will realize throughout the lifetime of the tunnel.

The combined savings that can be realized to IFA with the approval of WVB's ATC # 5 and ATC # 7 is a Net Present Value of over **$27 Million.**

Indiana Finance Authority
One North Capitol, Suite 900
Indianapolis, IN 46204

August 22, 2012

Sidney Florey, Project Executive
WVB East End Partners
1260 East Summit Street
Crown Point, Indiana 46307

RE: East End Crossing RFP, ATCs WVB #6, 9, 11, 12 and 13

Dear Mr. Florey:

The Indiana Finance Authority ("IFA") has reviewed the Alternative Technical Concepts ("ATC") nos. WVB #6, 9, 11, 12 and 13 submitted on August 2 and 17, 2012 by WVB East End Partners in response to the Request for Proposals for the East End Crossing issued by the IFA on July 31, 2012 (as amended, the "RFP").

IFA's responses to the referenced ATCs are included in Attachment 1.

IFA appreciates your continued interest in the East End Crossing.

Sincerely,

Jacob Blasdel
IFA Project Manager

Attachment

ATTACHMENT 1

WVB East End Partners

August 22, 2012

1. ATC WVB #6 – The ATC is acceptable for inclusion in the Proposal with the following conditions
    - The Proposer shall be responsible for performing all necessary noise studies and providing any additional mitigation measures required to avoid creating additional noise impacts greater than those created by the Reference Design.
    - The Proposer shall demonstrate that their proposed design will provide an overall intersection level of service of C or better in the 2030 Design Year, and that all movements within the intersection will perform at level of service of D or better in the 2030 Design Year.
    - The Proposer shall demonstrate that queues at the proposed KY841/US42 intersection will not block the adjacent Bridgepointe Blvd. intersection.
    - The Proposer shall be responsible and bear the schedule and monetary risk of any modifications to any Environmental Approvals required for or arising out of this ATC.
    - The Proposer shall be responsible and bear the schedule and monetary risk of any new or modified Governmental Approvals required for or arising out of this ATC.

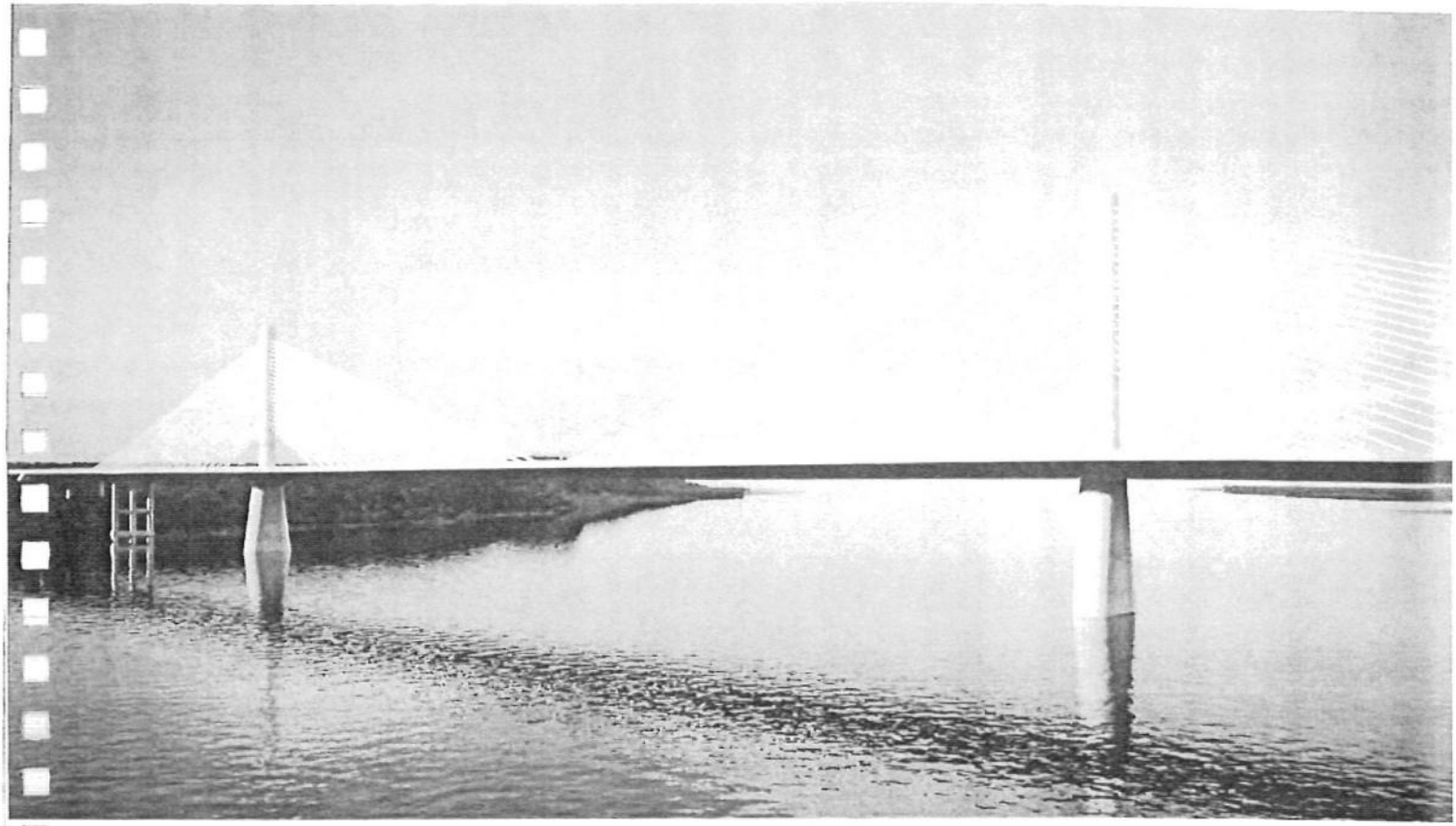
2. ATC WVB #9 – The ATC is acceptable for inclusion in the Proposal with the following conditions
    - Weathering steel shall be coated at piers and abutments in accordance with the Indiana Design Manual Section 407.
    - The Proposer shall be responsible and bear the schedule and monetary risk of any modifications to any Environmental Approvals required for or arising out of this ATC.
    - The Proposer shall be responsible and bear the schedule and monetary risk of any new or modified Governmental Approvals required for or arising out of this ATC.

3. ATC WVB #11 – The ATC is not acceptable for inclusion in the Proposal.

4. ATC WVB #12 – The ATC appears to be within the requirements of the RFP and does not qualify as an ATC (provided, however, that should it turn out that the concept as incorporated into the Proposal is not within the requirements of the RFP, IFA reserves the right to require compliance with the requirements of the RFP and PPA Documents (without regard to the submittal), in which event the Proposer will not be entitled to modify its Proposal or obtain a Change Order for additional compensation or a time extension under the Agreement). Please see Addendum #1 TP Section 19.

5. ATC WVB #13 - The ATC appears to be within the requirements of the RFP and does not qualify as an ATC (provided, however, that should it turn out that the concept as incorporated into the Proposal is not within the requirements of the RFP, IFA reserves the right to require compliance with the requirements of the RFP and PPA Documents (without regard to the submittal), in which event the Proposer will not be entitled to modify its Proposal or obtain a Change Order for additional compensation or a time extension under the Agreement). Please see Addendum #1 TP Section 19.

If the Proposer wishes additional clarifications regarding an ATC submittal, the Proposer may provide a written request for clarification under Section 2.3.1 of the ITP.



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Ohio River Bridges Project

The East End Crossing
Confidential ATCs

ATC - No. 6

Submitted to:
Indiana Finance Authority
One North Capitol Avenue, Suite 900
Indianapolis, Indiana 46204
Attention: Sarah Rubin
Telephone: 317.234.7701
Fax: 317.232.6786
Email Address: rfq@ifa.in.gov

Submitted by:
WVB East End Partners

WVB East End Partners
1260 East Summit Street
Crown Point, Indiana 46307
Phone : 315.207.3905

WVB East End Partners (WVB) submits the following ATC to IFA for review and approval per the requirements of the East End Crossing ITP.

PART 1: OVERALL DESCRIPTION OF THE ATC

(a) Sequential ATC number identifying the Proposer and the ATC number

WVB East End Partners

ATC No. 6 Ramp A Modification

(b) Description and conceptual drawings of the configuration of the ATC, including necessary design exceptions and a traffic operational analysis, if applicable.

Conceptual Drawing on Page 2

As per the attached exhibit, we propose to eliminate the 840-foot flyover Ramp A, as proposed in the RID, and realign Ramp B to create a single point interchange at US 42. The new Ramp A will be aligned near the northbound right-of-way and cross-over the northbound south tunnel portal before tying into U.S. 42 with a new single point interchange. There will be no or limited reconstruction on U.S. 42 with this ATC, and available traffic movements will be allowed throughout construction and in the final configuration.

(c) ATC locations and Explanation of how the ATC will be used on the East End Crossing

The ATC location is at the south approach to US 42. The ATC will be used on the East End Crossing to reconfigure the interchange at KY 841 and US 42, providing a single point interchange and eliminating a costly fly-over bridge.

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WVR East End Partners

Indiana Finance Authority

Ohio River Bridges - East End Crossing

SECTION 4 EXHIBIT ATC 6-A

PART 2: DISCUSSION OF CHANGES FROM THE ATC

SUMMARY OF CHANGES FROM ATC

(d) Roadway Operations	(e) Capital Maintenance	(f) Handback Requirements	(g) Life of Item	(h) Reduction in Completion Time
Yes	Yes	No	No	Yes

(d) Description of changes in roadway or operations requirements associated with the ATC, including ease of operations.

The single point intersection for the US 42 interchange was analyzed using Synchro to compare operations against the existing intersection as shown in the RFP. Using the 2030 turning movement volumes, the existing intersection will operate at a LOS D for both the AM and PM peak. With the single point intersection the LOS will be a C in the AM peak and a D in the PM peak. The single point intersection will provide all of the same lane configurations for the turning movements as the existing intersection, but with the addition of a second left turn lane from KY 841 to US 42. The single point intersection with the additional left turn lane will operate with less intersection delay and additional future capacity verses the existing intersection.

(e) Description of changes in routine or capital maintenance requirements associated with the ATC, including ease of maintenance.

Constructing a single point interchange will eliminate a flyover bridge from the DOT's maintenance program and reduce their overall costs.

(f) Description of changes in Handback Requirements associated with the ATC.

Not applicable

(g) Description of changes in the anticipated life of the item(s) comprising or affected by the ATC.

The ATC eliminates a long-span steel structure that has a shorter life-span than the proposed Ramp A alignment which will be built on rock and earthen subgrade and retaining walls as needed. Otherwise no changes in anticipated life of the affected items will result from the ATC.

(h) Description of any reduction in the time period to reach Substantial Completion resulting from implementing the ATC, including, as appropriate, a description of method and commitments.

Constructing the new ramps as proposed will simplify maintenance of traffic during construction, as ramps will be constructed independently to existing ramps. This will improve motorist safety during construction as public traffic will be separated from construction traffic. Additionally, the single point can be opened in its final configuration sooner than the configuration shown in the RFP as it does not require the mainline construction to reach final grade and the ensuing bridge to be constructed prior to opening. Lastly, with the adjusted ramp configuration, it will allow for construction of the tunnel to be completed in a more effective manner, allow for faster completion of the excavation of the tunnel south portal, and may provide for an earlier Substantial Completion.

PART 3: ATC ANALYSIS AND JUSTIFICATION

(i) References to requirements of the RFP which are inconsistent with the proposed ATC, an explanation of the nature of the deviations from said requirements, and a request for approval of such deviations.

Book 2, 9.3.2, #8 reads *"A partial interchange at KY 841/U.S. 42 shall be constructed to allow access from northbound KY 841 to U.S. 42 and from U.S. 42 to southbound KY 841. The existing signalized intersection at KY841/U.S. 42 is not to be reconstructed."* As described above within item (b), we are proposing to construct a single point interchange, which requires us to change US 42 traffic signal location and configuration.

(j) Analysis justifying use of the ATC and why the deviation, if any, from the requirements of the RFP should be allowed.

As described within items (d), (e), (h), and (k), revising the interchange configuration to a single point results in benefits to traffic operations, maintenance, constructability, project schedule, and driver expectation / motorist safety. This ATC allows for earlier completion, more efficient construction, increased value for money IFA and reduced maintenance costs for KYTC.

(k) Preliminary analysis of potential impacts on vehicular traffic (both during and after construction), community impact, safety, and life-cycle East End Crossing and infrastructure costs, including impacts on the cost of repair, maintenance and operation.

Constructing the new ramps as proposed will simplify maintenance of traffic during construction, as ramps will be constructed off-line relative to existing ramps. As a result, the single point interchange can be opened in its final configuration sooner than the configuration shown in the RFP as it does not require the mainline construction to reach final grade and the

ensuing bridge to be constructed prior to opening. These factors will lessen impacts to vehicular traffic during construction.

As described above within item (e) "Constructing a single point interchange will eliminate a flyover bridge from the DOT's maintenance program."

The configuration presented in the RFP documents consists of an on-ramp and off-ramp in very close proximity. This configuration can result in drivers who intend to enter southbound mainline, mistakenly going the wrong way into northbound lanes. Single point interchanges meet driver expectation very well, particularly in locations where the intersecting roadway is above mainline. Our proposed configuration provides safer operations both during construction and long-term. Operationally the single point configuration provides better controlled and free movements through increased capacity and improved signal timing.

(l) Preliminary analysis of potential impacts on environmental permitting (including comparison to the NEPA Approvals and an analysis of whether the Proposer believes an updated or supplemental EIS would or would not be required and why).

No impacts to environmental permitting will result from the ATC.

(m) Additional right-of-way required to implement the ATC.

No additional right-of-way will be required to implement the ATC.

(n) Description of other projects where the ATC has been used, the degree of success or failure of such usage and names and contact information including phone numbers and e-mail addresses for project owner representatives that can confirm such statements.

Not applicable.

(o) Description of added risks to IFA, the Department or third parties associated with implementing the ATC.

No added risks to the IFA, the Department, or third parties will result from implementing the ATC.

(p) Estimate of any additional IFA, the Department, Developer and third party costs associated with implementation of the ATC.

No additional costs to the IFA, the Department, Developer, or third parties will result from implementing the ATC.

(q) Estimate of any savings and additional toll or other revenue that would accrue to IFA and the Department should the ATC be approved and implemented.

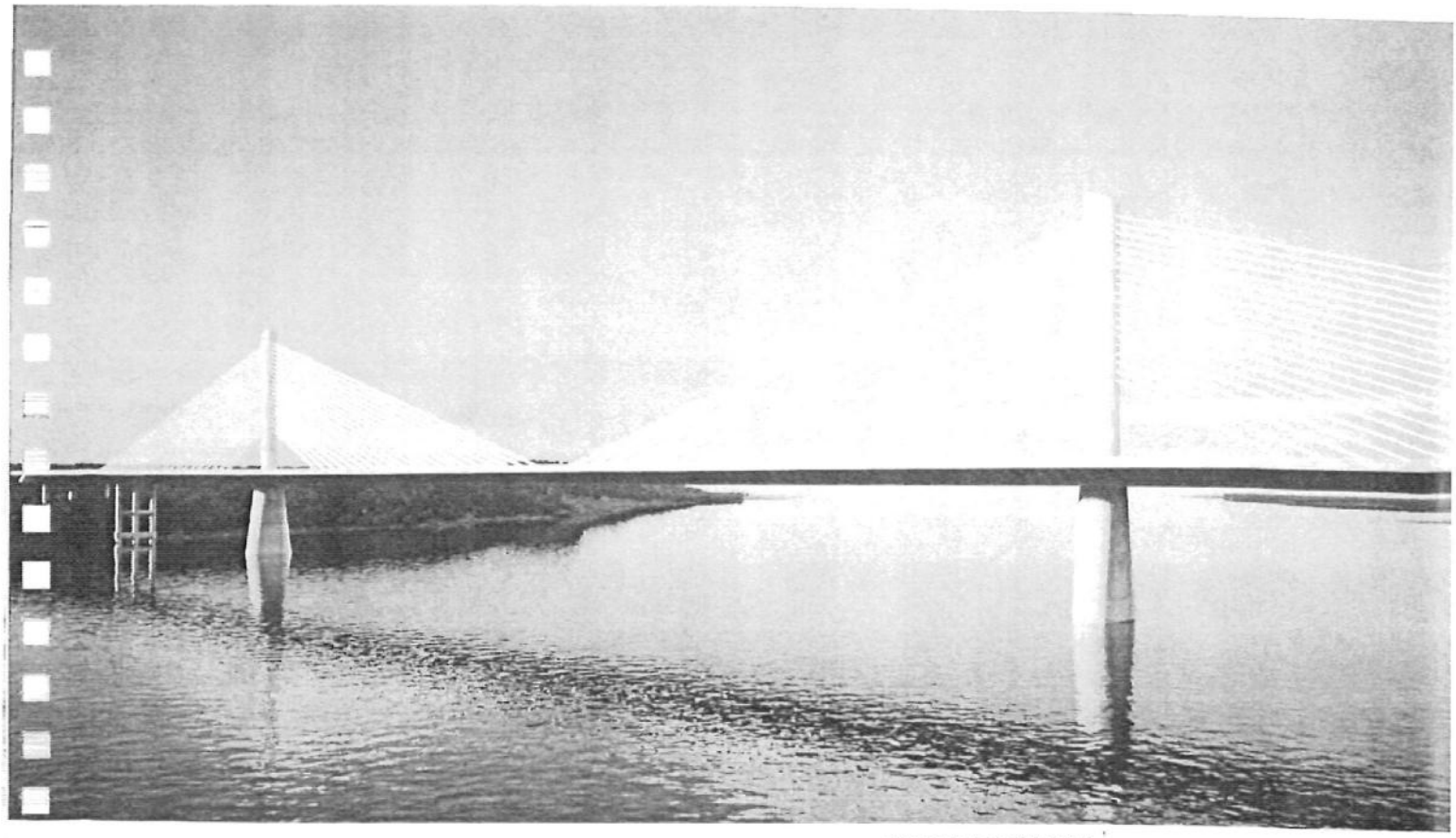
In addition to the reduce construction costs to IFA, the long-term maintenance costs to KYTC will also be reduced due to the removal of the 840-ft 3-span bridge structure.

(r) Analysis of how the ATC is equal or better in quality and performance than the requirements of the RFP.

See items (d) and (k) for details on operational, maintenance, and safety benefits to implementing the ATC verses the requirements of the RFP.

(s) Preliminary analysis of potential impacts on the MAP.

WVB's ATC #6 will provide a reduction in construction costs of the KY 841 / US 42 Interchange. Based on the revised RFP dated June 22nd, 2012, the reduction to the MAP is estimated to be a minimum $225,000 discount. This MAP reduction equates to a Net Present Value **savings to IFA of nearly $4.5 Million**.



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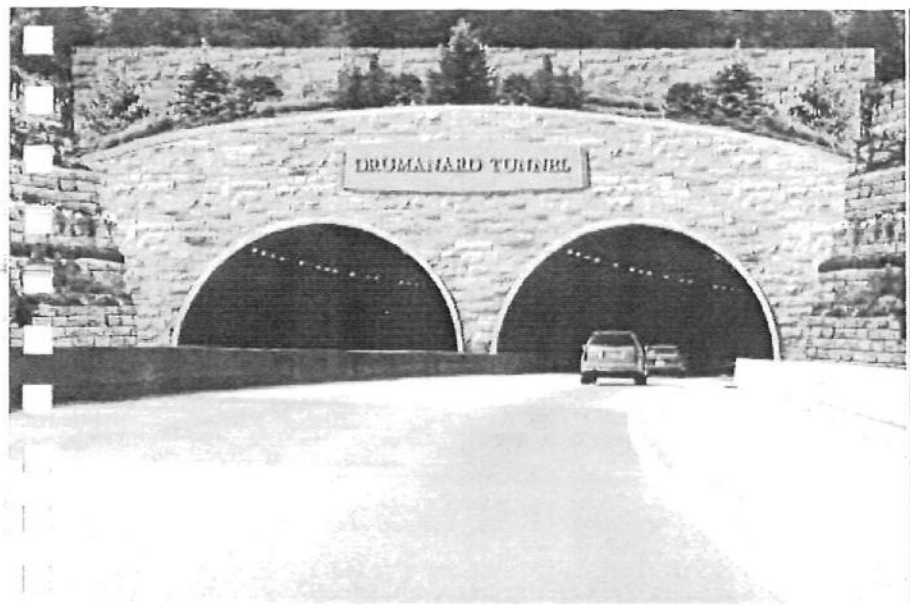


Ohio River Bridges Project

The East End Crossing
Confidential ATCs

ATC - No. 6
Additional Information

Submitted to:
Indiana Finance Authority
One North Capitol Avenue, Suite 900
Indianapolis, Indiana 46204
Attention: Jacob Blasdel
Telephone: 317.234.2113
Fax: 317.232.6786
Email Address: rfq@ifa.in.gov

Submitted by:
WVB East End Partners

WVB East End Partners
1260 East Summit Street
Crown Point, Indiana 46307
Phone : 315.207.3905

WVB East End Partners (WVB) is in receipt of IFA's letter dated August 10, 2012 and submits the requested additional information for ATC No. 6.

Below and attached is the requested traffic report and capacity analysis.

The intersection of US 42 and KY 841 was analyzed using the current version of Synchro to compare operations between the proposed single point intersection and the existing intersection as shown in the RFP. The 2030 turning movement volumes were used from the Louisville Southern Indiana Ohio River Bridge Traffic Forecast report for the analysis.

Table 1 shows the level of service and intersection delay from the Synchro analysis. The existing intersection will operate at a Level of Service (LOS) D for both the AM and PM peak. The single point intersection will operate at a LOS C in the AM peak and a LOS D in the PM peak. The single point intersection will reduce the signal delay in the AM peak by over 20 seconds and in the PM peak by over 9 seconds. The single point intersection will provided all of the same turning movements and lane configurations as the existing intersection, but with the additional of a second left turn lane from northbound KY 841 to westbound US 42. The single point intersection with the additional left turn lane will operate with less intersection delay and additional future capacity versus the existing intersection.

Table 1: Level of Service and Intersection Delay

	2030 AM		2030 PM	
	Level of Service	Delay (sec)	Level of Service	Delay (sec)
Existing Intersection	D	49.5	D	48.9
Proposed Single Point Intersection	C	22.2	D	39.5

Lane Group	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations	↑↑	↱	↰↰	↑↑	↰	↱↱
Volume (vph)	110	670	1430	870	320	480
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Storage Length (ft)		200	475		0	225
Storage Lanes		1	2		1	2
Taper Length (ft)			25		25	
Lane Util. Factor	0.95	1.00	0.97	0.95	1.00	0.88
Frt		0.850				0.850
Flt Protected			0.950		0.950	
Satd. Flow (prot)	3539	1583	3433	3539	1770	2787
Flt Permitted			0.950		0.950	
Satd. Flow (perm)	3539	1583	3433	3539	1770	2787
Right Turn on Red		Yes				Yes
Satd. Flow (RTOR)		359				522
Link Speed (mph)	45			45	30	
Link Distance (ft)	424			678	458	
Travel Time (s)	6.4			10.3	10.4	
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Adj. Flow (vph)	120	728	1554	946	348	522
Shared Lane Traffic (%)						
Lane Group Flow (vph)	120	728	1554	946	348	522
Enter Blocked Intersection	No	No	No	No	No	No
Lane Alignment	Left	Right	Left	Left	Left	Right
Median Width(ft)	24			24	12	
Link Offset(ft)	0			0	0	
Crosswalk Width(ft)	16			16	16	
Two way Left Turn Lane						
Headway Factor	1.00	1.00	1.00	1.00	1.00	1.00
Turning Speed (mph)		9	15		15	9
Turn Type	NA	Perm	Prot	NA	NA	Perm
Protected Phases	4		3	8	2	
Permitted Phases		4				2
Detector Phase	4	4	3	8	2	2
Switch Phase						
Minimum Initial (s)	4.0	4.0	4.0	4.0	4.0	4.0
Minimum Split (s)	20.0	20.0	8.0	20.0	20.0	20.0
Total Split (s)	35.0	35.0	56.0	91.0	29.0	29.0
Total Split (%)	29.2%	29.2%	46.7%	75.8%	24.2%	24.2%
Maximum Green (s)	31.0	31.0	52.0	87.0	25.0	25.0
Yellow Time (s)	3.0	3.0	3.0	3.0	3.0	3.0
All-Red Time (s)	1.0	1.0	1.0	1.0	1.0	1.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	4.0	4.0	4.0	4.0	4.0	4.0
Lead/Lag	Lag	Lag	Lead			
Lead-Lag Optimize?	Yes	Yes	Yes			
Vehicle Extension (s)	3.0	3.0	3.0	3.0	3.0	3.0
Recall Mode	None	None	None	None	C-Max	C-Max
Walk Time (s)	5.0	5.0		5.0	5.0	5.0
Flash Dont Walk (s)	11.0	11.0		11.0	11.0	11.0

Lane Group	EBT	EBR	WBL	WBT	NBL	NBR
Pedestrian Calls (#/hr)	0	0		0	0	0
Act Effct Green (s)	31.0	31.0	52.0	87.0	25.0	25.0
Actuated g/C Ratio	0.26	0.26	0.43	0.72	0.21	0.21
v/c Ratio	0.13	1.08	1.05	0.37	0.95	0.53
Control Delay	34.7	80.0	69.8	6.7	82.4	5.4
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	34.7	80.0	69.8	6.7	82.4	5.4
LOS	C	E	E	A	F	A
Approach Delay	73.6			45.9	36.2	
Approach LOS	E			D	D	
Queue Length 50th (ft)	37	~409	~673	127	268	0
Queue Length 95th (ft)	63	#648	#809	157	#451	48
Internal Link Dist (ft)	344			598	378	
Turn Bay Length (ft)		200	475			225
Base Capacity (vph)	914	675	1487	2565	368	993
Starvation Cap Reductn	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0
Reduced v/c Ratio	0.13	1.08	1.05	0.37	0.95	0.53

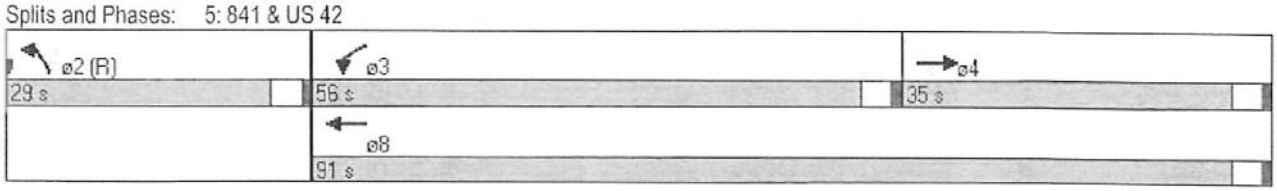
Intersection Summary

Area Type: Other
Cycle Length: 120
Actuated Cycle Length: 120
Offset: 0 (0%), Referenced to phase 2:NBL and 6:, Start of Green
Natural Cycle: 120
Control Type: Actuated-Coordinated
Maximum v/c Ratio: 1.08
Intersection Signal Delay: 49.5 Intersection LOS: D
Intersection Capacity Utilization 88.9% ICU Level of Service E
Analysis Period (min) 15

~ Volume exceeds capacity, queue is theoretically infinite.
Queue shown is maximum after two cycles.

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

Splits and Phases: 5: 841 & US 42



Lane Group	EBT	EBR	WBL	WBT	NBL	NBR
Lane Configurations						
Volume (vph)	1080	210	490	430	680	1120
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Storage Length (ft)		200	475		0	225
Storage Lanes		1	2		1	2
Taper Length (ft)			25		25	
Lane Util. Factor	0.95	1.00	0.97	0.95	1.00	0.88
Frt		0.850				0.850
Flt Protected			0.950		0.950	
Satd. Flow (prot)	3539	1583	3433	3539	1770	2787
Flt Permitted			0.950		0.950	
Satd. Flow (perm)	3539	1583	3433	3539	1770	2787
Right Turn on Red		Yes				Yes
Satd. Flow (RTOR)		176				621
Link Speed (mph)	45			45	30	
Link Distance (ft)	424			678	458	
Travel Time (s)	6.4			10.3	10.4	
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Adj. Flow (vph)	1174	228	533	467	739	1217
Shared Lane Traffic (%)						
Lane Group Flow (vph)	1174	228	533	467	739	1217
Enter Blocked Intersection	No	No	No	No	No	No
Lane Alignment	Left	Right	Left	Left	Left	Right
Median Width(ft)	24			24	12	
Link Offset(ft)	0			0	0	
Crosswalk Width(ft)	16			16	16	
Two way Left Turn Lane						
Headway Factor	1.00	1.00	1.00	1.00	1.00	1.00
Turning Speed (mph)		9	15		15	9
Turn Type	NA	Perm	Prot	NA	NA	Perm
Protected Phases	4		3	8	2	
Permitted Phases		4				2
Detector Phase	4	4	3	8	2	2
Switch Phase						
Minimum Initial (s)	4.0	4.0	4.0	4.0	4.0	4.0
Minimum Split (s)	20.0	20.0	8.0	20.0	20.0	20.0
Total Split (s)	36.0	36.0	19.0	55.0	45.0	45.0
Total Split (%)	36.0%	36.0%	19.0%	55.0%	45.0%	45.0%
Maximum Green (s)	32.0	32.0	15.0	51.0	41.0	41.0
Yellow Time (s)	3.0	3.0	3.0	3.0	3.0	3.0
All-Red Time (s)	1.0	1.0	1.0	1.0	1.0	1.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	4.0	4.0	4.0	4.0	4.0	4.0
Lead/Lag	Lag	Lag	Lead			
Lead-Lag Optimize?	Yes	Yes	Yes			
Vehicle Extension (s)	3.0	3.0	3.0	3.0	3.0	3.0
Recall Mode	None	None	None	None	C-Max	C-Max
Walk Time (s)	5.0	5.0		5.0	5.0	5.0
Flash Dont Walk (s)	11.0	11.0		11.0	11.0	11.0

Lane Group	EBT	EBR	WBL	WBT	NBL	NBR
Pedestrian Calls (#/hr)	0	0		0	0	0
Act Effct Green (s)	32.0	32.0	15.0	51.0	41.0	41.0
Actuated g/C Ratio	0.32	0.32	0.15	0.51	0.41	0.41
v/c Ratio	1.04	0.36	1.04	0.26	1.02	0.81
Control Delay	71.1	8.9	92.1	14.3	69.0	17.1
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	71.1	8.9	92.1	14.3	69.0	17.1
LOS	E	A	F	B	E	B
Approach Delay	61.0			55.8	36.7	
Approach LOS	E			E	D	
Queue Length 50th (ft)	~426	23	~189	84	~482	195
Queue Length 95th (ft)	#557	80	#293	116	#725	301
Internal Link Dist (ft)	344			598	378	
Turn Bay Length (ft)		200	475			225
Base Capacity (vph)	1132	626	514	1804	725	1509
Starvation Cap Reductn	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0
Reduced v/c Ratio	1.04	0.36	1.04	0.26	1.02	0.81

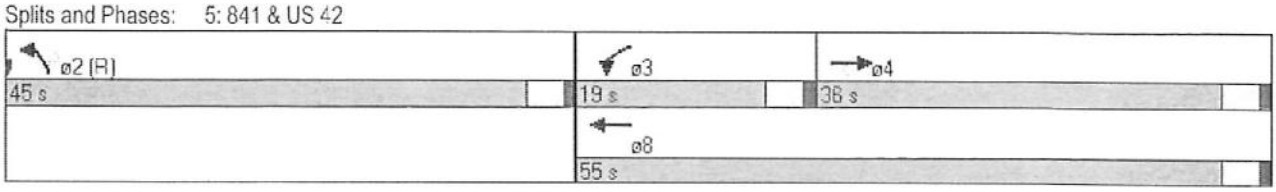
Intersection Summary

Area Type: Other
Cycle Length: 100
Actuated Cycle Length: 100
Offset: 0 (0%), Referenced to phase 2:NBL and 6:, Start of Green
Natural Cycle: 100
Control Type: Actuated-Coordinated
Maximum v/c Ratio: 1.04
Intersection Signal Delay: 48.9 Intersection LOS: D
Intersection Capacity Utilization 91.5% ICU Level of Service F
Analysis Period (min) 15

~ Volume exceeds capacity, queue is theoretically infinite.
Queue shown is maximum after two cycles.

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

Splits and Phases: 5: 841 & US 42



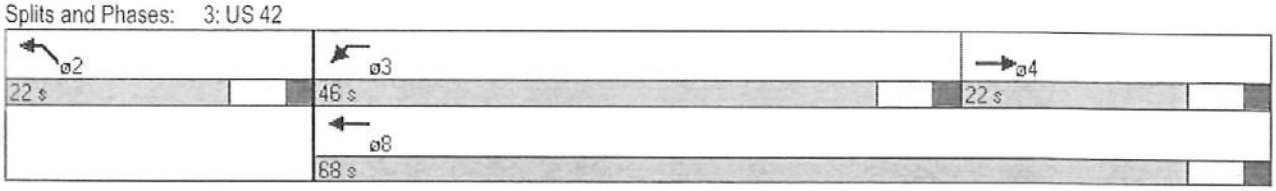
Lane Group	EBT	EBR	WBL	WBT	NWL	NWR	NEL	NER
Lane Configurations	↑↑		↰↰	↑↑	↰↰			
Volume (vph)	110	0	1430	870	320	0	0	0
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900
Lane Util. Factor	0.95	1.00	0.97	0.95	0.97	1.00	1.00	1.00
Frt								
Flt Protected			0.950		0.950			
Satd. Flow (prot)	3539	0	3433	3539	3433	0	0	0
Flt Permitted			0.950		0.950			
Satd. Flow (perm)	3539	0	3433	3539	3433	0	0	0
Right Turn on Red						Yes		
Satd. Flow (RTOR)								
Link Speed (mph)	45			45	45		45	
Link Distance (ft)	141			135	200		189	
Travel Time (s)	2.1			2.0	3.0		2.9	
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92
Adj. Flow (vph)	120	0	1554	946	348	0	0	0
Shared Lane Traffic (%)								
Lane Group Flow (vph)	120	0	1554	946	348	0	0	0
Enter Blocked Intersection	No	No	No	No	No	No	No	No
Lane Alignment	Left	Right	Left	Left	Left	Right	Left	Right
Median Width(ft)	24			24	24		0	
Link Offset(ft)	0			0	0		0	
Crosswalk Width(ft)	16			16	16		16	
Two way Left Turn Lane								
Headway Factor	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Turning Speed (mph)		9	25		25	9	15	9
Turn Type	NA		Prot	NA	NA			
Protected Phases	4		3	8	2			
Permitted Phases								
Detector Phase	4		3	8	2			
Switch Phase								
Minimum Initial (s)	4.0		4.0	4.0	4.0			
Minimum Split (s)	22.0		10.0	22.0	22.0			
Total Split (s)	22.0		46.0	68.0	22.0			
Total Split (%)	24.4%		51.1%	75.6%	24.4%			
Maximum Green (s)	16.0		40.0	62.0	16.0			
Yellow Time (s)	4.0		4.0	4.0	4.0			
All-Red Time (s)	2.0		2.0	2.0	2.0			
Lost Time Adjust (s)	0.0		0.0	0.0	0.0			
Total Lost Time (s)	6.0		6.0	6.0	6.0			
Lead/Lag	Lag		Lead					
Lead-Lag Optimize?	Yes		Yes					
Vehicle Extension (s)	3.0		3.0	3.0	3.0			
Recall Mode	None		None	None	Max			
Walk Time (s)	5.0			5.0	5.0			
Flash Dont Walk (s)	11.0			11.0	11.0			
Pedestrian Calls (#/hr)	0			0	0			
Act Effct Green (s)	8.1		40.2	51.5	16.1			
Actuated g/C Ratio	0.10		0.50	0.65	0.20			

Lane Group	EBT	EBR	WBL	WBT	NWL	NWR	NEL	NER
v/c Ratio	0.33		0.90	0.41	0.50			
Control Delay	36.8		27.9	7.3	32.2			
Queue Delay	0.0		0.0	0.0	0.0			
Total Delay	36.8		27.9	7.3	32.2			
LOS	D		C	A	C			
Approach Delay	36.8			20.1	32.2			
Approach LOS	D			C	C			
Queue Length 50th (ft)	31		367	103	83			
Queue Length 95th (ft)	56		#555	137	128			
Internal Link Dist (ft)	61			55	120		109	
Turn Bay Length (ft)								
Base Capacity (vph)	714		1732	2831	693			
Starvation Cap Reductn	0		0	0	0			
Spillback Cap Reductn	0		0	0	0			
Storage Cap Reductn	0		0	0	0			
Reduced v/c Ratio	0.17		0.90	0.33	0.50			

Intersection Summary

Area Type: Other
Cycle Length: 90
Actuated Cycle Length: 79.7
Natural Cycle: 90
Control Type: Semi Act-Uncoord
Maximum v/c Ratio: 0.90
Intersection Signal Delay: 22.2 Intersection LOS: C
Intersection Capacity Utilization 66.6% ICU Level of Service C
Analysis Period (min) 15
95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

Splits and Phases: 3: US 42



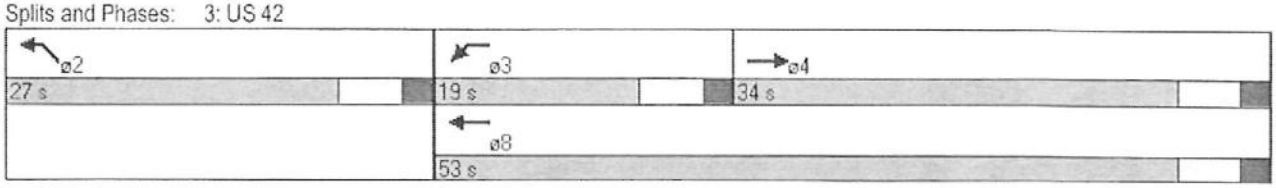
Lane Group	EBT	EBR	WBL	WBT	NWL	NWR	NEL	NER
Lane Configurations	↑↑		↰↰	↑↑	↰↰			
Volume (vph)	1080	0	490	430	680	0	0	0
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900
Lane Util. Factor	0.95	1.00	0.97	0.95	0.97	1.00	1.00	1.00
Frt								
Flt Protected			0.950		0.950			
Satd. Flow (prot)	3539	0	3433	3539	3433	0	0	0
Flt Permitted			0.950		0.950			
Satd. Flow (perm)	3539	0	3433	3539	3433	0	0	0
Right Turn on Red						Yes		
Satd. Flow (RTOR)								
Link Speed (mph)	45			45	45		45	
Link Distance (ft)	141			135	200		189	
Travel Time (s)	2.1			2.0	3.0		2.9	
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92
Adj. Flow (vph)	1174	0	533	467	739	0	0	0
Shared Lane Traffic (%)								
Lane Group Flow (vph)	1174	0	533	467	739	0	0	0
Enter Blocked Intersection	No	No	No	No	No	No	No	No
Lane Alignment	Left	Right	Left	Left	Left	Right	Left	Right
Median Width(ft)	24			24	24		0	
Link Offset(ft)	0			0	0		0	
Crosswalk Width(ft)	16			16	16		16	
Two way Left Turn Lane								
Headway Factor	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Turning Speed (mph)		9	25		25	9	15	9
Turn Type	NA		Prot	NA	NA			
Protected Phases	4		3	8	2			
Permitted Phases								
Detector Phase	4		3	8	2			
Switch Phase								
Minimum Initial (s)	4.0		4.0	4.0	4.0			
Minimum Split (s)	22.0		10.0	22.0	22.0			
Total Split (s)	34.0		19.0	53.0	27.0			
Total Split (%)	42.5%		23.8%	66.3%	33.8%			
Maximum Green (s)	28.0		13.0	47.0	21.0			
Yellow Time (s)	4.0		4.0	4.0	4.0			
All-Red Time (s)	2.0		2.0	2.0	2.0			
Lost Time Adjust (s)	0.0		0.0	0.0	0.0			
Total Lost Time (s)	6.0		6.0	6.0	6.0			
Lead/Lag	Lag		Lead					
Lead-Lag Optimize?	Yes		Yes					
Vehicle Extension (s)	3.0		3.0	3.0	3.0			
Recall Mode	None		None	None	Max			
Walk Time (s)	5.0			5.0	5.0			
Flash Dont Walk (s)	11.0			11.0	11.0			
Pedestrian Calls (#/hr)	0			0	0			
Act Effct Green (s)	28.0		13.0	47.0	21.0			
Actuated g/C Ratio	0.35		0.16	0.59	0.26			

Lane Group	EBT	EBR	WBL	WBT	NWL	NWR	NEL	NER
v/c Ratio	0.95		0.96	0.22	0.82			
Control Delay	42.5		64.1	8.2	36.8			
Queue Delay	0.0		0.0	0.0	0.0			
Total Delay	42.5		64.1	8.2	36.8			
LOS	D		E	A	D			
Approach Delay	42.5			38.0	36.8			
Approach LOS	D			D	D			
Queue Length 50th (ft)	295		137	53	178			
Queue Length 95th (ft)	#432		#234	76	#263			
Internal Link Dist (ft)	61			55	120		109	
Turn Bay Length (ft)								
Base Capacity (vph)	1238		557	2079	901			
Starvation Cap Reductn	0		0	0	0			
Spillback Cap Reductn	0		0	0	0			
Storage Cap Reductn	0		0	0	0			
Reduced v/c Ratio	0.95		0.96	0.22	0.82			

Intersection Summary

Area Type: Other
Cycle Length: 80
Actuated Cycle Length: 80
Natural Cycle: 80
Control Type: Semi Act-Uncoord
Maximum v/c Ratio: 0.96
Intersection Signal Delay: 39.5 Intersection LOS: D
Intersection Capacity Utilization 78.2% ICU Level of Service D
Analysis Period (min) 15
95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

Splits and Phases: 3: US 42



Indiana Finance Authority
One North Capitol, Suite 900
Indianapolis, IN 46204

August 22, 2012

Sidney Florey, Project Executive
WVB East End Partners
1260 East Summit Street
Crown Point, Indiana 46307

RE: East End Crossing RFP, ATCs WVB #6, 9, 11, 12 and 13

Dear Mr. Florey:

The Indiana Finance Authority ("IFA") has reviewed the Alternative Technical Concepts ("ATC") nos. WVB #6, 9, 11, 12 and 13 submitted on August 2 and 17, 2012 by WVB East End Partners in response to the Request for Proposals for the East End Crossing issued by the IFA on July 31, 2012 (as amended, the "RFP").

IFA's responses to the referenced ATCs are included in Attachment 1.

IFA appreciates your continued interest in the East End Crossing.

Sincerely,

Jacob Blasdel
IFA Project Manager

Attachment

ATTACHMENT 1

WVB East End Partners

August 22, 2012

1. ATC WVB #6 – The ATC is acceptable for inclusion in the Proposal with the following conditions
   - The Proposer shall be responsible for performing all necessary noise studies and providing any additional mitigation measures required to avoid creating additional noise impacts greater than those created by the Reference Design.
   - The Proposer shall demonstrate that their proposed design will provide an overall intersection level of service of C or better in the 2030 Design Year, and that all movements within the intersection will perform at level of service of D or better in the 2030 Design Year.
   - The Proposer shall demonstrate that queues at the proposed KY841/US42 intersection will not block the adjacent Bridgepointe Blvd. intersection.
   - The Proposer shall be responsible and bear the schedule and monetary risk of any modifications to any Environmental Approvals required for or arising out of this ATC.
   - The Proposer shall be responsible and bear the schedule and monetary risk of any new or modified Governmental Approvals required for or arising out of this ATC.

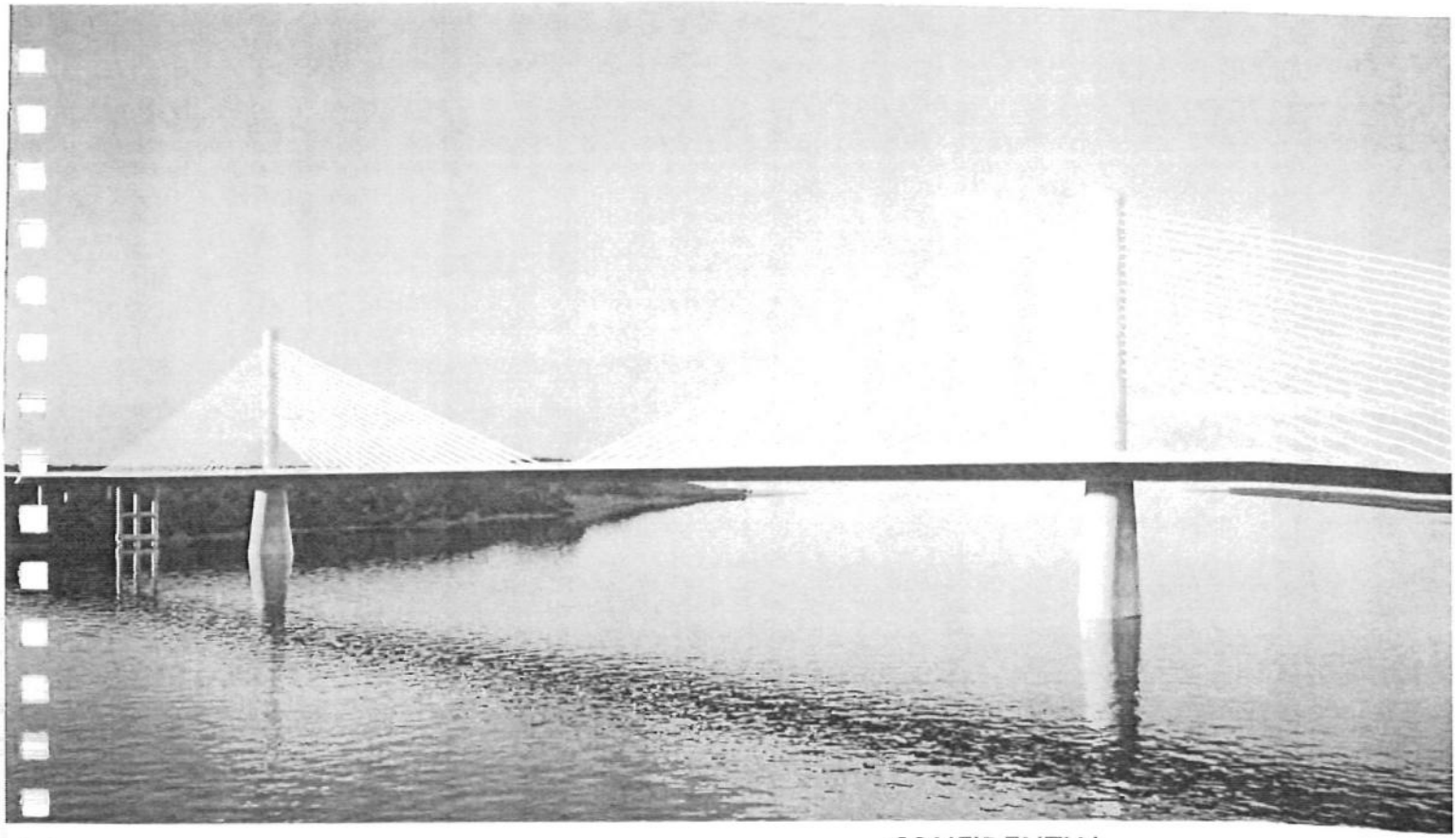
2. ATC WVB #9 – The ATC is acceptable for inclusion in the Proposal with the following conditions
   - Weathering steel shall be coated at piers and abutments in accordance with the Indiana Design Manual Section 407.
   - The Proposer shall be responsible and bear the schedule and monetary risk of any modifications to any Environmental Approvals required for or arising out of this ATC.
   - The Proposer shall be responsible and bear the schedule and monetary risk of any new or modified Governmental Approvals required for or arising out of this ATC.

3. ATC WVB #11 – The ATC is not acceptable for inclusion in the Proposal.

4. ATC WVB #12 – The ATC appears to be within the requirements of the RFP and does not qualify as an ATC (provided, however, that should it turn out that the concept as incorporated into the Proposal is not within the requirements of the RFP, IFA reserves the right to require compliance with the requirements of the RFP and PPA Documents (without regard to the submittal), in which event the Proposer will not be entitled to modify its Proposal or obtain a Change Order for additional compensation or a time extension under the Agreement). Please see Addendum #1 TP Section 19.

5. ATC WVB #13 - The ATC appears to be within the requirements of the RFP and does not qualify as an ATC (provided, however, that should it turn out that the concept as incorporated into the Proposal is not within the requirements of the RFP, IFA reserves the right to require compliance with the requirements of the RFP and PPA Documents (without regard to the submittal), in which event the Proposer will not be entitled to modify its Proposal or obtain a Change Order for additional compensation or a time extension under the Agreement). Please see Addendum #1 TP Section 19.

If the Proposer wishes additional clarifications regarding an ATC submittal, the Proposer may provide a written request for clarification under Section 2.3.1 of the ITP.



CONFIDENTIAL

Ohio River Bridges Project

The East End Crossing Confidential ATCs

ATC - No. 9

Submitted to:
Indiana Finance Authority
One North Capitol Avenue, Suite 900
Indianapolis, Indiana 46204
Attention: Jacob Blasdel
Telephone: 317.234.2113
Fax: 317.232.6786
Email Address: rfq@ifa.in.gov

Submitted by:
WVB East End Partners
WVB East End Partners
1260 East Summit Street
Crown Point, Indiana 46307
Phone : 315.207.3905

WVB East End Partners (WVB) submits the following ATC to IFA for review and approval per the requirements of the East End Crossing ITP.

PART 1: OVERALL DESCRIPTION OF THE ATC

(a) Sequential ATC number identifying the Proposer and the ATC number

WVB East End Partners

ATC No. 9 East End Bridge Uncoated (Unpainted) Weathering Steel

(b) Description and conceptual drawings of the configuration of the ATC, including necessary design exceptions and a traffic operational analysis, if applicable.

WVB East End Partners will provide uncoated (unpainted) weathering steel (ASTM A709 Grades 50W, 70W and HPS) for the structural steel elements supporting the superstructure of the East End Bridge which is comprised of the Main Spans (Sta. 187+40 to Sta. 212+50) and the Kentucky Approach Spans (Sta. 167+85.86 to Sta. 187+51.86) . The use of uncoated weathering steel provides for a cost-effective bridge design with low maintenance and significantly lower life-cycle costs as compared to painted structural steel prescribed in Technical Provisions Section 15.5.1.

(c) ATC locations and Explanation of how the ATC will be used on the East End Crossing

Uncoated weathering steel ASTM A709 with Grades 50W, 70W and HPS (high performance steel) will be provided in all the structural steel elements supporting the deck of the steel composite cable-stayed Main Spans, i.e. longitudinal edge girders, transverse floorbeams, stringers, etc., and the steel plate girders and diaphragms supporting the deck of the Kentucky Approach Spans.

PART 2: DISCUSSION OF CHANGES FROM THE ATC

SUMMARY OF CHANGES FROM ATC

(d) Roadway Operations	(e) Capital Maintenance	(f) Handback Requirements	(g) Life of Item	(h) Reduction in Completion Time
No	Yes	No	Yes	No

(d) Description of changes in roadway or operations requirements associated with the ATC, including ease of operations.

The use of uncoated weathering steel will have no effect in roadway requirements. It will have a positive effect on operations requirements as it will minimize and/or eliminate the need to close any lanes on the bridge that are typically associated with superstructure repainting contracts.

(e) Description of changes in routine or capital maintenance requirements associated with the ATC, including ease of maintenance.

The use of uncoated weathering steel will reduce both routine and capital (periodic) maintenance activities typically associated with painted structural steel structures. Routine maintenance activities such as paint touch-up and clean-up, and periodic activities such as repainting of structural steel required every 15 to 20 years intervals; will be reduced and/or eliminated as uncoated weathering steel provides enhanced atmospheric corrosion resistance.

Uncoated weathering steel also offers environmental benefits compared to painted steel as the reduction in initial painting reduces adverse effects associated with emissions of volatile organic compounds (VOC) when oil based coatings are used. In addition, eliminating the removal of the coating and disposal of contaminated blast cleaning debris during periodic structure repainting work over the life span of the bridge, is another significant environmental benefit. For river crossings, the cost of collection and disposal of materials from a structure repainting project is significant.

(f) Description of changes in Handback Requirements associated with the ATC

The ATC will not modify or affect any of the Handback Requirements.

(g) Description of changes in the anticipated life of the item(s) comprising or affected by the ATC.

No changes are anticipated for the life of the East End Bridge however, this ATC does prolong the life of the structural steel members with removal of the otherwise required maintenance repainting work.

(h) Description of any reduction in the time period to reach Substantial Completion resulting from implementing the ATC, including, as appropriate, a description of method and commitments.

No reduction in the time period to reach Substantial Completion is anticipated from implementing the ATC.

PART 3: ATC ANALYSIS AND JUSTIFICATION

(i) References to requirements of the RFP which are inconsistent with the proposed ATC, an explanation of the nature of the deviations from said requirements, and a request for approval of such deviations.

Technical Provisions Section 15.5.1 Design for Durability states: "All structural steel shall be painted, with the exception of piles and maintenance appurtenances, which shall be hot-dip galvanized, per ASTM A123".

This ATC requests approval to use uncoated weathering structural steel in lieu of structural steel painted with a three coat system. WVB East End Partners will utilize uncoated weathering steel and implement the following design details:

1) Paint weathering steel in those areas of the bridge deck that are vulnerable to oxidation and corrosion, and specifically at deck expansion joints that are provided at the beginning of the Kentucky Approach Spans at Sta. Sta. 167+85.86, at common Pier 1 between the Kentucky Approach Spans and the Cable-Stayed Main Spans at Sta. 187+40, at transition Pier 2 at Sta. 188+55, at transition Pier 5 at Sta. 211+35, and at the Indiana abutment at Sta. 212+50. Paint weathering steel with a three coat system in all structural steel elements of the cable-stayed Main Spans located within a distance of three times the depth of the girder from the expansion joints, i.e. paint longitudinal edge girders, floorbeams and stringers. Paint weathering steel with a three coat system in all structural steel elements of the Kentucky Approach Spans and the 115' long Kentucky and Indiana transition spans adjacent to the cable stayed Main Spans located within a distance of 1.5 times the depth of the girder from the expansion joints, i.e. steel girders and diaphragms.

2) For the cable-stayed Main Spans, paint the stay-cable anchorages above the deck at the deck anchorage areas. Also add silicone caulk at the contact surfaces between the cable anchorage gusset plate and deck slab.

3) Apply epoxy resin seal on the surfaces of the cast-in-place pours placed atop the longitudinal edge girders supporting the deck of the cable-stayed Main Spans. Also apply epoxy or other feasible protective coating material at the inside faces of the tower legs in close contact to the bridge deck.

4) Provide drip grooves along the underside of the deck edge at both the cable-stayed Main Spans and the Kentucky Approach Spans

5) In order to mitigate against any unsightly stains on concrete surfaces, apply epoxy or other feasible protective coating material to coat and/or seal the top and side surfaces of the pier caps at all expansion joint piers.

The above design details and use of uncoated weathering steel will be addressed in detail in our Corrosion Protection Plan and submitted for review with the Stage 1 Design Documents as prescribed in Technical Provisions Section 15.5.1. A steel corrosion consultant will be utilized to develop a report addressing the use of weathering at the bridge site.

(j) Analysis justifying use of the ATC and why the deviation, if any, from the requirements of the RFP should be allowed.

Uncoated weathering grade steels have been used successfully in many river crossings, as noted in section (n), with demonstrated short and long-term savings. The higher initial cost of weathering steel is offset by the elimination of the need for initial painting of the structure. Over

the long term, cost savings would be materialized for not having to remove and repaint the structure every 15 to 20 years as required for painted structural steel.

Additionally, the use of weathering steel would be a more context-sensitive solution for the East End Bridge to allow it to blend into the local landscape and surroundings. The use of weathering steel in the bridge design would use this natural landscape color to help break up the visual concrete mass of the bridge and make it feel less imposing when viewed from a distance. Weathering steel is called out to be used throughout the East End Crossing and is specifically noted in aesthetic reference documents as it blends with the naturally rust staining limestone. The reference documents included a bridge type selection process which stated that the color of the bridge and all its components should blend in with the sky and the landscape and that local historic landscape should be considered inspiration for architectural themes in term of color. Based on this, WVB has taken aspects from the local limestone bluffs and quarries on both the Indiana and Kentucky landscape into consideration. The local limestone has an iron oxide which naturally rusts the exposed limestone. This lends to utilizing weathering steel for the East End Bridge to allow for a constant theme throughout the entire East End Crossing corridor and will truly allow for the bridge and entire corridor, to blend together and into the natural landscape as requested by the bridge type selection process.

(k) Preliminary analysis of potential impacts on vehicular traffic (both during and after construction), community impact, safety, and life-cycle East End Crossing and infrastructure costs, including impacts on the cost of repair, maintenance and operation.

No adverse operation or safety impacts are anticipated from the use of weathering steel. On the contrary, the use of weathering steel will reduce any impacts to vehicular traffic as it will minimize and/or eliminate the need to close any traffic lanes on the bridge that are typically associated with superstructure repainting contracts. Maintenance costs will be significantly lower, as weathering steel does not need to be repainted as frequently as regular steel painted with a three coat system.

(l) Preliminary analysis of potential impacts on environmental permitting (including comparison to the NEPA Approvals and an analysis of whether the Proposer believes an updated or supplemental EIS would or would not be required and why).

No modifications to environmental permitting would be required.

As discussed previously under item e) uncoated weathering steel will offer environmental benefits as compared to painted structural steel.

(m) Additional right-of-way required to implement the ATC.

No additional right-of-way will be required to implement the ATC.

(n) Description of other projects where the ATC has been used, the degree of success or failure of such usage and names and contact information including phone numbers and e-mail addresses for project owner representatives that can confirm such statements.

Uncoated weathering grade steels have been used successfully in several steel plate girder and cable-stayed bridge projects, among them the following:

The Bill Emerson Memorial Bridge – Cape Girardeau, Missouri
Contact Info of Project Owner Representatives:
Eric Krapf, Project Manager (MoDOT)
Phone: 573-472-5261
Email: eric.krapf@modot.gov

The Golden Ears Bridge – Vancouver, BC
Contact Info of Project Owner Representatives:
Fred Cummings, General Manager (TransLink)
Phone: 604-453-4598
Email: frc@translink.bc.ca

The Pitt River Bridge – British Columbia, Canada
Contact Info of Project Owner Representatives:
Ron Lowther, Project Engineer (British Columbia Ministry of Transportation)
Phone: 604-354-6479

I-70 & I-465 to Sam Jones Expressway – Indianapolis, Indiana
Contact Info of Project Owner Representatives:
Elsadig Ibrahim, Project Engineer (Indiana Department of Transportation)
Phone: 317-714-9053
Email: eibrahim@indot.in.gov

I-465 / I-74 Interchange Modification – Indianapolis, Indiana
Contact Info of Project Owner Representatives:
Ling Gan, Project Engineer (Indiana Department of Transportation)
Phone: 317-491-4268
Email: lgan@indot.in.gov

(o) Description of added risks to IFA, the Department or third parties associated with implementing the ATC.

There are no added risks in implementing the ATC. A corrosion study will be undertaken in final design to confirm use of weathering steel at the bridge site.

(p) Estimate of any additional IFA, the Department, Developer and third party costs associated with implementation of the ATC:

No additional costs are associated with the proposed ATC as the higher initial cost of weathering steel is offset by the elimination of the need for initial painting of the structure.

(q) Estimate of any savings and additional toll or other revenue that would accrue to IFA and the Department should the ATC be approved and implemented.

The use of uncoated weathering steel will provide an abundant savings in life-cycle cost over the 100-year service life of the bridge. Based on the provision requirement of repainting the structure every 20 years, IFA / KYTC will realize savings of the four complete structure repainting operations which will no longer be required.

(r) Analysis of how the ATC is equal or better in quality and performance than the requirements of the RFP.

Uncoated weathering steel has enhanced atmospheric corrosion resistance and will provide equal or better durability as painted structural steel. Its durability/performance would be validated in our Corrosion Protection Plan. The increased life of the structural steel without maintenance (repainting) improves the performance of the bridge and reduces the impacts to the environment.

In addition, the use of weathering steel would enhance the aesthetic appearance of the East End Bridge as the weathering steel would nicely mimic the weathering seen in the ubiquitous limestone walls and outcrops of the area. Further, the use of weathering steel is aligned with the RFP aesthetic requirements for a natural and minimal aesthetic focus of the bridge design, less artificial additions (paint and other paint prep materials) to the local environment. The weathering steel is also a natural phenomenon whereas the steel naturally reacts with its environment to protect itself, akin to the actions of the plants and rest of the natural context around it.

(s) Preliminary analysis of potential impacts on the MAP.

WVB's ATC #9 will provide a reduction in construction costs of the East End Main Span Bridge as well as provide a reduction in the Developer's maintenance cost during the O&M period. Based on the revised RFP dated June 22nd, 2012, the reduction to the MAP is estimated to be a minimum $738,000 discount of the MAP. This MAP deduction equates to a Net Present Value reduction **over $14 Million savings** to IFA. This MAP reduction is in addition to the continued maintenance savings that IFA / KYTC will realize in reduced maintenance costs throughout the lifetime of the structure.

November 5,2012

VIA E-MAIL and UPS OVERNIGHT

Indiana Finance Authority
One North Capitol Avenue, Suite 900
Indianapolis, Indiana 46204
Attention: Silvia Perez
Telephone: 317-234-7701
Fax: 317-232-6786
Email: SPerez@ifa.IN.gov

Subject: EAST END CROSSING PROPOSAL – Technical Proposal Clarifications

Dear Ms. Perez:

WVB East End Partners is in receipt of IFA's October 31st letter requesting clarifications to the Technical portion of our Proposal, which was submitted on October 26, 2012.

Attached is the clarifying and additional documentation as requested. This information is being furnished electronically to your e-mail address before noon (prevailing Eastern Time) on November 5, 2012, and the required hard copies will be delivered directly to your office by hand or overnight courier the following day.

As always, please contact me immediately if there are any further questions or clarifications from the IFA regarding our Proposal.

Sincerely,

Sidney Florey

Duly Authorized Official
WVB East End Partners
1260 East Summit Street
Crown Point IN 46307
407-470-6639 or 315-207-3905
sidney.florey@vinci.com

6 Your Proposal Executive Summary states that ATC #14 has been included in your Proposal. However, ATC #14 consists of several elements, some of which were not approved by IFA. Please clarify which elements of ATC #14 are included in your Proposal and which elements are not included (Reference ITP Exhibit B, Section 3.2.6(d); cf. ATC Pre-Proposal Submittal response from IFA included in your Proposal.

To clarify WVB East End Partners' (WVB) Executive Summary, we included in the proposal only items from ATC #14 that IFA considered within the requirements, and did not include any item deemed by IFA to be unacceptable, as described in further detail below:

BULLET 1 – TUNNEL ROADWAY WIDTH: WVB has not included this item of the submitted ATC in our Proposal. The roadway width within the Tunnel matches the requirements in the Technical Provision.

BULLET 2 – TUNNEL WALKWAYS: Regarding the first sub-bullet for the inside walkway, WVB has included in our Proposal the noted inside walkway width as proposed in WVB's ATC #14 which falls within the Technical Provision requirements.

Regarding the second sub-bullet for the outside walkway, WVB has not included the noted outside walkway width as proposed in WVB's ATC #14. The walkway width included in the Proposal falls within the requirements of the Technical Provisions.

BULLET 3 – CROSS PASSAGE SPACING: WVB has not included this item of the submitted ATC in our Proposal. WVB's proposed cross passage spacing and details fall within the requirements of the Technical Provisions and the applicable NFPA 502 standards.

BULLET 4 – CARBON MONOXIDE MONITORING SYSTEM: WVB has not included this portion of the submitted ATC in our proposal. WVB's proposed carbon monoxide monitoring system meets the requirements of the Technical Provisions.

BULLET 5 – FIXED FIRE SUPPRESSION SYSTEM: WVB has included this item of the submitted ATC in our Proposal which falls within the requirements of the Technical Provisions.

BULLET 6 – TUNNEL DRAINAGE: WVB has included this item of the submitted ATC in our Proposal which falls within the requirements of the Technical Provisions.

Indiana Finance Authority
One North Capitol, Suite 900
Indianapolis, IN 46204

August 30, 2012

Sidney Florey, Project Executive
WVB East End Partners
1260 East Summit Street
Crown Point, Indiana 46307

RE: East End Crossing RFP, ATC WVB #14

Dear Mr. Florey:

The Indiana Finance Authority ("IFA") has reviewed Alternative Technical Concept ("ATC") no. WVB #14 submitted on August 17, 2012 by WVB East End Partners in response to the Request for Proposals for the East End Crossing issued by the IFA on July 31, 2012 (as amended, the "RFP").

IFA's response to the referenced ATC is included in Attachment 1.

IFA appreciates your continued interest in the East End Crossing.

Sincerely,

Silvia Perez
IFA Project Manager

Attachment

ATTACHMENT 1

WVB East End Partners

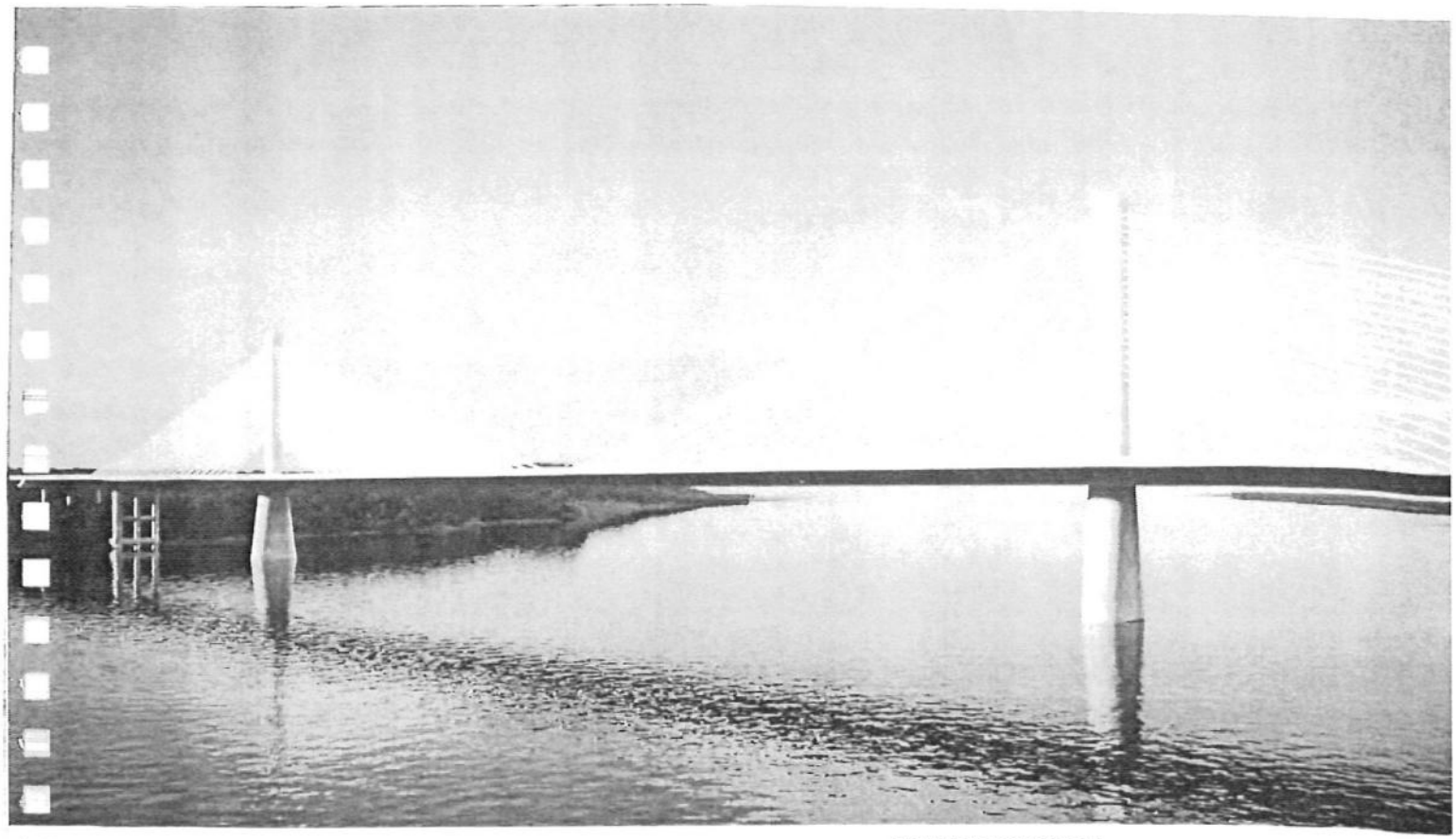
August 30, 2012

1. ATC WVB #14 – This ATC has several elements and each element has been considered separately. IFA's decisions with respect to the deviations requested in this ATC are as follows:
    - The deviation requested with respect to the Tunnel Roadway Width with reduced shoulders through the tunnel does not qualify as an ATC and may not be included in the Proposer's Proposal. The roadway width requirements as described in the Technical Provisions shall apply.
    - With respect to the Tunnel Walkways:
        - The deviation requested with respect to the inside or left hand walkway (viewed in the direction of traffic) appears to be within the requirements of the RFP and does not qualify as an ATC (provided, however, that should it turn out that the concept as incorporated into the Proposal is not within the requirements of the RFP, IFA reserves the right to require compliance with the requirements of the RFP and PPA Documents (without regard to the submittal), in which event the Proposer will not be entitled to modify its Proposal or obtain a Change Order for additional compensation or a time extension under the Agreement). The inside walkway shall be 2'-6" minimum width as required by the Technical Provisions.
        - In accordance with Section 3.2.4 of the Instructions to Proposers ("ITP"), IFA has determined that the RFP contains an error, ambiguity or mistake with respect to the outside or right hand walkways (viewed in the direction of traffic) – and intends to correct the error, ambiguity or mistake, regardless of the impact on the proposed ATC (including that such ATC no longer qualifies or is eligible for consideration as an ATC). After reviewing the modifications to the RFP, if the Proposer believes that this element of the submittal qualifies as an ATC and wants IFA to consider the submittal, it should resubmit the same for consideration.
    - The deviation requested with respect to the Cross Passage Spacing is not acceptable for inclusion in the Proposal. The requirements of the Technical Provisions and the applicable NFPA 502 standard shall apply.
    - The deviation with respect to the Carbon Monoxide Monitoring System is not acceptable for inclusion in the Proposal. The intent is to monitor CO levels in the tunnel itself rather than in the cross passages.
    - The deviation with respect to Fixed Fire Suppression System appears to be within the requirements of the RFP and does not qualify as an ATC (provided, however, that should it turn out that the concept as incorporated into the Proposal is not within the requirements of the RFP, IFA reserves the right to require compliance with the requirements of the RFP and PPA

Documents (without regard to the submittal), in which event the Proposer will not be entitled to modify its Proposal or obtain a Change Order for additional compensation or a time extension under the Agreement).

- The deviation with respect to Tunnel Drainage appears to be within the requirements of the RFP and does not qualify as an ATC (provided, however, that should it turn out that the concept as incorporated into the Proposal is not within the requirements of the RFP, IFA reserves the right to require compliance with the requirements of the RFP and PPA Documents (without regard to the submittal), in which event the Proposer will not be entitled to modify its Proposal or obtain a Change Order for additional compensation or a time extension under the Agreement).

If the Proposer wishes additional clarifications regarding an ATC submittal, the Proposer may provide a written request for clarification under Section 2.3.1 of the ITP.



CONFIDENTIAL

Ohio River Bridges Project

The East End Crossing
Confidential ATCs

ATC - No. 14

Submitted to:
Indiana Finance Authority
One North Capitol Avenue, Suite 900
Indianapolis, Indiana 46204
Attention: Jacob Blasdel
Telephone: 317.234.2113
Fax: 317.232.6786
Email Address: rfq@ifa.in.gov

Submitted by:
WVB East End Partners

WVB East End Partners
1260 East Summit Street
Crown Point, Indiana 46307
Phone : 315.207.3905

WVB East End Partners (WVB) submits the following ATC to IFA for review and approval per the requirements of the East End Crossing ITP.

PART 1: OVERALL DESCRIPTION OF THE ATC

(a) Sequential ATC number identifying the Proposer and the ATC number

WVB East End Partners

ATC No. 14 - Optimize Tunnel Cross Section and Fire Life Safety

Please note that the following ATC replaces the previously submitted ATC No. 7 as noted below in part (b).

(b) Description and conceptual drawings of the configuration of the ATC, including necessary design exceptions and a traffic operational analysis, if applicable.

Conceptual Drawings Attached

WVB East End Partners proposes to optimize the tunnel geometry by applying the latest NFPA 502 fire life safety and ASHTO code-based requirements as stated below.

1. Optimize the overall tunnel cross section by applying code-based requirements to the use of walkways and travel-way configuration, including:
   a. Reducing the walkway width on the cross-passage side
   b. Reducing the walkway width on the non-cross-passage side
   c. Optimizing the travel way configuration
2. Reduce the number of cross passages.
3. Install a Carbon Monoxide Sampling System such as MultiGard Gas Sampling by MSA or equal that is designed for a single cross passage configuration with sampling probes taken along the tunnel tube.
4. Provide a 3% AFFF Foam based fixed fire suppression system throughout the tunnel.
5. Reduce spacing for tunnel drain inlets from 200 ft to 75 ft apart to reduce the flammable liquid fuel size.
6. Use the noted systems above in conjunction with ventilation and other fire life safety systems to reduce the design fire size from 300MW to 50MW.

Please note that in the Final RFP released July 31, 2012, there are no requirements for the tunnel walkway widths. However, during the ATC 1on1 Meeting held on August 8, 2012, it was stated by IFA that an addendum will be sent out to reflect the required walkways widths. In anticipation of this revision, WVB assumes that the required widths will be as shown on the IFA provided RID drawings. If the final requirements are more stringent than as shown on the RID drawings, this ATC will still apply as a reduction from those requirements and then the ATC will provide IFA/KYTC with a further increase in savings from the more stringent requirements to this ATC design.

(c) ATC locations and Explanation of how the ATC will be used on the East End Crossing

As described above item (b), the ATC location is the entire tunnel and cross passage. The ATC will be used to optimize the tunnel geometry, while improving tunnel safety and maintaining all Code requirements for Fire, Life Safety and geometric tunnel design.

PART 2: DISCUSSION OF CHANGES FROM THE ATC

SUMMARY OF CHANGES FROM ATC

(d) Roadway Operations	(e) Capital Maintenance	(f) Handback Requirements	(g) Life of Item	(h) Reduction in Completion Time
No	Yes	No	No	Yes

(d) Description of changes in roadway or operations requirements associated with the ATC, including ease of operations.

The reduced shoulder width in the final configuration will not change the roadway operations as a result of this ATC. The walkway width and other noted changes will not affect the roadway or operations requirements.

(e) Description of changes in routine or capital maintenance requirements associated with the ATC, including ease of maintenance.

Through reductions in overall internal tunnel surface areas, this ATC will result in the reduction of tunnel utilities (ITS, lighting, ventilation…) and therefore reduce the long-term tunnel maintenance costs. Additionally, the tunnel utilities are planned to all run along the 2'-6" wide walkway on the cross-passage side, and tunnel geometry allows for utility conduits and boxes to fall within the concave tunnel section. This allows for a clear width of 2'-6" for the walkway, plus additional width from knee level to head level, and will not change the maintenance requirements. Overall, this ATC provides a reduction in maintenance work for KYTC and will provide for an ease of maintenance.

(f) Description of changes in Handback Requirements associated with the ATC

Not applicable

(g) Description of changes in the anticipated life of the item(s) comprising or affected by the ATC.

WVB projects that a longer life will result for the tunnels from the ATC due to enhanced fire protection.

(h) Description of any reduction in the time period to reach Substantial Completion resulting from implementing the ATC, including, as appropriate, a description of method and commitments.

The Drumanard Tunnel construction is on the project critical path. Reduction of the tunnel cross section area and cross passage reduction will result in a reduction in excavation quantities and a

more effective geometric design. This design will provide for more overhead rock cover and allow for quicker excavation and installation of the tunnel final liner. The cross-section reduction and increased efficiency will allow for a quicker completion of the tunnel. Additionally, the reduced interior section will require less tunnel utilities to be installed and again shorten the overall tunnel construction schedule. The overall tunnel construction schedule reduction from this ATC will allow WVB to open the entire East End Crossing to traffic earlier than the required Substantial Completion date and will allow for IFA to start tolling collection sooner than would otherwise begin.

PART 3: ATC ANALYSIS AND JUSTIFICATION

*(i) **References to requirements of the RFP which are inconsistent with the proposed ATC**, an explanation of the nature of the deviations from said requirements, and a request for approval of such deviations.*

Tunnel Roadway Width

Table 9-3 KY 841 Design Data in Section 9.3.4 calls for the typical section through the tunnel to include a 4-foot inside paved shoulder, two 12-foot lanes and a 12-foot outside paved shoulder (40-foot total pavement). This allows for a final 3-lane configuration of three 12-foot lanes and two 2-foot shoulders. The ATC requests a two foot total reduction in shoulder width which follows AASTHO tunnel standards (38-foot total pavement). In the interim configuration, the inside shoulder will be reduced from 4-feet to 2-feet with all travel lanes and outside shoulder as required. With the final configuration, the 2-foot inside and outside shoulders will be reduce to 1-foot shoulder each. The 1-foot shoulder width is the minimum allowable by AASTHO tunnel standards and would only be required if and when KY841 is widen to a 6-lane configuration. The reduction of the shoulder widths and tunnel cross-section layout are shown on the provided drawing.

Walkways and Tunnel Width

As noted above, in the Final RFP released July 31, 2012, there are no requirements for the tunnel walkway widths. However, during the ATC 1on1 Meeting held on August 8, 2012, it was stated by IFA that an addendum will be sent out to reflect the required walkways widths. In anticipation of this revision, WVB assumes that the required widths will be as shown on the RID drawings.

The RID drawing HIGHWAY TUNNEL FINAL PRELIMINARY DESIGN SUBMITTAL Drawing C-001 "Northbound Highway Tunnel Section" shows emergency walkway of 3'-7" on the cross-passage side and a 2'-6" service walkway on the opposite side. As stated in the ATC description, WVB proposes to optimize the tunnel cross section by reducing the walkway on the non-cross passage side and providing at least 1'-6" clearance in accordance with AASHTO tunnel clearance requirements, and reducing the walkway width on the cross passage side to 2'-6" clear in accordance with AASHTO desirable tunnel clearance requirements. Wall mounted tunnel components will not encroach on the 2'-6"-wide by 7-foot-high clear space around the walkway.

Cross-Passage

Book 2, 16.2.7 reads "*Cross-passages connecting the northbound and the southbound tunnel bores shall be designed and spaced as per NFPA 502 requirements.*" We comply with this requirement, but want to clarify our compliance with the proper application of the NFPA 502 Standard requirements. WVB proposes to install one single cross-passage near the mid-point of the tunnel structure and as part of the tunnel evacuation plan, the tunnel roadway section will be utilized as part of the egress routes in addition to the tunnel cross-passage as stated and allowed for in NFPA 502.

Carbon Monoxide Monitoring System

Book 2, 17.2.2.5 reads "*Furnish and install carbon monoxide monitoring system (COMS) including pumps, filters, switches, flowmeters, CO detection cells, readout control modules, and calibration equipment.... Each CO sensor shall be located at the monitoring point*" We propose to install COMS system in the cross passage, rather than in the tunnel at the monitoring points, to protect them from direct exposure to the tunnel environment and tunnel power washing.

Fire Suppression

Book 2, 17.2.2.1 reads *"Fire protection and suppression features shall include but not be limited to standpipe systems, fire hose cabinets, portable fire extinguishers, fire hose valve stations, and smoke/heat alarm systems.... Fire suppression in the form of sprinklers or misting system shall be considered to limit fire magnitude."* As stated within our ATC description, we are proposing to exceed these requirements and to provide a 3% AFFF Foam based fixed fire suppression system throughout the tunnel. The design will be performed in accordance with NFPA 11 and NFPA 16 for foam systems with foam supply good for 1 hr of protection with up to 2 x 100-ft zones activated simultaneously. It is well known in fire engineering that the only effective way to control and extinguish a flammable liquid fire is by foam application. While other sprinkler or misting systems are cost effective, there is no tested evidence of their capabilities to impact flammable liquid fires. Moreover, it is well known that water application on some fuels may lead to an explosion.

Tunnel Drainage

Book 2, 16.4 reads "*Collection of runoff at portals and in the vehicular tunnels via drop inlets at maximum 200-foot intervals, with longitudinal pipework to sumps, and cleanout connections, as necessary.*" As stated within our ATC description, we are proposing to exceed the 200-foot spacing requirements and to provide drain inlets at 75-foot spacing. This significantly reduces the flammable liquid spill area and associated pooling, resulting in a reduced fire size of the flammable liquid pool to 50 MW.

*(j) **Analysis justifying use of the ATC** and why the deviation, if any, from the requirements of the RFP should be allowed.*

This ATC is presented as a full package. The fire life safety system is a performance based system, where sufficient fire protection can lead to relaxed egress requirements, while insufficient fire protection should lead to the enhanced egress and structural requirements.

The modification to the Travel way width depicted in the RID is justified through this ATC as follows:

According to AASHTO and FHWA Technical Manual for Design and Construction of Road Tunnels – Civil Elements Section 2.3 "*The curb-to-curb (including shoulders) clearance is also required to be 2 ft greater than the lane width of the approach travel way.*" Consider that the approach travel lanes are 12 ft wide and with allowance for a future third traffic lane in the tunnel, the curb-to-curb clearance shall be 12' wide x 3 lanes + 2' = 38 feet. The attached drawing depicts the code-based roadway width requirement.

The modification to the Walkways depicted in the RID is justified through this ATC as follows:

NFPA 502, Section 7.15.6.3.1, states that: the tunnel roadway surface, when supported by a traffic management system, shall be considered as a part of the egress pathway. WVB proposes a traffic management system which will allow the tunnel roadway surface to be considered as a part of the egress pathway, and walkways shall not be required for egress purposes. However, we understand that tunnel walkway is required for tunnel maintenance. WVB propose to provide maintenance walkway on the cross-passage side which will meet AASHTO Desirable Clearance requirement and will not be less than 2.5 ft wide clear and wider at knee to head level based on the more effective tunnel geometry.

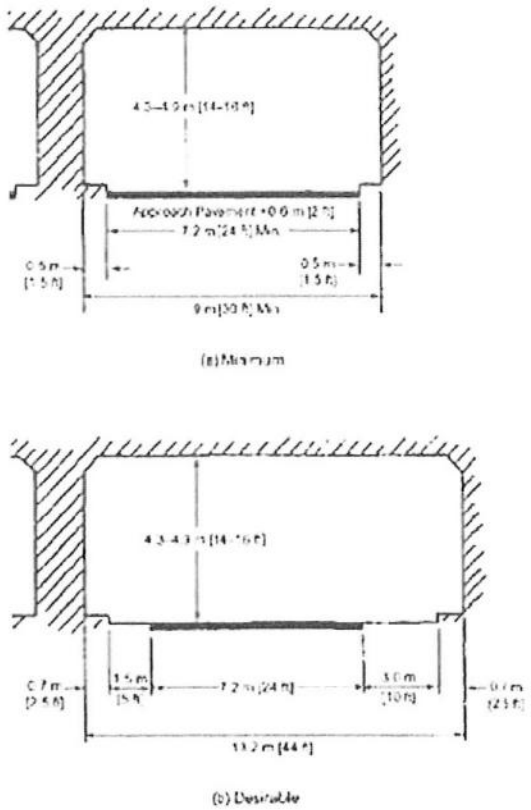


Figure 2. Typical Tunnel Cross Section from AASHTO (2004) and FHWA Technical Manual for Design and Construction of Road Tunnels – Civil Elements 2010

Cross-Passages

NFPA 502, 2011 edition, provides definition of emergency exits. Section 3.3.17, Emergency Exits, reads: Portal or "exit," including egress stairs or egress corridors leading to an area outside of the tunnel; **or cross-passages leading to an adjacent non-incident tunnel**.

NFPA 502, Section 7.15.6.2 states that spacing between exits for protection of tunnel occupants shall not exceed 300 m (1000 ft). Required spacing shall be determined by consideration of the following factors:

(1) Category, including types and classes of tunnels
(2) Design fire size and fire/smoke development
(3) Egress analysis
(4) Fire life safety systems analyses to provide tenable environment in tunnel in accordance with 7.15.2. This includes type and operation of tunnel ventilation, detection, fire protection, and control systems
(5) Traffic management system
(6) Emergency response plan

(7) Consideration of uncertainties of people's behavior during a fire event and of those who are unable to self-rescue"

We propose an AFFF Fixed Fire Suppression system for fire protection to control the fire and minimize the fire size to not exceed 50 MW. This is the only proven fire suppression technology used worldwide to protect from flammable liquid fires. The combination of fire suppression, enhanced tunnel drainage and effective fire detection and ventilation systems provides for the required protection. This allows for an increased spacing between emergency exits for the protection of tunnel occupants up to 1000 ft, which for the Ohio River Bridge Crossing, results in a single cross passage requirement.

Carbon Monoxide Monitoring System

Several tunnel agencies across the country expressed their concerns having CO sensor located in the tunnel due to the need for power washing of tunnel walls. We propose to install COMS system in the cross passage, where all of the calibration and maintenance can be done from the cross passage.

Fire Suppression

NFPA 502 Section 9.1.1 states: Water-based fire-fighting systems shall be permitted in road tunnels as part of an integrated approach to the management of fire and life safety.
9.2.1 The goal of a water-based fire-fighting system shall be to slow, stop, or reverse the rate of fire growth or otherwise mitigate the impact of fire to improve tenability for tunnel occupants during a fire condition, enhance the ability of first responders to aid in evacuation and engage in manual fire-fighting activities, and/or protect the major structural elements of a tunnel. 9.2.2.1 Fire Suppression System. Fire suppression is the reduction in the heat release rate of a fire by a sufficient application of water. Fire size shall remain reduced over the design discharge duration. Section E4 states: The system should be designed with enough water and/or foam capacity to allow operation of at least two zones in the incident area. Section E5.6 states: One example for the use of water-based fighting for tunnel protection is to use foam additives to protect against possible flammable liquid fuel or chemical fires. The feasibility of the use of foam–water sprinkler systems against pool fires was investigated in large-scale fire tests conducted in the Memorial Tunnel. Diesel pool fires with heat release rates of 10, 20, 50, and 100MW were used in the test program. The water density with foam additives (3% AFFF) ranged from 2.4 mm/min (.1 in./min) to 3.8 mm/min (.15 in./min). It was reported that the fires were extinguished in less than 30 s in all four tests. The effectiveness of the deluge foam-water sprinkler system was not affected by a longitudinal ventilation velocity of 4.2 m/s (827 fpm).

We propose a 3% AFFF (foam) system with foam supply good for 1 hr of protection and with 2 zones of activation. In accordance with the tests and studies, such a system is the only system

capable of fire control for flammable liquid fires, and with the proposed fire detection system, will stop the ultra fast growth rate fire at 50 MW with further fire size reduction.

Tunnel Drainage

NFPA 502 Section 7.12.2 states that the drainage collection system shall be designed so that spills of hazardous or flammable liquids cannot spread or cause flame propagation. NFPA 502 Section A.7.14.1 Large flammable and combustible liquid fires in tunnels are typically oxygen-limited fires; however, another method to control the fire is to control the surface area of the pool spill by draining the liquid before the spill surface area grows to size. Controlling the surface area would reduce fire size, burn time, fire growth rate, and the consequent smoke propagation by reducing the burning area of liquid.

We propose to provide drain inlets at 75 ft spacing to reduce spill pooling, thus reducing the fire size, burn time, fire growth rate. This approach allows the effective fire size to be limited to 50 MW.

Schedule

As noted in section (h) above, the tunnel is on the project's critical path and the more efficient cross-section will provide a reduction in time for WVB to reach substantial completion. This improvement on the overall schedule not only allows for IFA to start collection of tolls sooner, but also reduces the timeframe in which the local community is subject to temporary construction impacts. The reduced construction impacts and overall construction schedule are additional benefits that IFA will realize with approval of this ATC.

(k) Preliminary analysis of ***potential impacts on vehicular traffic*** *(both during and after construction), community impact, safety, and life-cycle East End Crossing and infrastructure costs, including impacts on the cost of repair, maintenance and operation.*

No changes in anticipated on vehicular traffic both during and after construction will result from the ATC.

Fire/Life Safety for tunnel occupants and structural protection

The best way to assure safety of tunnel occupants, the tunnel structure, and first responders is to stop/control the fire and minimize fire growth. This is proposed to be achieved through the use of fixed fire suppression system and enhanced drainage system. We propose a 3% foam-based system as the only effective system for flammable liquid cargo fires. The Technical Provisions call for design based on a design fire size as determined by an assessment of the expected type of vehicles utilizing the tunnel, but shall not be less than 300MW (based on tanker truck in the tunnel, as noted in NFPA 502, Annex A). Application of the Technical Provisions in their current form will result in temperatures exceeding the limits of any mechanical / electrical equipment on the market today. Other methods, such as passive structural fire protection will increase the temperature inside the tunnel and will not allow for heat dissipation into the soil. Our proposed ATC improves safety for tunnel occupants, and utilizes tested systems and

equipment to control the potential fire size and minimize fire growth, while maintaining the integrity of the structure and life safety equipment.

Safety of First Responders and assistance in fire fighting operations

As written in the Technical Provisions, fire sizes approaching 300 MW are far in excess of what local first responders will be able to effectively mitigate through traditional emergency response and fire fighting techniques. As outlined above, our approach makes use of effective detection and suppression systems to identify, control, and minimize fire growth, which allows first responders the ability to better manage evacuation and improve fire fighting operations. The end result is improved safety for occupants and first responders.

Community Impact

Reduction in the overall tunnel cross section and more effective tunnel geometry will provide a nearly 8% reduction in tunnel excavation quantity and a reduction in the material quantity requirements for the tunnel liner. These quantity reductions directly reduce impacts to the local communities and environment by reducing the required rock blasting (noise & dust impacts), reduction in truck traffic (noise, dust, local road, and environment impacts), reduction in carbon footprint impact, improvement to traveling public safety during construction, and improved project sustainability.

Long Term Maintenance

Reduction in the overall tunnel cross section and use of a fixed fire suppression system reduces the scope requirements of other life safety systems, such as ventilation, detection, and lighting. This further reduces electrical load requirements, and the cost and maintenance of the ventilation system. While maintenance will be required for the fire suppression system, its energy consumption will be much less than the ventilation system consumption, thus reducing overall maintenance costs. With this ATC, the Maintenance Walkway is retained on the left-hand side of the tunnel, which provides access to tunnel elements and appurtenances requiring maintenance. All Life Safety equipment and tunnel elements requiring maintenance are positioned on the cross-passage side or in the tunnel crown, which is readily accessed via the provided walkway or by means of lane closures for access to tunnel crown areas. The internal cross-section reduction further reduces the quantity requirement of many tunnel utilities such as lighting, sprinklers and drainage. This will further reduce the long-term maintenance costs incurred by KYTC.

(l) Preliminary analysis of ***potential impacts on environmental permitting*** *(including comparison to the NEPA Approvals and an analysis of whether the Proposer believes an updated or supplemental EIS would or would not be required and why).*

No impacts to environmental permitting will result from the ATC.

(m) Additional right-of-way required to implement the ATC.

No additional right-of-way will be required to implement the ATC.

*(n) **Description of other projects where the ATC has been used**, the degree of success or failure of such usage and names and contact information including phone numbers and e-mail addresses for project owner representatives that can confirm such statements.*

All the New York tunnels, such as Holland Tunnel, Lincoln Tunnel, Brooklyn Battery Tunnel, Queens Midtown Tunnel; Virginia tunnels such as Hampton Roads Bridge Tunnel and Monitor Merrimac Memorial, Big Walker Mountain, East River Mountain; and other US tunnels have shoulders of 1 ft or less, which meets AASHTO minimum requirements.

- Port Authority of New York and New Jersey
  Tunnels, Bridges and Terminals Division
  2 Montgomery Street, 4th Floor, Jersey City, NJ 07302
  Phone: 201-360-5000

- New York Metropolitan Transportation Authority
  Bridges and Tunnels
  James Ferrara – Acting President
  347 Madison Avenue, New York, NY 10117
  Phone: 877-690-5116

- Virginia Department of Transportation
  Dave Merinar
  1401 E. Broad Street
  Richmond, VA 23219
  Email: dave.merinar@vdot.virginia.gov

Battery Street tunnel, I-90 First Hill Tunnel, Mt. Baker Ridge tunnel, and I-5 tunnels allow for flammable liquid fuel tankers and are protected with the 3% AFFF Foam System (examples can be found in NFPA 502 Table E-3). A new Fort Lauderdale Airport tunnel under design will also be protected with the 3% AFFF system, as it also allows for the fuel tankers to get through the tunnel.

- Broward County Florida Aviation Department
  Kent George, Director of Aviation
  100 Aviation Blvd, Ft. Lauderdale, FL 33315
  Phone: 95-359-610

The proposed CO monitoring system is an industry standard system, which can be found in most of the US tunnels.

Enhanced drain inlet concept is also applied in Seattle tunnels for reduction of the pool fire size.

- Washington Department of Transportation
  Andrea W. (Transportation Improvement Board)
  505 Union Ave SE, Suite 350, Olympia, WA
  Phone: 360-586-1140
  Email: andreaw@tib.wa.gov

(o) Description of added risks to IFA, the Department or third parties associated with implementing the ATC.

No added risks to the IFA, the Department, or third parties will result from implementing the ATC. Moreover the application of the 3% AFFF deluge system will lead to improved safety of the First Responders.

(p) Estimate of any additional IFA, the Department, Developer and third party ***costs associated with implementation*** *of the ATC;.*

3% AFFF foam may lead to some additional maintenance costs. However, other maintenance costs will be minimized due to reduced tunnel cross section and number of cross passages, which results in smaller mechanical, electrical and control systems.

(q) Estimate of any ***savings and additional toll or other revenue*** *that would accrue to IFA and the Department should the ATC be approved and implemented.*

In addition to the initial construction cost savings to IFA, this ATC will result in a substantial long-term O&M costs savings throughout the life of the tunnel due the reduction in the tunnel systems (mechanical, electrical and structural protection costs savings) as noted above.

(r) Analysis of how the ATC is equal or better in quality and performance than the requirements of the RFP.

Overall, the ATC results in heightened safety for tunnel users, structure and First Responders with the inclusion of the enhanced tunnel fire suppression and fire life safety systems. The fire protection quality provided here within is much higher than for the misting system that is allowed by the final RFP. There are a multitude of operational and functional concerns for water misting fire suppression system that are alleviated by the foam suppression system that this ATC incorporates. Included in these concerns is the misting systems inability to align with the ventilation system, and the exposure of spreading the fire with a pure water suppression system. WVB's ATC provides a superior fire suppression system than as required per the RFP and will provide IFA, KYTC, first responders and the traveling public a higher level of safety. The addition of the foam suppression system, additional drainage inlets, more efficient cross-section, new carbon monoxide detection, fire detection system and compatible ventilation system will come together to drastically decrease fire intensity and fire spread and dramatically increase safety.

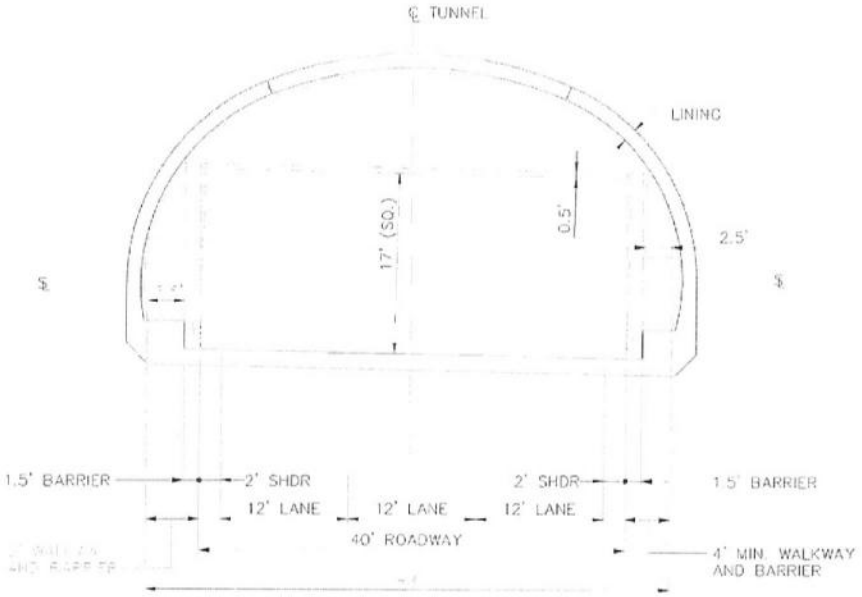
Additionally, the more efficient cross-section will reduce the required liner reinforcement and allow for a more suitable reinforcement size and spacing. Due to the tight constraints in which

the reinforcement is to be installed above the formwork, the ATC will improve the construction safety of those placing the material. The increased reinforcement spacing will allow for proper concrete consolidation between the bars and provide a higher quality concrete liner.

Lastly, as noted in many of the sections above, WVB's ATC #14 will provide IFA and KYTC with a multitude of benefits during construction and throughout the lifetime of the tunnel. These benefits range from reduction of temporary impacts and maintenance costs to improved safety for First Responders by providing the most effective fire protection and life safety systems.

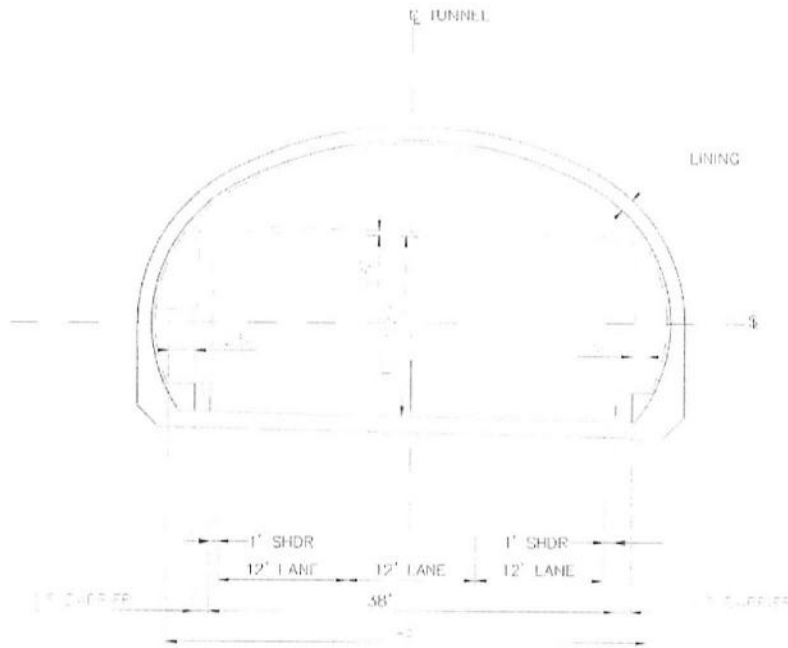
*(s) Preliminary analysis of **potential impacts on the MAP.***

WVB's ATC #14 will provide a substantial reduction in construction costs of the Drumanard Tunnel. Based on the revised RFP dated June 22nd, 2012, the reduction to the MAP is estimated to be a minimum $620,000 discount. This MAP deduction equates to a Net Present Value reduction of **over $12 Million savings** to IFA. This MAP reduction is in addition to the significant maintenance savings that IFA / KYTC will realize throughout the lifetime of the tunnel.



TUNNEL CROSS SECTION –
RID ROADWAY AND WALKWAYS

BASE DESIGN



TUNNEL CROSS SECTION –
4' LT SHDR, 10' RT SHDR, REDUCED WALKS

ATC DESIGN

Indiana Finance Authority
One North Capitol, Suite 900
Indianapolis, IN 46204

August 24, 2012

Sidney Florey, Project Executive
WVB East End Partners
1260 East Summit Street
Crown Point, Indiana 46307

RE: East End Crossing RFP, ATC WVB #15

Dear Mr. Florey:

The Indiana Finance Authority ("IFA") has reviewed Alternative Technical Concept ("ATC") no. WVB #15 submitted on August 17, 2012 by WVB East End Partners in response to the Request for Proposals for the East End Crossing issued by the IFA on July 31, 2012 (as amended, the "RFP").

IFA's response to the referenced ATC is included in Attachment 1.

IFA appreciates your continued interest in the East End Crossing.

Sincerely,

Jacob Blasdel
IFA Project Manager

Attachment

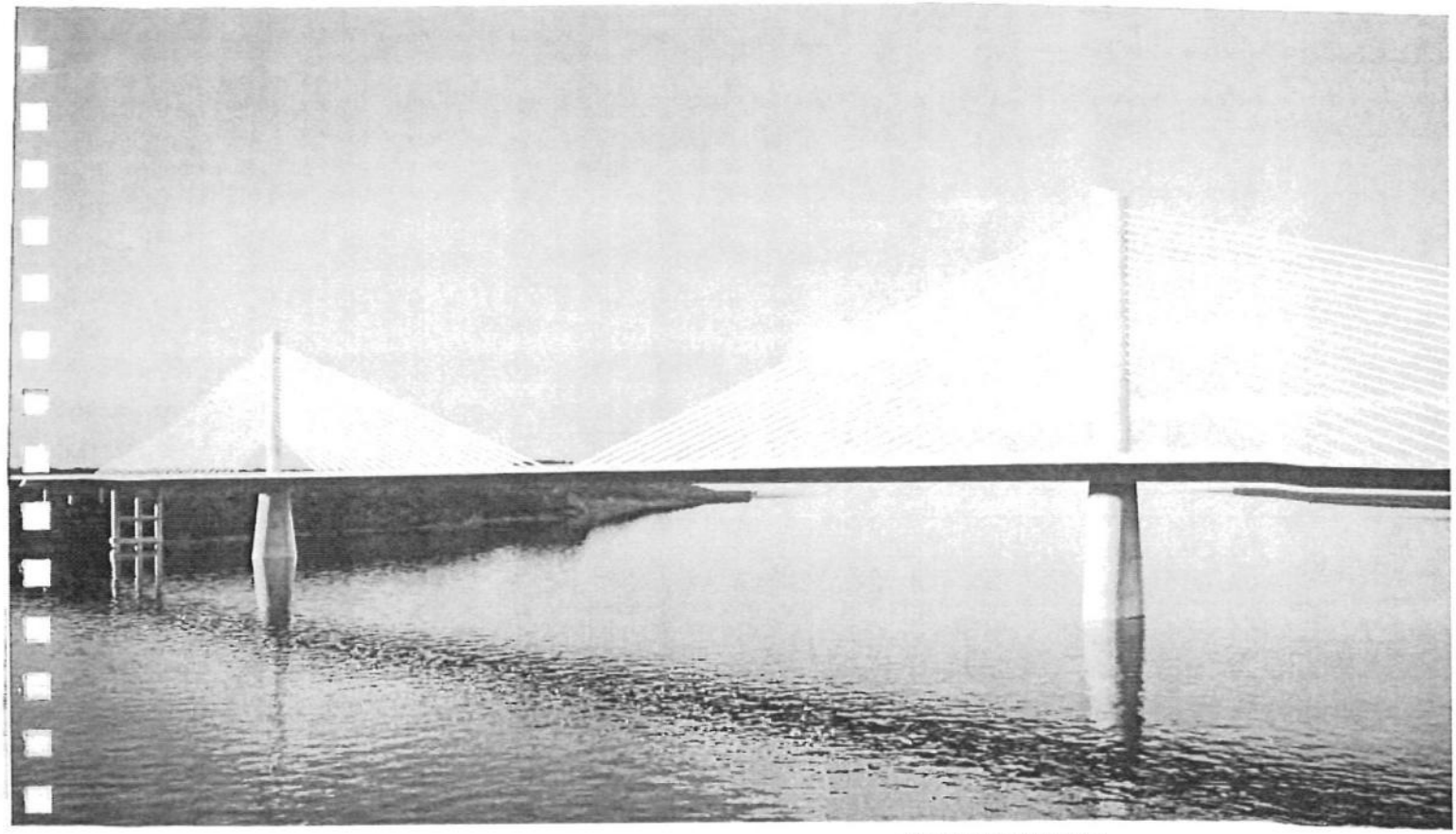
ATTACHMENT 1

WVB East End Partners

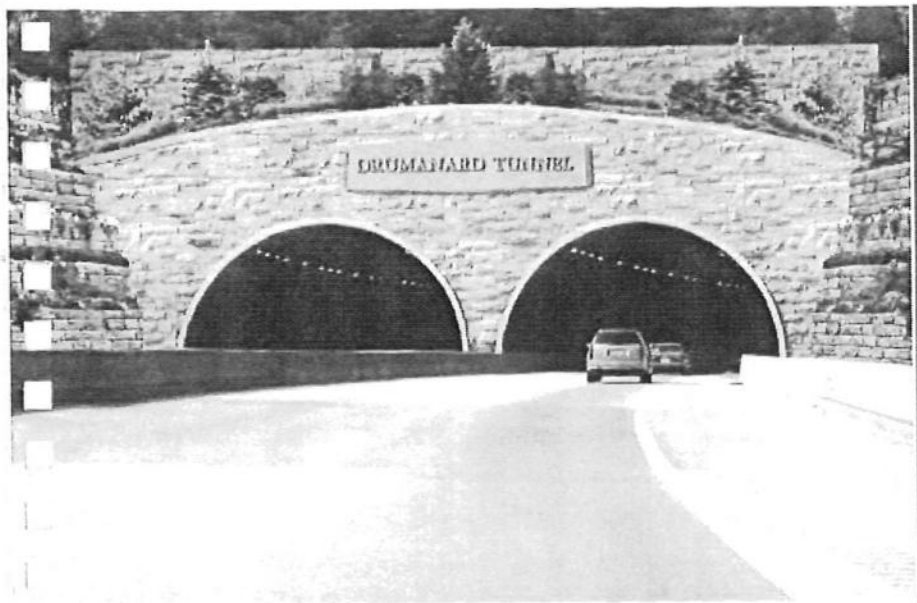
August 24, 2012

1. ATC WVB #15 – The ATC is acceptable for inclusion in the Proposal with the following conditions:
    - The Proposer shall include full depth inside shoulders matching the mainline pavement section.
    - The Proposer's design shall meet one of the following two criteria:
        1. The Proposer's outside shoulder pavement thickness shall be the same depth as the mainline pavement where the two pavement sections abut. The shoulder pavement may then taper to no less than 6 inches at the outside edge, or
        2. The Proposer shall design the outside shoulder pavement for a five (5) year cumulative traffic loading in year 35.
    - The Proposer shall be responsible and bear the schedule and monetary risk of any modifications to any Environmental Approvals required for or arising out of this ATC.
    - The Proposer shall be responsible and bear the schedule and monetary risk of any new or modified Governmental Approvals required for or arising out of this ATC.

If the Proposer wishes additional clarifications regarding an ATC submittal, the Proposer may provide a written request for clarification under Section 2.3.1 of the ITP.



CONFIDENTIAL



Ohio River Bridges Project

The East End Crossing Confidential ATCs

ATC - No. 15

Submitted to:
Indiana Finance Authority
One North Capitol Avenue, Suite 900
Indianapolis, Indiana 46204
Attention: Jacob Blasdel
Telephone: 317.234.2113
Fax: 317.232.6786
Email Address: rfq@ifa.in.gov

Submitted by:
WVB East End Partners

WVB East End Partners
1260 East Summit Street
Crown Point, Indiana 46307
Phone : 315.207.3905

WVB East End Partners (WVB) submits the following ATC to IFA for review and approval per the requirements of the East End Crossing ITP.

PART 1: OVERALL DESCRIPTION OF THE ATC

(a) Sequential ATC number identifying the Proposer and the ATC number

WVB East End Partners

ATC No. 15 Alternative Shoulder Pavement Design Section

(b) Description and conceptual drawings of the configuration of the ATC, including necessary design exceptions and a traffic operational analysis, if applicable.

WVB East End Partners (WVB) proposes that the shoulders of SR 265 and KY 841 within the O&M limits be WVB's responsibility to design and construct as a section type of WVB's choice. The Final RFP requires that the shoulder pavement section be constructed as the same section as the pavement that it adjoins. Since traffic is not planned to drive on the shoulders other than during emergencies, vehicle breakdowns and maintenance periods, the shoulders within the O&M section will be overdesigned beyond IFA's intended use. WVB proposes that it be WVB's responsibility to design and construct all shoulder pavements sections that are in line with the traffic and maintenance requirements, and more accurately reflect current standard practices. At a minimum, WVB requests approval to design and construct all ramp shoulders to current standard practive.

(c) ATC locations and Explanation of how the ATC will be used on the East End Crossing

The alternative shoulder pavement section will be used on the inside and outside shoulders within the O&M limits of Section 4 and/or Section 6.

PART 2: DISCUSSION OF CHANGES FROM THE ATC

SUMMARY OF CHANGES FROM ATC

(d) Roadway Operations	(e) Capital Maintenance	(f) Handback Requirements	(g) Life of Item	(h) Reduction in Completion Time
No	No	No	No	No

(d) Description of changes in roadway or operations requirements associated with the ATC, including ease of operations.

Within the O&M limits, it will be WVB's responsibility to maintain traffic even during maintenance activities and will therefore be responsible to ensure that there are no changes in roadway or operations requirements. This ATC presents the same level of service and same level of safety as the RFP requirements.

(e) Description of changes in routine or capital maintenance requirements associated with the ATC, including ease of maintenance.

There are no anticipated changes in routine or capital maintenance requirements as no matter what shoulder design is developed, it will still handed over to IFA with the same requirements as if it was designed at the full pavement section.

(f) Description of changes in Handback Requirements associated with the ATC

There are no anticipated changes in handback requirements as no matter what shoulder design is developed it will still be handed back to IFA with the same requirements as if it was designed at the full pavement section.

(g) Description of changes in the anticipated life of the item(s) comprising or affected by the ATC.

The alternative shoulder sections will still be designed, constructed and maintained to provide the required handback requirements for the shoulder as noted in the Final RFP and still provide the same anticipated life as would otherwise be required.

(h) Description of any reduction in the time period to reach Substantial Completion resulting from implementing the ATC, including, as appropriate, a description of method and commitments.

There will be no reduction in construction time period.

PART 3: ATC ANALYSIS AND JUSTIFICATION

*(i) **References to requirements of the RFP which are inconsistent with the proposed ATC**, an explanation of the nature of the deviations from said requirements, and a request for approval of such deviations.*

Technical Provision (TP) 10.3.1 states that "All travel lanes and shoulders shall have the same structural section." This implies that the shoulders should be designed to sustain the same traffic loading as the mainline pavement which is not practical and does not provide IFA with value for money. TP 10.3.1 further states that "At Substantial Completion and at the Expiry Date, the Developer shall provide a consistent pavement type throughout each roadway element."

Additionally, in Table 9-3 and Table 9-4 of the Technical Provisions, there is a special feature requirement that paved shoulders shall consist of full-depth pavement that matches the travel lane pavement design.

WVB requests that these requirements of the RFP be eliminated and that the shoulders within the O&M limit be designed, constructed and maintained to provide the required level of operation and handback as currently required. This will ensure that IFA receives the most value for money.

*(j) **Analysis justifying use of the ATC** and why the deviation, if any, from the requirements of the RFP should be allowed.*

WVB believes that designing the shoulder section for the same structural capacity of the mainline pavement is an excessive requirement. The shoulder will not sustain traffic loading under normal operations, and will only be used by traffic during a maintenance of traffic event in which traffic is temporarily diverted to the shoulder. It is also anticipated that during the life of the pavement, the total duration when traffic is using the shoulder will be equal to or less than one year of equivalent loading. The shoulder pavement thickness would be designed for a one year cumulative traffic loading in year 35. This will provide a more economical section that is structurally adequate for its intended use.

Guidance from Federal Highway Technical Advisory T 5050.29 *Paved Shoulders* recommends that for concrete shoulders:

"As an option for other than urban freeways and expressways, a tapered shoulder may be considered. Adjacent to the mainline, the shoulder should be the same thickness as the mainline to permit mid-depth tiebar placement and to provide structural support for truck wheel encroachments. The shoulder may then be tapered to no less than 6 inches at the outside edge."

And for asphalt shoulders:

"For other than urban freeways and expressways, a structural section less than that of the mainline may be warranted. It is recommended that the thickness be based on an evaluation of life-cycle costs and past performance under similar conditions."

Since Table 9-4 of the Technical Provisions classifies SR 265 as a rural freeway, the shoulder thickness should be determined according to Federal Highway Guidelines.

*(k) Preliminary analysis of **potential impacts on vehicular traffic** (both during and after construction), community impact, safety, and life-cycle East End Crossing and infrastructure costs, including impacts on the cost of repair, maintenance and operation.*

Regular maintenance is assumed to remain the same with this ATC shoulder pavement section and thus will not impact vehicular traffic, safety nor life-cycle costs. Community impacts will be slightly reduced from a reduction in asphalt or concrete materials that will need to be produced and trucked to the project site which in turn also improves project sustainability.

(l) Preliminary analysis of ***potential impacts on environmental permitting*** *(including comparison to the NEPA Approvals and an analysis of whether the Proposer believes an updated or supplemental EIS would or would not be required and why).*

None

(m) Additional right-of-way required to implement the ATC.

No additional right-of-way is required to implement this ATC.

(n) ***Description of other projects where the ATC has been used****, the degree of success or failure of such usage and names and contact information including phone numbers and e-mail addresses for project owner representatives that can confirm such statements.*

The use of different a different pavement section for shoulders on a highway is a standard in Indiana as described in *The Indiana Design Manual* Ch. 52 Figure 52-13G. The mainline is PCCP and the outside shoulder in this figure is described as 165 lb/yd^2 HMA Surface on 300 lb/yd^2 HMA Intermediate on Compacted Aggregate No. 53 Stone. This shoulder section is both different pavement type, and different structural section as the mainline pavement – similar to the request in this ATC.

HMA shoulder as shown in Chapter 52 has been used successfully on many DOT projects in the state of Indiana including I-69 Contracts IR-33739; IR-33047; IR-33051; IR-33038, IR-33264; and SR 25 Hoosier Heartland Contract IR-30840-A. Additional projects include:

I-88 Reagan Memorial Tollway – Oak Brook, Illinois
Contact Info of Project Owner Representatives:
Paul D. Kovacs, P.E. – Chief Engineer (Illinois State Toll Highway Authority - ISTHA)
Phone: 630-241-6800

I-294 North Tri-State Construction – Illinois
Contact Info of Project Owner Representatives:
Paul D. Kovacs, P.E. – Chief Engineer (Illinois State Toll Highway Authority - ISTHA)
Phone: 630-241-6800

I-69 – Fort Wayne, Indiana
Contact Info of Project Owner Representatives:
Sam Sarvis, Major Projects Manager (Indiana Department of Transportation)
Phone: 812-890-6300
Email: ssarvis@indot.in.gov

(o) Description of added risks to IFA, the Department or third parties associated with implementing the ATC.

None

(p) Estimate of any additional IFA, the Department, Developer and third party ***costs associated with implementation*** *of the ATC;.*

None

(q) Estimate of any ***savings and additional toll or other revenue*** *that would accrue to IFA and the Department should the ATC be approved and implemented.*

None

(r) Analysis of how the ATC is equal or better in quality and performance than the requirements of the RFP.

Since the ATC and the RFP will both provide shoulder pavement sections that will sustain the anticipated traffic loadings, they are equal. The ATC shoulder pavement section provides better value since it is not designed in excess of the expected traffic load and still requires the same handback requirements to INDOT & KYTC as does the RFP. Additionally, the reduction in material production and shipment will reduce the projects overall Carbon Footprint.

(s) Preliminary analysis of ***potential impacts on the MAP.***

WVB's ATC #15 will provide a reduction in construction costs of the Indiana Approach (Section 6) and portions of the Kentucky Approach (Section 4) as well as provide a reduction in the Developer's maintenance cost during the O&M period. Based on the revised RFP dated June 22nd, 2012, the reduction to the MAP is estimated to be a minimum $200,000 discount of the MAP. This MAP deduction equates to a Net Present Value reduction **over $4 Million savings** to IFA. Approval of WVB's ATC #15 will provide IFA with more value for money.

EXHIBIT 2-E

PRELIMINARY PROJECT MANAGEMENT PLAN

[attached]

4.1 Preliminary Project Management Plan

4.1 PRELIMINARY PROJECT MANAGEMENT PLAN

WVB's preliminary Project Management Plan (PMP) forms the core of the Integrated Management System (IMS) we implement to control delivery throughout the Project, including Quality, Safety, and Sustainable Management Plans. Combined, these plans ensure WVB delivers the Project efficiently, cost-effectively, and safely with minimal impacts on road users, local stakeholders, and the environment, in line with IFA's goals. The PMP accomplishes many goals:

- Outlines WVB's management approach, philosophies, systems, processes, and procedures.
- Presents organization and resources to achieve all Project objectives.
- Outlines interfaces with IFA, stakeholders, and the public to establish clear lines of communication.
- Encourages DBE and workforce diversity outreach for ultimate involvement of the community.
- Provides specific, interactive plans to pave the way for Project delivery.

The WVB management team is responsible for delivering efficient and effective systems while continually improving daily operations. The management plan is based on proven processes from each of the member organizations, which are combined into a unique project management plan that is ISO compliant.

One Team, One Project, One Community
This symbol highlights items that show WVB's value added throughout the document.

LONG TERM ASSET

WVB member VINCI Construction Grands Projets' ISO certification resonates throughout WVB's IMS at all Project stages.

Vertical integration is the foundation to the management philosophy for the WVB team; each member has a stake in every component of the Project. To successfully coordinate delivery of these components, WVB has integrated all management processes and procedures into a single IMS, which serves as the keystone of the WVB organization. WVB uses the IMS during the planning, delivery and monitoring of all activities to ensure the safe, sustainable, on-time and in-budget delivery of a high quality product.

4.1.1 PROJECT MANAGEMENT APPROACH

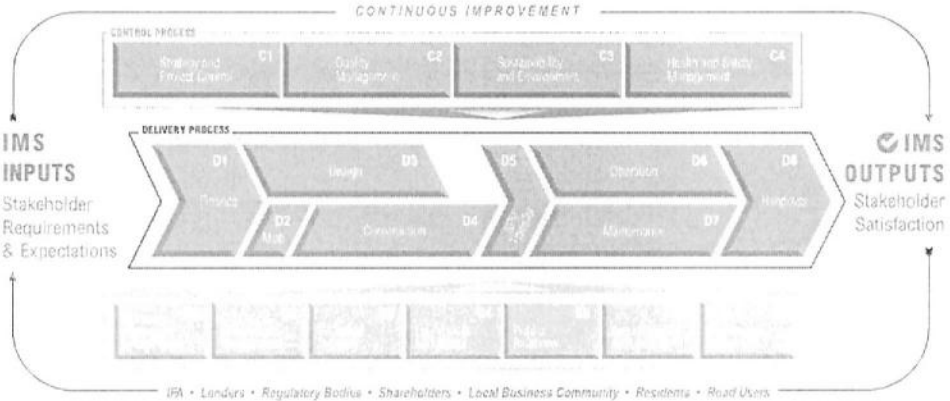
The IMS provides the framework for the management approach in all Project stages; WVB requires all WVB employees, subcontractors, and suppliers to comply with it. The inputs that enable the development and implementation of the IMS include stakeholder, client and WVB partner requirements and expectations and JV parent companies' existing management systems, best practice and lessons learned. The principal output is full stakeholder satisfaction.

IMS STRUCTURE: Fundamentally, the IMS identifies all Strategic Processes necessary for WVB to manage Project development and delivery, as well as their interactions. Each strategic process within this top level view is underpinned by a series of Management Processes. These are discussed in the relevant parts of our proposal as well as the Project Management Plan (PMP) in the Volume 2 Appendices. WVB's IMS is further explained in **Figure 4.1-1**.

All processes are documented through process charts. For each process, WVB produces associated documentation, including management plans, operational procedures, monitoring and reporting requirements, and work instructions. These are made available to authorized personnel (including subcontractors) via an interactive online version of the IMS (see Section 4.1.7).

FIGURE 4.1-1 WVB INTEGRATED MANAGEMENT STRUCTURE

The East End Crossing requires full project coordination to deliver in a manner that exceeds stakeholder expectations and ensures satisfaction. To streamline the development, planning, and implementation of all work, WVB has developed an Integrated Management System (IMS) that provides consistency and continuous improvement throughout all phases of the Project. All work from finance through O&M will conform to the principles and practices of WVB's IMS which is broken down into three types of processes: Control, Delivery, and Support. Our IMS consolidates all information into one unified platform to ensure WVB's "One Team, One Project, One Community" approach.



CONTROL PROCESS

These processes ensure WVB controls every aspect of the works to achieve the Project objectives. They include processes to establish our business strategy; communication and decision making procedures; schedule, cost and QSHE control methodologies; and organization and resource management approach.

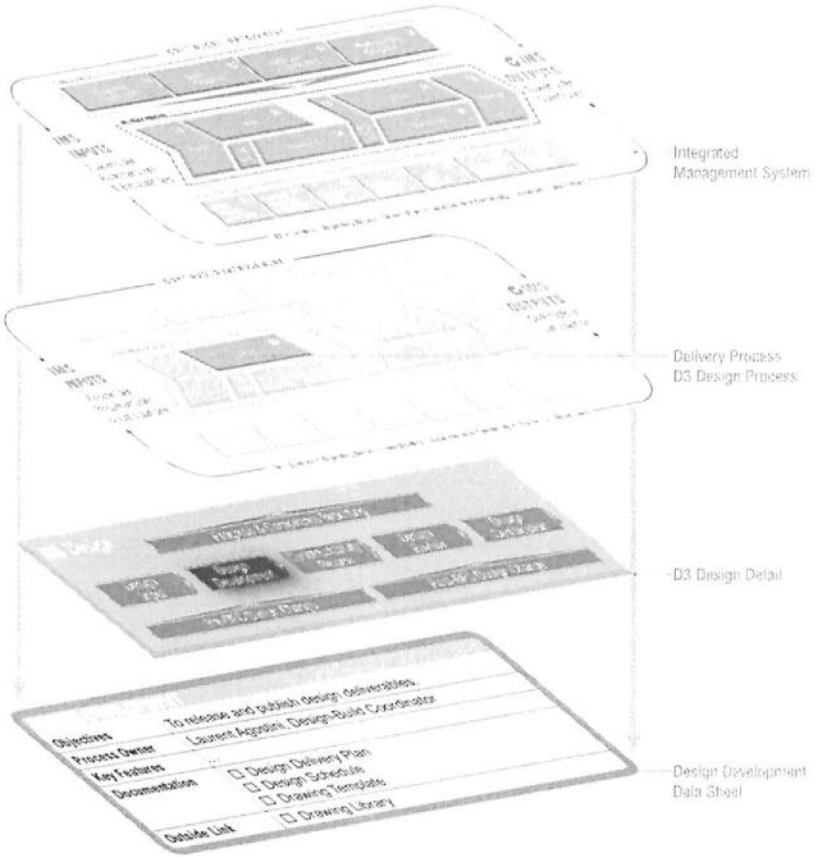
DELIVERY PROCESS

Core WVB processes that will contribute directly to the achievement of client satisfaction and the fulfillment of stakeholder objectives. They include the management procedures that apply at each stage of the works; for example, our planning and mobilization activities, change management processes, reporting requirements, and sign off procedures.

These processes ensure the proper implementation of WVB's delivery processes and provision of all necessary resources. This includes how we will manage: supply of qualified and experienced people; our supply chain; the input of technical experts; plant and equipment; public relations; financial support; and all project documentation and IT.

SUCCESSFUL IMPLEMENTATION: The interactive IMS was developed in 2007 and successfully implemented in the United Kingdom on the M1 Project (15 miles Highway, 45 bridges), as well as the Lee Tunnel Project (265-foot-deep shafts up to 100 feet in diameter with a 4.36 mile tunnel) where it was successfully used by designers, contractors, and clients.

WVB's Integrated Management Structure (IMS) is incorporated into WVB's computer software system, DyMaDoc, to allow users to point and click to drill down multiple levels to focus on specific task details within the processes.



As the IMS is driven down from the overall structure to process subsets, it reaches the detail level where WVB's proven Task Managers develop the work following the details from each task within the process. Task Managers utilize the IMS software interface to control and coordinate works within each detailed task and report to their process owner. WVB's IMS user interface merged with DyMaDoc, allows for clear and efficient flow of information and communication between Key Personnel, Task Managers, team members, and IFA.

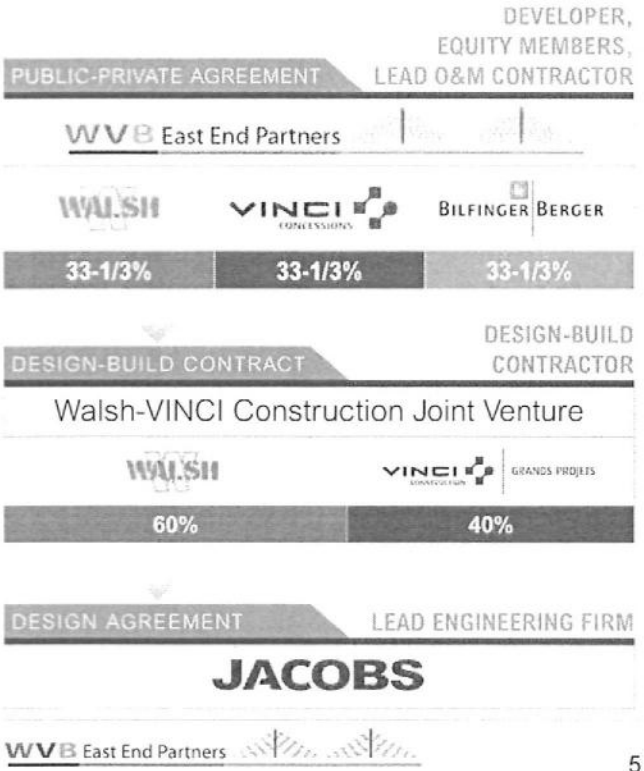
4.1.1.A MANAGEMENT STRUCTURE & PERSONNEL

The WVB Team includes local and global leaders of the industry and is structured to show WVB's long-term commitment for the life of the asset and community. Key Personnel and Task Managers control the IMS. They were drawn from WVB members and have demonstrated experience and capability of their roles. In every process, the key members are reinforced by competent support personnel pulled from WVB's abundant resources to deliver the Project efficiently, safely, on time and within budget.

4.1.1.a.i Organizational Structure

WVB has a design-build contract with the Walsh-VINCI Construction Joint Venture (Walsh-VINCI CJV) comprising Walsh Construction Company (Walsh Construction) and VINCI Construction Grands Projets (VINCI CGP). Walsh-VINCI CJV has a design agreement with Jacobs Engineering (**Figure 4.1-2**). WVB's team is solidified with local advisors, subcontractors, and consultants, such as Milestone, James H. Drew, Guthrie/Mayes, and Third Rock Consulting. WVB's full organizational structure is illustrated in **Figure 4.1-4**, showing the relation between Project partners. Partners are grouped by their roles and assigned responsibilities based on the firms' proven abilities.

FIGURE 4.1-2 WVB MANAGEMENT TEAM



WORK TOGETHER

Brian Hoppel, WVB's Construction Manager, has led major INDOT projects, including the Milton-Madison Bridge and Accelerate 465.

4.1.1.a.ii Key Personnel

Each process identified within the IMS has an owner appointed by the WVB Steering Committee. Process owners are senior managers with direct responsibility for the delivery of that process. They have complete authority, competence and resources to:

- Disseminate procedures and objectives across the entire WVB team to achieve IFA goals.
- Collect, review, and report the process operation information to ensure satisfactory performance.
- Implement improvements and measure success against key performance indicators (KPIs).

The allocation of responsibility for each process generates the following benefits:

- An accessible single point of contact, accountable for performance.
- A clear focus on maintaining flexible processes and continuously improving WVB's approach.

The WVB project delivery structure continually evolves to maintain flexibility and response to changing Project needs. **Figure 4.1-5** illustrates Key Personnel within the WVB organization throughout all Project phases.

Process owners are "flagged" in the organization charts as shown in **Figure 4.1-3**. Some processes have a unique owner for the whole Project (such as D1 Finance Delivery Process); some have an owner in the SPV and one in the CJV (such as C1 Strategy and Project Controls). Each Key Person's function and responsibilities are described in **Table 4.1-1**.

FIGURE 4.1-3 PROCESS OWNERS

Brian Hoppel, is the owner of the C1, D2, and D5 processes and will be committed 100% during design and construction.

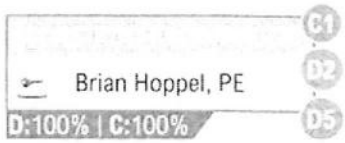


FIGURE 4.1-4 WVB's ORGANIZATIONAL STRUCTURE

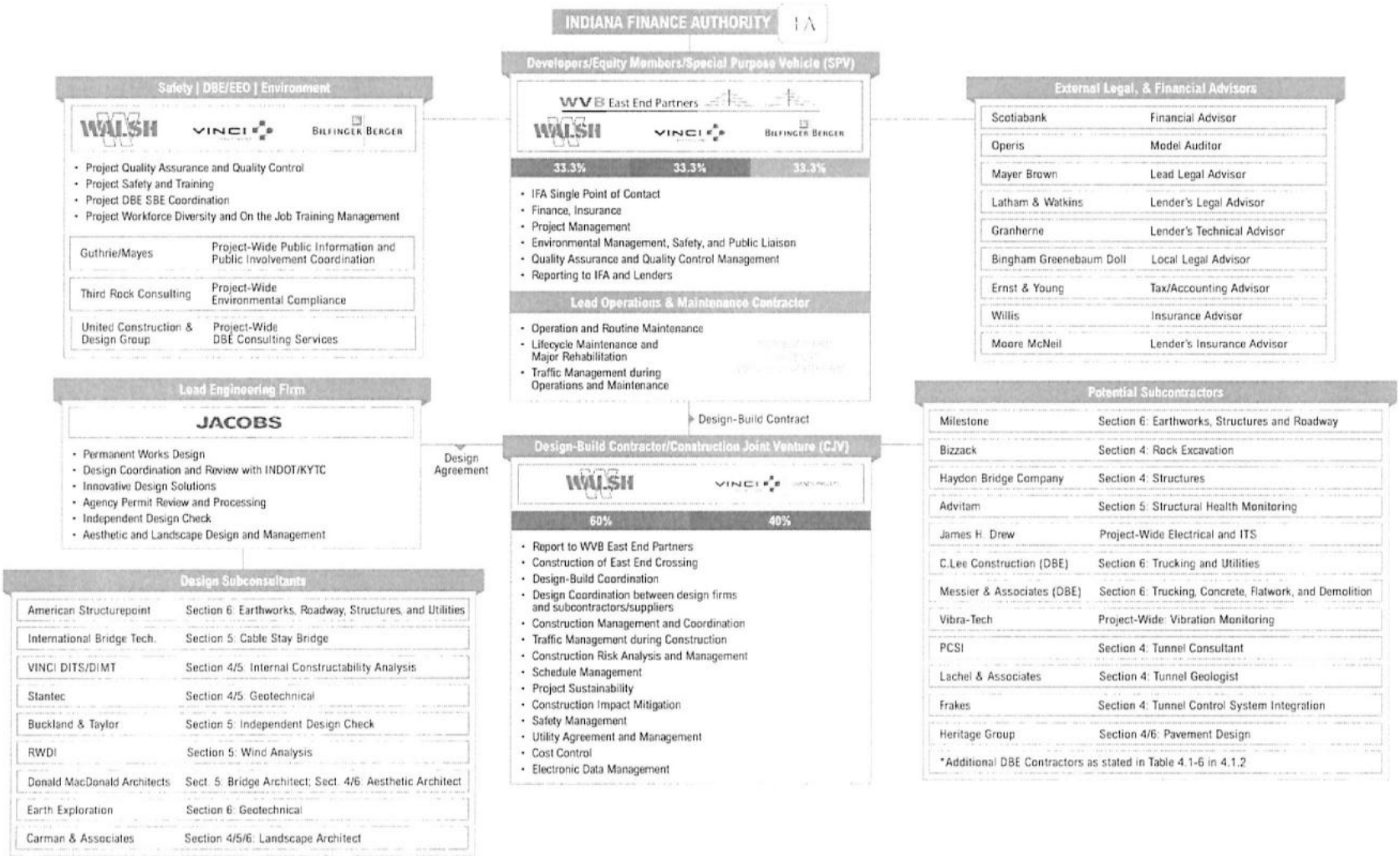


FIGURE 4.1-5 WVB INTEGRATED ORGANIZATION

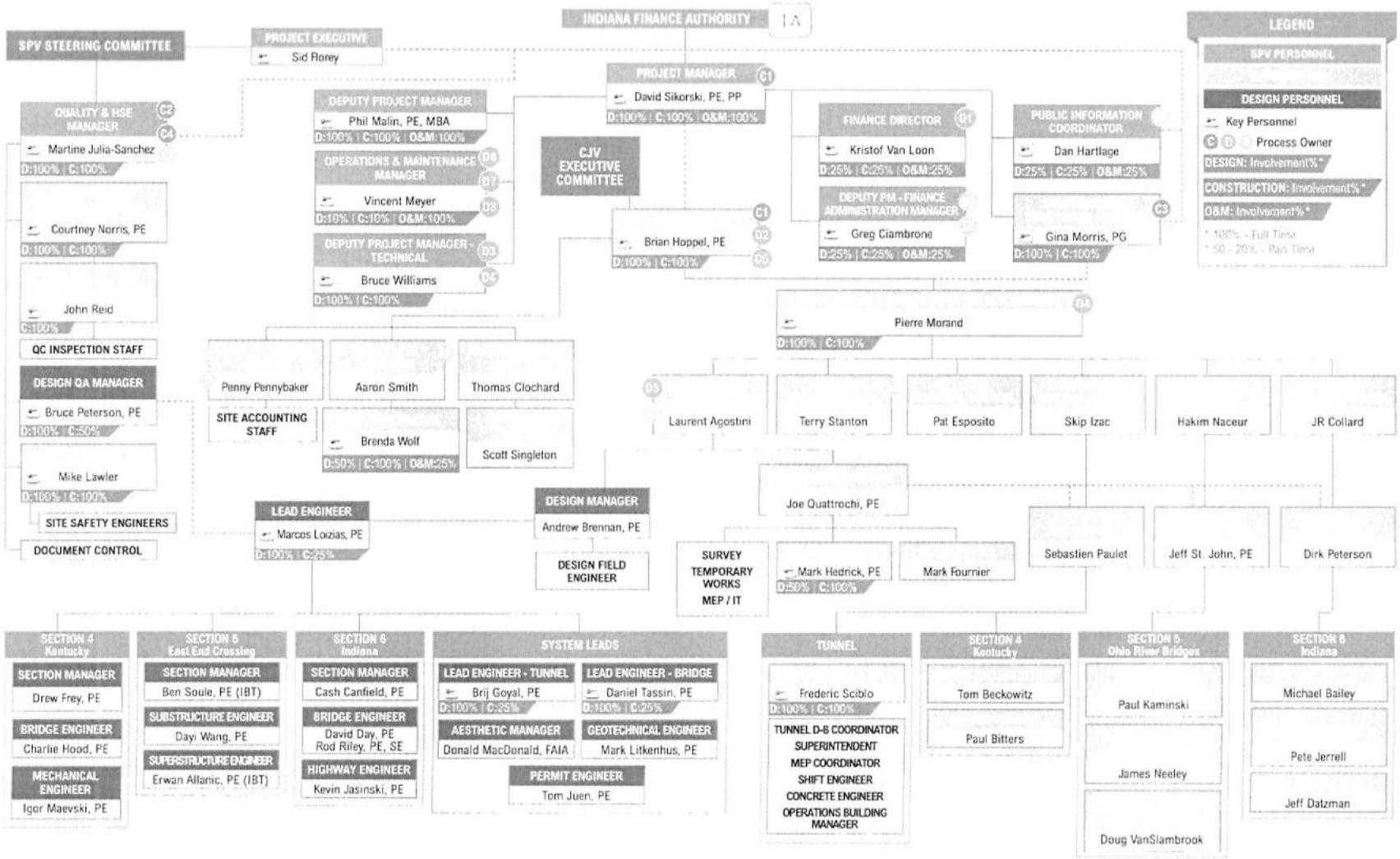


TABLE 4.1-1 WVB KEY PERSONNEL ROLES AND RESPONSIBILITIES

SPV PERSONNEL

NAME	KEY RESPONSIBILITIES
Sid Florey PROJECT EXECUTIVE	• Lead PPA negotiations • Coordinate transfer from construction to O&M phase
David Sikorski, PE, PP PROJECT MANAGER	• Accountable for fulfillment of the PPA contract; manage Project, direct entire team, and act as **single point of contact for IFA** • Lead integration of finance, construction, and operations and coordinate management of all resources • Define, deploy, review and maintain the business vision, values and strategy • Report Project progress and performance to IFA and Lenders
Phil Malin, PE, MBA DEPUTY PROJECT MANAGER	• Whole life asset management • Integrate O&M into construction • QMSE Manager during O&M period • Oversee design and construction
Bruce Williams DEPUTY PROJECT MANAGER	• Ensuring construction strategy, quality, safety and environmental policy align with PPA requirements • Ensure stakeholder requirements are accommodated within design and construction • Monitor performance to achieve target performance objectives and continuous improvement
Kristof Van Loon FINANCE DIRECTOR	• Lead the Finance Process to obtain Financial Close; manage lenders expectations and reporting • Manage financial model and update it with changes in forecast assumptions
Vincent Meyer OPERATION AND MAINTENANCE MANAGER	• Lead the operation and maintenance, lifecycle and rehabilitation and handover processes during the O&M period • Liaise with design and construction team during design-build period to ensure maintenance and whole life considerations are met in design • Monitor performance to achieve objectives; develop and drive continuous improvement
Greg Ciambrone DEPUTY PROJECT MANAGER - FINANCE ADMINISTRATION MANAGER	• Coordinate and manage financial accounting and reporting; implement robust systems and processes as appropriate, coordinate and manage statutory accounts preparation, audit clearance, and cash/treasury management • Develop, review, maintain, and report the IMS for effective performance; champion continuous improvement
Martine Julia-Sanchez QUALITY & HEALTH, SAFETY, AND ENVIRONMENT MANAGER	• Coordinate quality/process improvement activities; liaise with IFA and third parties QHSE participation • Assess, monitor, and report compliance with relevant law, WVB policies, project objectives; lead audit program • Manage quality control team, quality assurance reporting, and safety

DESIGN PERSONNEL

NAME	KEY RESPONSIBILITIES
Gina Morris, PG ENVIRONMENTAL COMPLIANCE MANAGER	• Develop, deploy and review and maintain environment protection and sustainability activities for WVB, and liaise with IFA • Deliver environmental standards that meet and exceed expectations of the IFA, stakeholder and environmental bodies • Improve the environment and reduce impacts • Provide advice, training, and guidance on environment and sustainability issues during design and construction
Dan Hartlage PUBLIC INFORMATION COORDINATOR	• Develop, review, and implement Public Involvement Plan • Proactively communicate and contribute to community stakeholders • Manage public relations after liaise with IFA
Marcos Loizias, PE LEAD ENGINEER	• Oversee the development of the design and compliance with PPA and technical requirements • Verify design accounts for temporary load cases during construction • Ensure timely flow of design information • Coordinate CJV input through Design Manager • Approve final design
Brij Goyal, PE LEAD ENGINEER TUNNEL (Responsible Engineer)	• Design the Tunnel in compliance with the PPA and Technical requirements • Coordinate additional geotechnical investigation • Serve as Technical Leader for Design Team • Coordinate construction input through Lead Engineer
Daniel Tassin, PE LEAD ENGINEER BRIDGE	• Design the East End Bridge in compliance with the PPA and technical requirements • Serve as Technical Leader for Design Team • Coordinate construction input through Lead Engineer
Bruce Peterson, PE DESIGN QA MANAGER	• Manage design quality compliance • Coordinate design quality with construction team • Conduct Project audits for design quality compliance
Frederic Sciblo TUNNEL MANAGER	• Lead and direct Tunnel construction, ensure worker safety • Ensure all IFA and stakeholder Tunnel requirements are exceeded • Achieve performance objectives and drive continuous improvement
Mark Hedrick, PE UTILITIES MANAGER	• Manage permanent service (gas, electricity, water) identification and protection • Liaise with authorities and service providers to ensure they are informed and unaffected • Coordinate construction requirements through CJV Engineering Manager
Brian Hoppel, PE CONSTRUCTION MANAGER	• Accountable for delivery of the design-build contract, project management and team direction, single point of contact for the SPV • Define, deploy, review and maintain the WVB CJV Business vision, values and strategy • Deliver WVB objectives, satisfy IFA and stakeholder requirements, take responsibility for Project safety • Report Project progress and performance to SPV and parent companies and drives continuous improvement
Pierre Morand SITE MANAGER & BRIDGE CONSTRUCTION MANAGER	• Lead design and construction; implement field construction strategy, quality, safety, environmental processes • Ensure stakeholder design and construction requirements are met • Manage and achieve performance objectives; develop and drive continuous improvement • Responsible for al construction operations
Brenda Wolf DBE COORDINATOR	• Lead liaison with Disadvantaged Business Enterprises (DBEs) • Ensuring national goals are exceeded and coordinate progress payments to DBE firms • Lead liaison to coordinate diversity and SBE issues with IFA and the community • Maintain all reporting requirements, provide training, and coordinate Mentor-Protege efforts • Ensures CJV coordination and compliance through Contracts Manager
Courtney Norris, PE CONSTRUCTION QUALITY MANAGER	• Lead the quality assurance, surveillance and auditing, and continuously improve quality management • Manage IFA QA feedback • Assess, monitor and report compliance with relevant law and WVB policies and objectives • Manage and coordinate the QA reporting process
John Reid CONSTRUCTION QUALITY CONTROL MANAGER	• Lead the quality control, inspection, sampling and testing • Ensure compliance with PPA requirements, and IFA and State quality regulations • Stop work authority in case of noncompliance • Manage QC team, on-site and external independent laboratories according to program requirements
Mike Lawler SAFETY MANAGER	• Develop, maintain, and manage health and safety activities • Ensure safety exceeds expectations of IFA and WVB partners • Audit, inspect, train, manage, and continuously improve in all aspects of safety

4.1.1.a.iii Task Manager Qualifications & Experience

WVB staffs the Project with only suitably qualified and experienced personnel (SQEP). For all positions, a SQEP form establishes responsibilities, required experience, and qualifications. These qualifications are specific to each position, but include general training such as OSHA 30, cost control, quality, and leadership training.

Candidates are selected, tested, and appointed based on the criteria in the SQEP form. WVB used this process (see **Figure 4.1-6**) to select competent Project leaders, Key Personnel, and Task Managers from our member's current staff (see **Table 4.1-2**).

Project-specific training is provided to ensure Task Managers exceed SQEP standards and continuously improve. Regular performance reviews are conducted and reviewed with the SQEP forms to maintain Task Manager quality and identify potential growth opportunities. Potential Task Managers are trained as part of their personal development plan so they become SQEP.

WORK TOGETHER

Many of WVB's Task Managers come from Walsh Construction's Indiana office and have experience working with and exceeding INDOT's expectations.

FIGURE 4.1-6 WVB'S SQEP PROCESS

SQEP ensures the Project is staffed with highly-competent Task Managers who are regularly trained and reviewed.

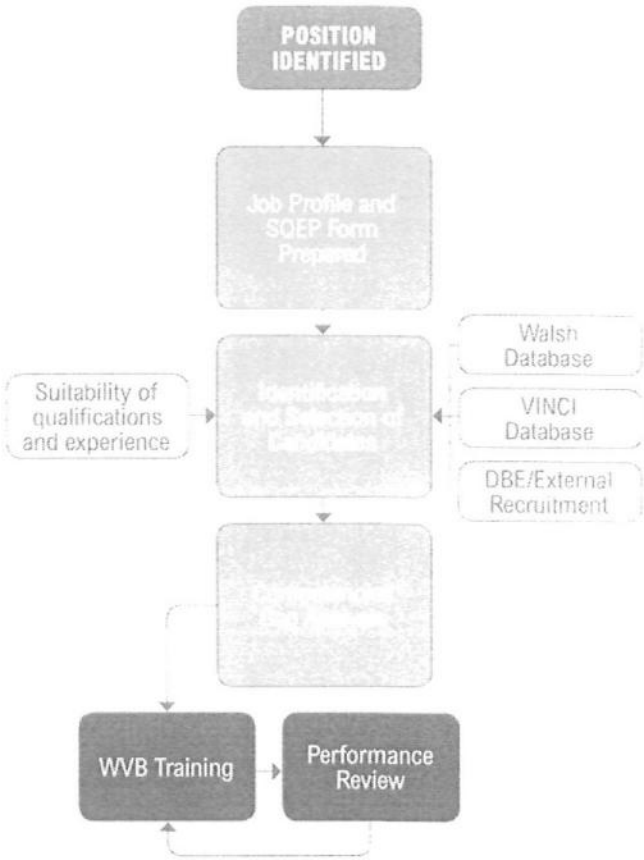


TABLE 4.1-2 PROPOSED TASK MANAGER QUALIFICATION REQUIREMENTS

Position	Qualifications	Experience	Selected Personnel
Section Project Managers	Construction Engineering degree/MBA or equivalent experience	15-25 years in major construction projects (including design-build) and worked in a JV	Skip Izac, JR Collard, Hakim Naceur
Superintendents	Adequate experience and training	15-25 years in construction 5-10 years in their area of responsibility (Tunnel/cable stays/bridge/roadways)	Pete Jerrell, Paul Kaminski, Jeff Datzman, Paul Bitters
Field Engineers	Construction Engineering/ Management Degree or equivalent	3-10 years in construction	Doug VanSlambrook
Design-Build Coordinators/Engineers	Civil Engineering degree or equivalent	8-15 years in construction/engineering including design-build	Laurent Agostini Joe Quattrochi, Dirk Peterson, Sebastien Paulet, Jeff St. John
Safety Managers	Safety Management degree/equivalent experience	10-15 years in safety management	Mike Lawler
Design Section Managers	Registered Professional Engineer in Indiana/ Kentucky	15-25 years in construction/engineering in relation to specific area of activity	Ben Soule, Cash Canfield, Andrew Frey

4.1.1.a.iv Current & Projected Workload

Although a significant Project, IFA can be confident that WVB is fully resourced for safe, on-time delivery of the Project through our vast financial, staff, and equipment resources available locally and internationally. WVB's workload and backlog is detailed in **Table 4.1-3**.

WVB draws from over 250,000 employees of VINCI's and Jacobs' worldwide operations and Walsh's North American operations. The workforce requirement for this job is less than 1% of our current workforce.

Of particular benefit to IFA is WVB's local presence; we draw on an experienced workforce familiar with local conditions and standards. WVB partner Walsh Construction has averaged over one million trade hours per year over the past three years in Kentucky and Indiana and is on pace to use 1.4 million trade hours by the end of 2012. This equates to approximately 650 trade employees in Indiana and Kentucky. In addition to our own local experience, we expect major participation from local subcontractors such as Milestone, Haydon Bridges and James H. Drew.

WORK TOGETHER

WVB's assigned Project resources benefit from recent experience with INDOT on Milton-Madison Bridge, I-465, I-69, and US 31.

WVB's locally-available equipment and facility resources are supported by additional global resources. WVB Team Partners' local equipment (**Figure 4.1-7**) includes:

- +$400 million of owned equipment
- Over 7,500 pieces of equipment
- 210 marine pieces including 2 ringer cranes
- 119 cranes including 9 tower cranes
- 500+ earth moving and paving pieces of machinery

The East End Crossing Team is independent from any other project including the Downtown Crossing and U.S. 31. Key personnel and Task Managers are selected and have been involved and committed to this Project.

FIGURE 4.1-7 LOCAL EQUIPMENT

WVB team member's equipment is available and ready to mobilize.

TABLE 4.1-3 WVB MEMBER WORKLOAD AND BACKLOG

Participant	Equity under Investment	Reserved Equity	Available Equity
Walsh Investors	0	0	$100 million
VINCI Concessions	$9.1 billion	$260 million	$570 million
Dillinger Berger	$337 million	$7.8 million	$524 million

Participant	Current Workload	Projected Workload (2013)	Current Backlog
Walsh Construction	$4.1 billion	$4.4 billion	$6.7 billion
VINCI Construction Grands Projets	$610 million	$1.1 billion	$2.7 billion
Jacobs Engineering	$11 billion	$12.5 billion	$15.6 billion

4.1.1.B INTERNAL ORGANIZATION SYSTEMS

Successful delivery of the Project in line with all IFA and WVB shared goals requires an effective working partnership. The foundations of our collaborative "One Team, One Project, One Community" approach include:

- Clear governance structure and procedures to support timely, informed decision making.
- Building trust and maintaining open and honest two-way internal communications.
- External communications to ensure local stakeholder and community engagement and support.

4.1.1.b.i Decision-Making Process

All partners commit to resolve internal disputes according to the terms of the respective agreements. For key decisions each partner has a vote equal to their share in the partnership. WVB's aim is for consensus decision making. Where this cannot be achieved, issues are elevated to the senior officer of each party involved. WVB's priority in the event of a dispute is for the Project to continue as planned.

David Sikorski, Project Manager, implements strategy, leads delivery, sets objectives, and makes key decisions for all aspects of project delivery. Where matters need escalation, he seeks support and authority from the SPV Steering Committee. This committee includes representatives from Walsh Investors, VINCI Concessions, and Bilfinger Berger, and has the authority to make the best decisions for the Project as a whole.

Brian Hoppel, Construction Manager, is responsible for decision making for the Project design and construction. In the same manner as David, Brian escalates issues to the Walsh-VINCI CJV Executive Committee, which includes representatives from Walsh Construction and VINCI CGP.

WVB managers at every level are aware of their autonomy to make decisions. Decisions are made and issues are resolved quickly at the lowest possible level where implications of the issue are best recognized. Only if these concerns cannot be resolved are they escalated to the next level. This ensures issues are addressed correctly and quickly, minimizing the risk of adverse impacts on cost, schedule and quality. We use a formal, Project-specific issue escalation process based on a matrix of the potential impacts that could occur across disciplines including safety, cost and schedule. This matrix clarifies the exact escalation and reporting mechanism.

The decision making and internal communications hierarchy is illustrated in **Figure 4.1-8**.

FIGURE 4.1-8 DECISION MAKING AND INTERNAL COMMUNICATIONS HIERARCHY

Decisions are made at the lowest possible level and escalated only when concerns cannot be resolved.

WVB has organized our structure to minimize disputes and associated impacts. WVB corporate partners are involved in all facets of design, construction and O&M, so that the interests of the Walsh-VINCI CJV align with the SPV. This vertical integration encourages the Walsh-VINCI CJV, including Executive Committee, and SPV, including Steering Committee, to make decisions based on the best interests of the entire Project. Our vertical integration thereby promotes our unified "One Team, One Project, One Community" approach to decision making.

WORK TOGETHER

WVB's unified "one team" approach, with corporate members involved in all phases of the Project, supports a strong, clear internal structure and decision-making process.

4.1.1.b.ii Internal Communication

WVB uses multiple formal and informal communication channels to provide clear, concise, and comprehensive communications, to maximize collaboration and trust in the Project team.

MEETINGS: **Table 4.1-4** outlines proposed meetings that provide project controls, support effective communication, and facilitate decision making. Because of the integration of WVB's team, the SPV, Walsh-VINCI CJV, and WVB O&M Teams are a part of all meetings and internal communications.

DOCUMENTATION AND DATA: Project documentation and data are stored electronically and shared via a common document management platform called DyMaDoc. Access to this in-house application is provided to all authorized members of the team and supply chain. In accordance with our IMS structure, DyMaDoc provides a centralized information source for accurate communication between parties (**Figure 4.1-9**).

REPORTING: At all levels of WVB's organization each individual has defined reporting responsibilities that are clearly communicated to the team and documented on the organizational chart. Report templates are agreed upon with IFA to provide pertinent information in a form that facilitates interpretation of results. To support continuous improvement, senior managers use progress reports and key performance indicators (KPIs) consolidated by the Quality Management team.

FIGURE 4.1-9 DYMADOC SUCCESS

WVB member VINCI CGP has used DyMaDoc successfully on 80 projects, including EKPPT Motorway Tunnel.

COMMUNICATION WITH THE CONSTRUCTION WORKFORCE: WVB maintains continuous two-way communication with the workforce and subcontractors through one-on-one communication, meetings, written reports, posters, and suggestion boxes. Managers at all levels have an "open door" policy to encourage communication. We hold daily and weekly task force, safety, schedule, and progress meetings to provide regularly scheduled opportunities for two-way communication.

TABLE 4.1-4 PROPOSED MEETINGS

Meeting	Composition	Focus	Frequency
Team/Workforce Briefings	Management staff/workforce	Requirements of works ahead; particular safety precautions; progress/performance review	Daily (separate)
Toolbox/ Brownbag Talks	Task managers, workforce, major subcontractors	Focus on particular project issues, such as safety, sustainability, environmental, quality, etc.	Weekly/as needed (separate)
Schedule Review	Field engineers and superintendents	Project progress and performance against the schedule	Every two weeks
Section Progress Review	Section delivery teams; major subcontractors	Monitor progress of a particular section against schedule and targets; address or escalate issues; three week schedule reviews	Weekly
Specialist Team Meetings	Teams of relevant WVB and supply chain personnel	Monitor progress and make key decisions in specific areas including: design, engineering, quality, logistics, scheduling, safety and sustainability	Monthly
CJV Executive Committee Meetings	Representatives from each Walsh-Vinci CJV partner	Direct, manage and supervise design-build works at a strategic level. Monitor progress and risk analysis to agree on actions to resolve issues and improve performance.	Monthly
Progress Review	Project Manager, Senior Managers, and SPV	Monitor overall progress versus schedule, project objectives and targets; address/escalate any issues as necessary	Every two weeks
SPV Steering Committee Meetings	Representatives from each of the WVB partners	Direct, manage, and supervise the business at a strategic level, covering design-build, finance and O&M.	At least every two months

4.1.1.b.iii External Communication

WVB maintains transparency through ongoing communication with all external partners during every Project stage. Shortly after Project award, WVB sponsors a Project partnering meeting to establish lines of communication, goals, and meeting schedules as appropriate for stakeholder groups. WVB continues this partnering collaboration throughout Project execution with quarterly functions. To clarify communication with external parties, WVB establishes single points of contact for each key interface, as described in **Table 4.1-5**. David Sikorski, Project Manager, is the single point of contact for IFA.

Through experience on recent Indiana and Kentucky projects, WVB's local team members Walsh Construction, Jacobs Engineering, American Structurepoint, Guthrie/Mayes, and Third Rock Consulting have established relationships with many shareholders and agencies. These initial relationships improve coordination as many of the protocols and practices are known and understood.

WORK TOGETHER

To support optimal external communication, local team members have established relationships with many Project stakeholders.

For efficient Project delivery, WVB co-locates with IFA in Utica, Indiana. Executing a project of this size from a co-located office allows for daily face-to-face interaction between design, construction, and IFA personnel and improves communication, cooperation, and expedited decision-making.

TABLE 4.1-5 KEY RESPONSIBILITIES AND METHODS FOR COMMUNICATION

Groups	Key Contact	External Communication Methods
IFA	Project Manager, David Sikorski	WVB provides a written report on progress and performance at least every two months, and meetings with the IFA to gain feedback.
IFA consultants: INDOT/KYTC/Parsons	Construction Manager, Brian Hoppel	Consultants are included in relevant design review and workshops to ensure an over-the-shoulder and closely coordinated review process.
Applicable third parties	Public Information Coordinator, Dan Hartlage	Consultation activities, regular meetings, third-party contact details, and inform public of upcoming service disruption.
Utilities	Utilities Manager, Mark Hedrick	Identify and manage all interfaces and eliminate risk of impact on utilities. Communication is particularly important where any services are relocated.
Community and stakeholder (aesthetic review)	Public Information Coordinator, Dan Hartlage	Consultation meetings and surveys are conducted to communicate design proposals and obtain stakeholder feedback and input into design development.
Transportation agencies	MOT Manager, Mark Fournier	WVB uses ongoing communication through informal contact and weekly meetings to mitigate impacts on the traveling public, and ensure safety.
Emergency services; e.g. police and fire departments	Safety Manager, Mike Lawler	Establish key points and methods of contact; develop and obtain approval for all project emergency plans. Monthly updates communicate potential risks.
Residents near the construction site	Public Information Coordinator, Dan Hartlage	Early consultation meetings to ensure potentially affected parties are identified and aware of the risks. Advanced warnings provided via the Project Website, local media and on site notice boards. A phone number and email address is provided to which queries, concerns or complaints can be addressed.
Environmental agencies	Gina Morris, Environmental Compliance Manager	Interface with environmental agencies to ensure all requirements, including testing and permanent approvals are met.

4.1.1.b.iv Public Information & Community Outreach Staff

As WVB's Public Information Coordinator (PIC), Dan Hartlage of public relations firm Guthrie/Mayes, develops and implements WVB's Public Involvement Plan (PIP). As WVB's single point of contact with IFA's PIP Manager, Dan supports IFA on all communication and public involvement issues.

Dan, and his supporting staff from Guthrie/Mayes, have more than 35 years of experience creating and implementing successful public relations programs for local and national businesses and associations. Supporting Dan in the public information effort are key management members of the WVB team who fully support and cooperate with Guthrie/Mayes to form WVB's Public Information (PI) Team. The PI Team interact with the community, attend events as requested, and communicate Project details and schedules. These key managers include:

- David Sikorski, Project Manager
- Brian Hoppel, Construction Manager
- Donald MacDonald, Aesthetics Manager
- Mark Fournier, MOT Manager
- Mike Lawler, Safety Manager
- Brenda Wolf, DBE/Diversity Coordinator

Guthrie/Mayes provides guidance to these personnel, who have extensive knowledge of the Project and have years of leadership and technical expertise.

POSITIVE IMPACT ON THE AREA AND COMMUNITY

For more than 20 years, Dan has provided expert communications counsel and support for clients involved in high-profile community issues. His professional experience includes serving as a key communications consultant for the Louisville International Airport rebuild and expansion — the largest economic development construction project in the history of the Commonwealth of Kentucky.

4.1.1b.v Preliminary Public Information Plan

WVB's PIP supports IFA in their goal of proactive public information measures and prompt concern resolution to maintain public trust and integrity. All activities defined in the PIP support engagement and open dialogue amongst the Project team, IFA, and all sectors of the community.

EXPERT LOCAL PUBLIC RELATIONS

Dan Hartlage (right) joins Kentucky Governor Steve Beshear (left) and Toyota Motor Manufacturing Kentucky president Will James in a check presentation at the Kentucky State Capitol. The news conference and check presentation was organized and implemented by Dan and Guthrie/Mayes Public Relations staff.

To achieve the public involvement and communication goals for this high-profile Project, WVB works with IFA and the community to:

- Maximize positive public involvement throughout all phases of the Project through participation in general outreach, special focus committees, Project tours, and special events.
- Minimize inconvenience to the public through comprehensive, inclusive communication efforts that inform and prepare those directly affected by construction activities.
- Comply with consultation commitments in the First Amended MOA.
- Assist IFA in educating the public on the Project's importance to the region's mobility and economy.
- Provide the IFA PI Team high-quality support, including written and illustrative materials that are ready to publish.

WVB provides significant notifications to IFA's PIP Manager regarding lane closures, utility shutoffs, weekly construction updates, hazardous conditions, and traffic emergencies. WVB directs all requests for information received from the public to IFA and assist IFA in preparing the appropriate responses. The public involvement and communication efforts on this Project require an integrated, collaborative approach

with seamless interaction between IFA and WVB. As the guide for this combined IFA/WVB effort, WVB develops a Community Outreach Plan (COP) that identifies communication strategies and actions to deliver a consistent message in all public involvement, public outreach, and communication activities. The COP addresses the following:

- Roles and responsibilities
- Communication plan, procedures, and goals
- Public involvement and outreach approach
- Historic preservation outreach approach
- Significant public relations risks and benefits
- Performance-monitoring processes and tools

The COP focuses on obtaining feedback from residents and ensure local participation in the design and construction process. Neighborhood organizations and historic preservation groups are consulted regularly to provide expertise on locally sensitive areas. Donald MacDonald, Aesthetic Manager, collaborates with these groups to ensure their concerns are heard.

It is WVB's intent to share the Project's success with the community. To do so, WVB anticipates and plans around the many local events that take place in and around the greater Louisville area throughout the year. Mark Fournier, MOT Manager, and Mark Hedrick, Utility Manager prioritizes minimizing impacts to the event holders, attendees, and surrounding businesses and residents with thorough traffic staging plans and advance notifications.

SOCIAL MEDIA: WVB will incorporate the use of social media, like Facebook or Twitter, to rapidly notify the public of incident alerts and for two-way communication concerning road conditions, Project progress, and suggestions for getting around any closures. We can develop and distribute smartphone apps to make information access even easier. WVB will assist with the essential tasks of monitoring pages and comment threads, providing prompt responses and encouraging respectful and productive information exchange through the social media outlets.

Mike Lawler, Safety Manager, serves as the liaison between the Project Team and emergency services. Mike has developed a preliminary Project Safety Plan with input from Dan and Mark to ensure compatibility with public relations and traffic management. The Safety Plan is finalized through coordination with local fire and police departments to establish lines of communication for emergency response management. A crisis communications plan is established to ensure immediate stakeholder notification in the event of an on-site/project crisis or the development of a significant community issue.

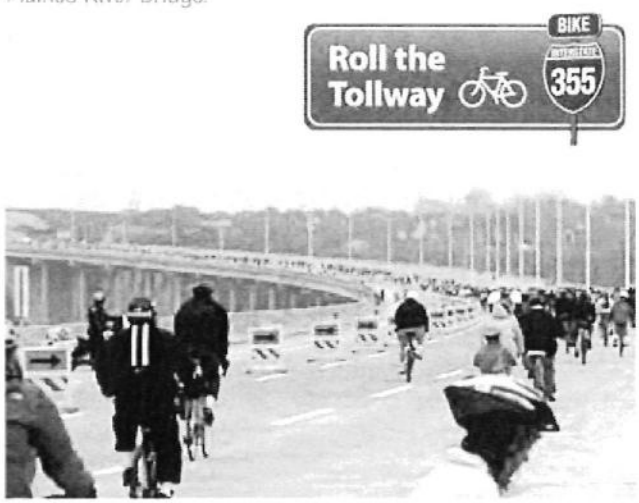
WVB provides comprehensive and useful design and construction information using a variety of communication tools to reach the widest-possible audience. As needed by IFA, WVB writes content, provides graphics (as applicable), and helps facilitate the following:

- Project website
- Social media
- Quarterly newsletters
- Direct mailings
- Collateral materials
- Advertising
- Press releases
- Public postings
- Email and other correspondence

A Project website is established with a live-feed web cam for residents to stay up-to-date with construction progress.

WVB COMMUNITY EVENTS

WVB plans to hold community events similar to the bike/run event Walsh Construction held prior to opening the I-355 Des Plaines River Bridge.



4.1.2 PRELIMINARY DBE PERFORMANCE PLAN

DBE management, as well as all other subcontract management, is controlled by Support Process S2 within our Project IMS. WVB's preliminary DBE Performance Plan is summarized in this section and explained in further detail in the Volume 2 Appendices.

4.1.2.A ACHIEVING DBE GOALS

WVB is committed to exceeding the 9% Disadvantaged Business Enterprise (DBE) goal established for the Project with an anticipated 9.23% participation. We accomplish this through an aggressive approach that includes:

1. A DEDICATED DBE TEAM: The DBE effort is led and delivered by Brenda Wolf, WVB's dedicated DBE/EEO Coordinator for the Project. Brenda has seven years of experience as Walsh Construction's Indiana Regional DBE/EEO Coordinator. Brenda has built positive relationships with INDOT, understands the INDOT DBE process, and has a history of supporting local projects to reach and exceed DBE goals. Brenda led DBE efforts on the I-70 "Super 70" Design-Build which achieved 7.3 percent DBE participation, exceeding the 3.0 percent DBE goal. Brenda has supported other local projects including the Milton-Madison Bridge, Cannelton Hydroelectric Plant, and I-69 White River to CSX.

Brenda is supported by our experienced in-house DBE team, including Doug Cunningham and Marvin Jackson. This team has previously exceeded DBE goals on other projects, including:

OUTREACH MEETINGS

WVB's DBE/EEO Manager, Brenda Wolf, and Martine Julia-Sanchez, QHSE Manager, greet potential and established DBEs at the WVB-sponsored outreach event held at Simmons College.

POSITIVE IMPACT ON THE AREA AND COMMUNITY

WVB's DBE Coordinator, Brenda Wolf, has established positive relationships with INDOT personnel through years of working collaboratively with INDOT DBE/EEO officers during training and reviews. Procedures Brenda has established are often held by INDOT to be best practices.

- **Dan Ryan Expressway Reconstruction Project:** Achieved 28.7 percent DBE participation, exceeding the goal of 19 percent.
- **Marquette Interchange Project:** Achieved 22 percent DBE participation, exceeding the goal of 12 percent.
- **DART Green Line Expansion Project:** Achieved 42 percent DBE participation, exceeding the goal of 39 percent.

2. PROACTIVE OUTREACH AND COMMUNITY ENGAGEMENT: In addition to attracting, retaining, and assisting subcontractors and material suppliers already certified and prequalified, WVB's objective is to identify companies not currently certified or prequalified that have potential to perform work on this Project and on future projects.

3. SPECIALIZED DBE ATTENTION: WVB partners with community agencies and organizations to provide resources and assistance with items such as material purchasing, bonding, bid preparation, and insurance, among others. WVB also provides technical assistance and training to all DBEs and offers a mentor-protégé program to emerging DBE firms.

4. PACKAGED WORK SCOPES: WVB has identified many subcontracting opportunities for construction and design, as well as opportunities for material supply. We have estimated DBE participation for the Project on the values of subcontracting packages intended for award to DBEs. Anticipated DBE participation is expressed as percentage of the total amount of the Project (design and construction). **Table 4.1-6** lists these anticipated procurements by scope package, interested DBEs, and potential percentage, showing our anticipated participation of 9.23 percent.

TABLE 4.1-6 WVB ANTICIPATED DBE PARTICIPATION

Scope Package	Potential DBEs	Potential %
Aggregate Haul	Messier & Associates	0.07%
Clearing	King's Trucking & Excavation	0.01%
Bridge Builders	Cherokee Construction and Excavation, LLC	0.01%
	Free Contracting, Inc.	
	Jones and Bourland, Inc.	
	NWK Construction Inc.	
	PBTHNOJJ Construction Company, Inc.	
	Vic Enterprises	
Concrete and Flatwork - Miscellaneous	Pioneer Associates, Inc.	0.04%
	Eaton Construction Co., Inc.	
	DC Concrete, LLC	
	Martin Asphalt and Concrete Construction	
	Seven Seas Construction	
DBE Consultants	Engaging Solutions	0.01%
	Indiana Strategic Resource Group	
	United Construction & Design Group	
	Vick Strategic	
Design Consultants	Corn Island Archaeology	0.01%
	K&S Engineers	
	Khafra Engineering	
	Rangaswamy & Associates	
	Shrewsberry & Associates	
	Third Rock Consultants	
Drainage	Spartan Construction Inc.	0.01%
	Corbitt & Sons	
	Seven Seas Construction	
	Leong Enterprises	
	C & L General & Mechanical Maintenance	
	Reyes Group, Ltd.	
Electrical	T.E.M. Electric Company	1.01%
Excavation and Embankment Construction	HTA Enterprises	1.16%
	C Lee Construction	
	Central Engineering & Construction Assoc.	
Fuel and Petroleum Supplier	Big Meadow Oil, Inc.	0.01%
	Jacobi Oil Services	
General Conditions	Mezzetta Construction	0.01%
Guardrail, Attenuators, Fence, Signals	NWK Construction Inc.	0.16%
	Contractors Corporation	
	C-Tech Corporation	
	Dallas Dean, Inc.	
	JAG, Inc.	
	CLS Industries	
	Professional Fence Co.	
Highway Lighting, Traffic Signals, Fiber Optic Cables, ITS	Bansal Construction Inc.	0.01%
	The Hoosier Company	
Landscaping	B&B Contracting	0.31%
	C.A. Fulkerson	
	Cedar Valley	
	Earth Images	
	Environmental Landscape	
	NWK Construction Inc.	
Precast Beams - Furnish/Install	Choice Construction	0.53%
	Javier Steel Corporation	
	Amelie Construction & Supply, LLC	
Quality Control and Materials Testing	Barr & Provost	0.01%
	Resource International,Inc.	
Reinforcing Steel - Furnish	Circle City Rebar, Inc.	0.76%
Reinforcing Steel - Install	J & B Steel Erectors	0.01%
	D.T. Read Steel Company	
	Bar-Tie Reinforcing, Inc.	
	Javier Steel Corporation	
SIP Forms - Furnish and Install	J & B Steel Erectors	0.30%
	Javier Steel Corporation	
Structural Removal and Demolition	Cherokee Construction and Excavation, LLC	0.01%
	CINCO, Inc	
	L.L. Brown Construction	
	HCL, Inc.	
Structural Steel - Furnish and Install	Choice Construction	0.01%
	Amelie Construction & Supply, LLC	
	Javier Steel Corporation; Louisville	
Structural Steel - Painting and Coating	Atlantic Painting	0.01%
	Central Painting	
	Antoine Adams Painting, Inc.	
Survey	Barr & Provost, Inc	0.01%
	Classicle, Inc.	
	Jacobi, Toombs and Lanz	
	Structure Designs	
	United Construction & Design Group	
	Vision Engineering;	
Sealing and Masonry Coating	Cardinal Indiana, Inc.	0.01%
	Eaton Construction Co., Inc.	
Ready-Mix Concrete	Advanced Ready Mix	2.89%
	AR Concrete & Supplies, LLC	
	American Ready Mix	
	Bancroft Group	
Traffic Maintenance	K.V.W.V. Traffic Control Holdings, Inc.	0.01%
	M.A.S. Markers, Inc.	
	S&T Partners, LLC d/b/a Traffic Control Services	
	B&B Contracting	
Trucking	King's Trucking & Excavation	1.84%
	C Lee Construction	
	Hoosier Bulk Transport, Inc.	
	K&A Trucking, Inc.	
	LRP Trucking	
	Messier & Associates	
	Nubian Transport Management, Inc.	
	Oatts Trucking	
	MU Trucking	
ANTICIPATED TOTAL DBE PARTICIPATION		**9.23%**

5. REQUIRED DBE PARTICIPATION FROM MAJOR SUBCONTRACTORS: WVB requires, and assists, any subcontractor awarded work on the Project to meet the DBE goal for their individual scope of work whenever it is reasonably achievable.

6. PROGRESS REPORTING: WVB provides monthly DBE status reports to IFA and the WVB Steering Committee. This report summarizes recruitment strategies and results to show our ownership and accountability for DBE participation. Each month's report provides the details of current DBE participation, discussions of program status and progress, and outline future strategies to achieve or exceed our stated goals.

7. DBE CAPACITY-BUILDING PROGRAM: WVB shares IFA's commitment to building a long-term legacy of expanded capability for local firms. WVB's mentor-protege program and other training opportunities help build capacity and provide for growth of local DBE business partners.

4.1.2.B ENCOURAGING DBE PARTICIPATION

WVB's DBE Team initiated personal contact with DBEs early in the Project pursuit process. The initial meetings, beginning in early March, have progressed over the last seven months.

An important part of the WVB DBE Plan includes personal contact with local community organizations and agencies. From these contacts, we received information concerning local certified DBE firms, mentoring opportunities, and local DBE capacity. WVB has identified 2,033 DBE firms using published lists from INDOT and KYTC, and the database resources of the following agencies and local organizations:

- Louisville Metro Human Relations Commission
- Women Business Center of Kentucky
- Ohio River Valley Women's Business Council
- Louisville Hispanic/Latino Coalition
- Lexington Minority & Women Contractor Training Program
- Kentucky Minority Business Council
- National Association of Women Business Owners (NAWBO)
- Kentucky Procurement Assistance Program
- Tri-State Minority Diversity Supply Coalition
- Minority Enterprise Development of Western Kentucky

WVB recognizes the agreement between INDOT and KYTC allowing for DBE certification reciprocity on the Ohio River Bridges Project. We take advantage of this Project-specific agreement allowing Kentucky DBEs to be counted as certified in Indiana for the Project, using it to provide additional opportunities for DBEs in the area.

4.1.2.C OUTREACH AND ASSISTANCE FOR POTENTIAL DBE FIRMS

In addition to meeting with certified and prequalified DBE firms, WVB's DBE team has focused on outreach to DBE firms that are not yet prequalified or who meet the criteria for a DBE firm, but is not yet certified. WVB hosted several community outreach events (**Table 4.1-7**) to identify such firms and to guide them to certification and prequalification through toolkits we created and distributed at the events.

OUTREACH AT SIMMONS COLLEGE

The WVB DBE outreach at Simmons College hosted over 56 DBE companies and 95 individuals.

TABLE 4.1-7 WVB-HOSTED DBE OUTREACH

Date	Location	Event Notes
03/13/12	Louisville, KY	WVB DBE Outreach Meeting held at the Muhammad Ali Center was attended by 35 DBEs
03/14/12	Jeffersonville, IN	WVB DBE Outreach Meeting held at the Sheraton Hotel was attended by 31 DBEs
08/06/12	Lousiville, KY	WVB DBE Outreach Meeting held at Simmons College was attended by 55 DBEs

WVB recognizes that this outreach effort requires multiple layers of support (e.g., community, faith-based, public school, chambers of commerce, etc.) to identify and assist these firms. Key support comes from Maurice Sweeney from United Construction and Design Group. Maurice is the Diversity and Inclusion Advisor for our DBE Team. Maurice brings with him an impressive résumé in community involvement and DBE participation in the Southern Indiana/Greater Louisville Area, including as KYTC's Executive Director for the Office of Minority Affairs.

Additionally, the DBE team has met with DBE consultants from the Southern Indiana/Louisville area to assist with diversity and inclusion for the Project. Organizations met to date include the NAACP, Vick Strategic, Engaging Solutions, and Indiana Strategic Resource Group.

4.1.2.D EXPANDING DBE FIRM CAPABILITIES

WVB meets the differing needs of DBE firms with a true sense of cooperation and partnership to elevate and expand technical, management and business capabilities of DBE firms through mentoring, training, and other specialized assistance.

MENTOR-PROTÉGÉ PROGRAM: The mission of the Mentor-Protégé Program is to cultivate an established DBE firm ready to grow to the next level, promote growth in the Southern Indiana/Louisville economy, and leave a positive benchmark on the community. As a seasoned mentor, WVB provides formalized mentoring that includes:

- Working together in monthly meetings
- Developing and implementing the protégé business plan to obtain the desired results
- 24 module classroom training provided by Mentor
- Providing guidance to allow these firms to be successful in the short and long term.

WVB has mentor-protégé commitments with the following DBE firms on this Project:

- **C. Lee Construction Services,** Griffith, IN
  Owner: Frederick "Chip" Lee
- **Messier & Associates Inc.,** Jeffersonville, IN
  Owners: Fernando and Juan Messier

TRAINING: WVB offers the following in-house training classes to DBE firms at no cost:

- Safety Training (e.g. OSHA 10-hour and 30-hour)
- Superintendent and Foreman Training
- Project Engineer Training
- Crane Awareness
- Profit/Loss Statement Training

SPECIALIZED ASSISTANCE: WVB offers assistance to DBE firms regarding contract compliance, goals and standards, cash flow management, and material purchasing. Specialized assistance also includes financial assistance:

- **Insurance and Bonding:** WVB provides assistance in overcoming limitations such as inability to obtain bonding or financing. This can be completed by simplifying the bonding process, reducing the requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs and other small businesses obtain bonding and financing.
- **Invoicing and Payment:** DBE firms may face unique financial challenges affecting their ability to respond to projects of this size and complexity. WVB realizes these challenges exist and commits to expediting the payment process to DBEs.

PROTÉGÉ CHIP LEE OF C. LEE CONSTRUCTION

C. Lee Construction, founded by Frederick 'Chip' Lee, is an established excavation, demolition and trucking company based in Griffith, Indiana. C. Lee Construction, founded in 2005, has been working with Walsh Construction on various projects in Northern Indiana for several years. C. Lee is a certified Indiana DBE/MBE firm selected by Walsh Construction to participate in the Mentor-Protégé Program.

4.1.3 PRELIMINARY WORKFORCE DIVERSITY & SMALL BUSINESS PERFORMANCE PLAN

A diverse, well-trained workforce is crucial to project success — both to improve delivery and support achievement of IFA and WVB sustainable development goals. With the commitment of its leadership and management, WVB plans to exceed Project targets of 15 percent minority and 10 percent female workforce. We have described our approach to achieve this commitment in our Preliminary Workforce Diversity and Small Business Performance Plan, attached in the Volume 2 Appendices.

Brenda Wolf, DBE/EEO Coordinator, is responsible for plan delivery. Related management procedures are implemented under Support Processes S1 and S2 in the IMS.

Brenda is supported by our experienced WVB Workforce Team which includes Doug Cunningham. Doug led the workforce team on Walsh's award-winning Dan Ryan Expressway project.

POSITIVE IMPACT ON THE AREA AND COMMUNITY

Doug Cunningham led the DBE/EEO program on the $724 million Dan Ryan Expressway projects. Walsh achieved 48 percent—nearly 2.5 times the goal. As a result, the Illinois Road and Transportation Builders awarded Walsh their first-ever "Workforce Diversity Award."

4.1.3.A ON-THE-JOB TRAINING PROGRAM

WVB is committed to participating in INDOT's Equal Employment Opportunity Trainee Program and On-the-Job Training (OJT) program and meeting its requirements throughout the Project.

Walsh Construction, lead contractor of the Walsh-VINCI CJV, is very familiar with INDOT's requirements from involvement in federal aid contracts. Walsh Construction is currently signatory to the 2012 OJT Training Program and Partnership Agreement and have 11 trainees enrolled in approved training programs on four INDOT projects.

WVB's DBE and workforce team has already begun to consider OJT requirements for this Project and addresses these through the following avenues:

COLLEGE AND HIGH SCHOOL CONSTRUCTION CO-OPS: Through Walsh Construction's existing, time-tested internship/co-op program, WVB delivers a successful Project white-collar OJT program, including a minimum of ten minority and female interns and trainees. WVB has targeted these educational facilities for participation:

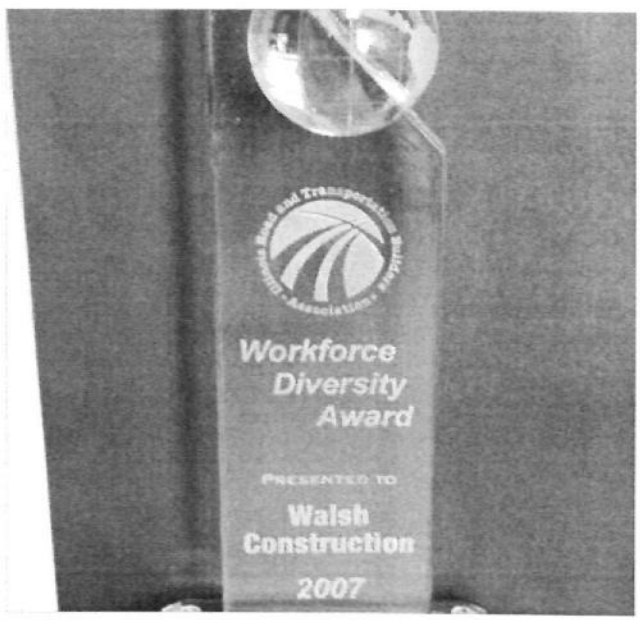
- Iroquois High School
- Fairdale High School
- University of Kentucky
- University of Western Kentucky
- University of Louisville
- Ball State University
- Rose Hulman Institute of Technology
- Purdue University

PROVISION OF PROFESSIONAL OJT: WVB's design partner, Jacobs Engineering, and its subconsultants employ a minimum of four design trainees. These trainees gain experience in a number design functions including bridge and highway design, CAD drawing, and shop drawing reviews.

For design and construction, WVB and our subcontractors employ 14 professional trainees, for a minimum of 800 hours per trainee.

WORKFORCE DIVERSITY AWARD

Dan Ryan Expressway, Walsh Construction.



TRADE-SPECIFIC OJT: WVB uses existing relationships to work with local labor unions to recruit trade trainees and apprentices. The WVB Workforce Team recruits through public and private channels likely to yield minority and women trainees. We focus efforts on recruiting trainees from the local area and encourage our supply chain partners to do so as well. The primary objective of the OJT Program is to bring minorities, women, and disadvantaged persons from apprentice status to a fully-experienced employee.

WVB estimates that trades OJT begins at the start of construction in 2013 and continues throughout the Project. The total number of trade trainees to be employed by WVB and subcontractors is estimated to be no less than 65 (**Table 4.1-8**). The number of trainees per work classification is based on contractor/subcontractor needs. The Walsh-VINCI CJV retains the primary responsibility for meeting training requirements. Training provisions are included in all applicable subcontracts.

WVB has already contacted local unions to discuss OJT needs. On August 8, 2012, the Workforce Team met Joe Wise of the Construction Trades Council, and Tim Murphy, Job Placement Direction for the Construction Pipeline, to agree on a plan to increase the number of individuals entering construction trades training programs in anticipation of the Ohio River Bridge projects.

Graduates from the Louisville Urban League's Pre-Apprentice Program and the Construction Pipeline are offered "fast-tracking" through union-sponsored boot camps to prepare them for formal entry into the established trade union apprentice programs. WVB furnishes workforce requirements to aid in the timely scheduling of these programs. During construction, apprentices then attend pre-established offsite training in addition to the Project OJT. As part of OJT, they attend training sessions away from their normal duties (usually for one week) .

4.1.3.B EDUCATING & TRAINING EMPLOYEES

WVB's commitment to invest in and train the individuals working on the Project both improves performance on this Project and strengthens the Southern Indiana/Louisville workforce.

WVB assesses all recruits and uses the results of this assessment to identify educational and training needs.

TABLE 4.1-8 TRADES TRAINING PROGRAMS

Trade	Number
Pile Drivers	5
Iron Workers	10
Carpenters	13
Operating Engineers	12
Laborers	25
TOTAL	65

This training is both induction training and ongoing training as further outlined in Section 4.1.3.G below. Environmental issues and site-specific issues are covered through this training.

4.1.3.C ENCOURAGING PARTICIPATION

WVB's approach to encouraging participation in the Workforce Diversity and Small Business Performance Plan begins with an understanding of the area demographics and existing collaborations with local community organizations to identify interested minority and female applicants.

As included in the preliminary Workforce Plan in the Volume 2 Appendices, WVB has participated in local career/resource events and met with 13 community-based organizations.

WVB's intent is to capitalize on established community organization programs as a source of local qualified applicants for the union apprentice and OJT programs. We met with the Louisville Urban League and discussed the benefits of its Kentuckiana Works Construction Pipeline Pre-Apprenticeship Training Program. WVB has discussed similar plans with others:

- Kentuckiana Power of Work Program (Elvin Stampley)
- Lexington Minority & Women Contractor Training Program (Marilyn Clark)
- Hispanic/Latino Coalition (Emily Dyer)
- Canaan Community Development Corporation (Terra Leavell)
- Women's Business Center of Kentucky (Sharron Johnson)

Working directly with local organizations with established training programs is an important first step to building participation. WVB proactively set the job readiness plan into action: WVB team member, Walsh Construction, has employed a recent Construction Pipeline Training Program graduate, Nacee Sarver. Nacee is a laborer on Walsh's Milton-Madison Bridge project. His employment stands as a testimonial to the success of this local job-readiness training program (**Figure 4.1-10**).

FIGURE 4.1-10 JOB-READINESS PLAN IN ACTION

WVB has proactively set the Job Readiness Plan in action through the Louisville Urban League's Construction Pipeline Training Program. Graduate Nacee Sarver is now working on Walsh Construction's Milton-Madison Bridge project.

4.1.3.D GOALS & MENTORING APPROACH

Principle goals of the Project mentoring program are to:

- Support small businesses in delivering an exceptional end product for IFA.
- Equip small businesses with skills and experience to their capacity to undertake larger projects in the future.

WVB's mentorship program covers both small, minority-owned, and female-owned companies and minority and female employees. At a company level, support is primarily conducted through educational workshops, training events, and meetings where participants learn new skills and build on existing knowledge. Further details are in **Table 4.1-9**. Participants are assigned a mentor to answer questions and provide support as they work on the Project.

TABLE 4.1-9 MENTORING AND TRAINING WORKSHOPS

Workshop	Purpose
Kickoff Meeting (within first 90 days)	Identify a broad range of goals, objectives and strategies.
Training and Mentoring (held quarterly)	Content includes project management, financial management, marketing, estimating, risk management, scheduling, billing, safety, sustainability and quality control.
Networking Meeting (held quarterly)	Attended by WVB personnel and mentees to provide opportunities for them to improve networking skills
Wrap-Up Meeting (held at Project conclusion)	To review performance and progress and discuss future steps

4.1.3.E METHODOLOGY FOR DIVIDING WORK

In dividing the work required to deliver the Project into procurement packages, Brenda Wolf has worked with WVB's procurement team to ensure opportunities for smaller businesses and female- and minority-owned firms. An outline of the packages we intend to procure is provided in **Table 4.1-6** in Section 4.1.2. Where feasible, we break these down further into smaller packages for individual sections of the Project to give DBEs or SBEs the ability to compete when bidding for these packages. Examples of potential packages include:

- Landscaping – Section 4 only
- Bridge Builders – Wolf Pen Branch Road only
- Precast Beams – furnish/install
- Trucking – Section 4 only

4.1.3.F EVALUATING PLAN EFFECTIVENESS

WVB reviews the results of our Workforce Diversity and Small Business Performance Plan throughout the Project to ensure we exceed our targets. By measuring performance regularly and reporting to IFA, using up-to-date utilization statistics, we can make adjustments needed to ensure satisfaction of WVB and IFA goals.

The Plan identifies key performance indicators, including:

- Number of minority and female recruits/trainees/apprentices as a percentage of the total
- Number of training hours provided as a percentage of hours worked

WVB measures success in attaining OJT goals by reviewing:

- All trainee introduction and completion forms
- Monthly trainee reports
- Monthly total workforce reports
- Quarterly trainee evaluations
- Annual reports
- Monthly subcontractor reports – including Federal EEO compliance

4.1.3.G TRAINING PROGRAMS

INDUCTION TRAINING: All team members and relevant supply chain members complete induction training before commencing work. This covers the Project purpose, scope and objectives; basic safety and environmental risks and requirements; "Right First Time' quality; and site-specific issues.

ONGOING TRAINING: Role- and task-specific training as well as more general training for all team members is provided. This training includes: supervisor training, technical training, environmental, safety and quality training, human resources training, project management training, insurance, and legal training.

4.1.3.H ELIGIBILITY CRITERIA

WVB follows all INDOT and KYTC EEO and SBE eligibility requirements for training program participants. We target minority and females for participation.

Union member personnel are eligible to participate through training programs provided by their trade union. WVB sponsors entry to the appropriate union for personnel when necessary.

4.1.3.I TRAINING & MENTORING WORKSHOPS

Ongoing technical training supports individual professional development and keeps skills and qualifications up-to-date. Workshops to provide training and mentoring support in civil engineering, surveying and maintenance of traffic are targeted as potential topics.

Workshops provide support for specific audiences, allowing WVB to address questions and concerns. We have identified two DBE firms for individual mentorship: C. Lee Construction and Messier & Associates. Each firm is presently DBE certified and performing general construction activities and trucking.

Another aim is to assist companies with the development of short- and long-term business plans, identifying potential growth areas, and providing training and support. For the short term, we concentrate mentoring for individuals on topics that enable them to improve their firms' prequalification limits or work classifications. Longer-term, we mentor individuals from qualifying small businesses to help their firms become DBE certified and INDOT prequalified. Many firms that would benefit from this support have been identified at WVB DBE outreach events. Workshop subjects include:

- Equipment
- Insurance
- Human Resources
- Legal
- Project Management
- Bonding and Insurance
- Safety

WVB maintains a schedule of workshops to be held and records attendance at each to monitor participation. Through involvement in this Project and training they receive, these firms grow and build financial strength and confidence to perform on larger projects.

MESSIER LETTER TO WVB

"In addition, we are extremely excited that you and your team have offered us the opportunity to participate in your Mentorship program." - Fernando Messier, CEO

MA Messier & Associates, Inc.

Max Rowland
Project Manager
Walsh Construction
1250 East Summit Street
Crown Point, IN 46307

Dear Mr. Rowland:

I would like to express our gratitude to you and the Walsh Construction Group for the interest you have shown in our company and the services we can provide for your team regarding the Ohio River Bridges Project. Moreover, we are very pleased that you are committed to working with us on this project as part of your DBE participation.

In addition, we are extremely excited that you and your team have offered us the opportunity to participate in your Mentorship program. I feel very strongly that this invitation in particular will be the most beneficial to our company and its future. The knowledge and experience we will gain from this endeavor will serve as a benchmark to springboard our company to the next level.

We are truly very grateful and look forward to working with you in the near future.

Fernando Messier
CEO

SBA 8A Certified

MSD

Preliminary Project Baseline Schedule for Design and Construction

4.1.4 PRELIMINARY BASELINE SCHEDULES

WVB is committed to reaching Project substantial completion by October 31, 2016. This commitment is driven by:

- **Our past portfolio of successful projects,** coupled with the scheduling plan we have in place, provides assurance the construction is safely completed eight months ahead of IFA's requirement.
- **Increased investor confidence** that results from a shorter construction schedule, as reflected in the negotiated financing rates, offer better value for IFA.
- **Opportunity for IFA** to generate toll revenue eight months earlier than anticipated.

TIME AND BUDGET

WVB will open the East End Crossing to revenue-generating traffic by October 31, 2016 — eight months early.

GETTING STARTED: WVB has developed and implemented the preliminary PMP including IMS and Key Personnel and Task Managers during preliminary design. This allows WVB to hit the ground running upon commercial close and award of NTP 1. Key to WVB's efforts to coordinate the Project startup is issuing subcontracts, purchase orders, and utility agreements; performing field geotechnical analysis; and distributing updated designs to the key Project stakeholders.

WVB has gone through an iterative process to develop a list of proposed design units specifically created to expedite early construction activities. Critical design units identified:

- Section 4 Erosion and Sediment Control and Stormwater Pollution Prevention Plan
- Tunnel South Portal
- Section 5 Tower Foundations
- Section 4 Phase 1A MOT
- Ramp A Bridge and Roadway
- North River Road Drainage
- Harrods Creek Bridge Foundation

WVB is ready for close engagement with IFA, local stakeholders, emergency services, environmental agencies, and the general public to get the feedback required to generate and approve these early design units.

CRITICAL PATH: Tunnel construction is the Project's critical path. WVB's early design efforts to reduce the Tunnel length and optimize section properties supports our commitment to achieve substantial completion by October 31, 2016. The early design units for the Erosion and Sediment Control and the Tunnel South Portal are critical design activities to starting Tunnel excavation. Main span bridge work is near-critical and WVB's proposed early design units are planned to expedite foundation construction by fall of 2013.

SETTING MILESTONES: The milestones outlined in **Table 4.1-10** are those listed in Exhibit 4 of the PPA. These dates are included as milestone activities in the Preliminary Project Baseline Schedule and reflect the logic and durations carefully developed throughout the proposal and bid process.

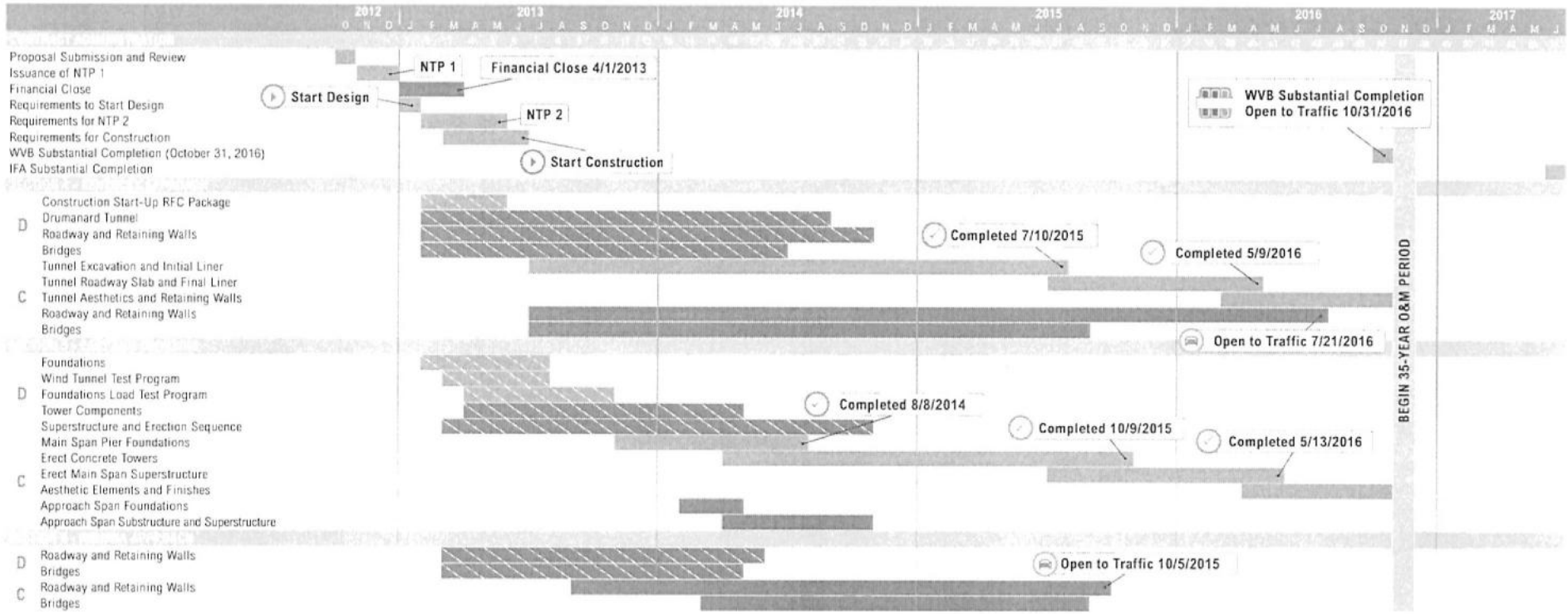
Roadway Sections 4 up to US 42 and Section 6 up to Salem Road is available for opening at the milestone dates of July 21, 2016, and October 5, 2015, respectively. **Opening areas of the Project a combined 31 months ahead of IFA's substantial completion requirement** increases public access to Salem Road and reduces traffic impacts, therefore enhancing public perception.

Table 4.1-11 is a summary schedule indicating the milestones and WVB's overall approach to scheduling the Project. Further details of our approach, including O&M details, are provided within Section 4.2.2.2 and 4.3.2.2 along with the schedule narrative and full preliminary P6 schedule provided in the Volume 2 Appendices.

TABLE 4.1-10 WVB'S TARGET MILESTONE DATES

Milestone	Description	Date
1	Complete Main Span Pier Foundations	8/8/14
2	Complete Tunnel Excavation & Initial Liner	7/10/15
3	Complete Main Span Towers	10/9/15
4	Complete Western Limits of Section 6 Roadway	10/5/15
5	Complete Eastern Limits of Section 4 Roadway	7/21/16
6	Complete Final Tunnel Liner	5/9/16
7	Complete Main Span Superstructure Erection	5/13/16
8	Substantial Completion	10/31/16

TABLE 4.1-11 SUMMARY PRELIMINARY BASELINE SCHEDULE (FULL PRELIMINARY BASELINE SCHEDULE PROVIDED IN VOLUME 2 APPENDICES)



Highlights to Getting Started

NTP 1 12/20/2012

- Submit DBE Performance Plan with Executive Agreement
- Submit Workforce Diversity and SBE Performance Plan with Executive Agreement
- Submit Insurance Policies

Start Design 1/19/2013

- Approve DBE Performance Plan
- Approve Project Management Plan (A)
- Host Design Workshop
- Identify Design Units
- Conduct Environmental Compliance and Mitigation Training
- Approved Design Review Plan and Schedule

NTP 2 5/8/2013

- Reach Financial Close
- Submit Payment Bond and Performance Security
- Establish Project Office
- Host Utility Owner Meetings
- Approve Project Baseline Schedule
- Approve WD and SBE Performance Plan

Start Construction 6/3/2013

- Approve Project Management Plan (B)
- Host MOT Meeting
- Submit Temporary Traffic Control Plan
- Approve Access and Mobility Plan
- Approve Environmental/Stormwater Pollution Prevention Plans

Critical and Near Critical Activities | Non-Critical Activities | Design | Milestone Date | Start Design | Start Construction | Completed | Open to Traffic

4.1.5 QUALITY MANAGEMENT

WVB's quality program is based on the premise that quality for all design and construction activities is best achieved by those responsible for performing the work, including subconsultants and subcontractors, and starts before design or construction begins. All WVB personnel participate in and contribute to the commitment to "Right First Time" delivery and are guided by implementation of the quality management process. The documented Quality Management Plan (QMP) provides guidance to the design professionals, workforce, project management, and quality assurance/quality control personnel in designing, planning, constructing, confirming, verifying through comprehensive inspection and test plans, and documenting project outcomes.

Quality management, as one of the key processes within WVB's IMS (Control Process C2), is the responsibility of Quality Manager, Martine Julia-Sanchez. The IMS includes all phases of this Project; WVB maintains a consistent approach to quality management throughout the Project lifecycle, from design and construction through the Operating Period.

The QMP is endorsed by WVB Steering Committee and is promoted throughout the WVB organization. The QMP and the entire Quality effort are continuously improved through comprehensive management audits that include input from IFA and stakeholders. Performance is measured against defined goals and related objectives. In **Table 4.1-12**, WVB's approach to elements of the quality management process is described.

SAFE AND SUSTAINABLE

WVB member, VINCI Construction Grands Projets' ISO certification resonates throughout WVB's IMS at all Project stages.

TABLE 4.1-12 IMS PROCESS C2 – QUALITY MANAGEMENT

Process	Approach
Key Performance Indicators (KPIs)	Performance benchmarked, measured and monitored using Project-specific KPIs. Use leading indicators to assess current situation and plan ahead. Use lagging indicators to monitor progress for continuous improvement.
Major Events	Empower team members to decide at a local level. Exception reporting to ensure team members recognize issues that must be escalated for swift resolution. Develop root cause analysis to ensure effective corrective/preventive actions.
IFA Feedback	Establish clear procedures and responsibilities within team to seek, address and respond to IFA feedback. Conduct regular surveys to collect feedback on schedule/plan information
Employee Feedback	Define processes that enable formal and informal communication with employees. Perform regular employee surveys.
Process Reviews	Establish a structured approach to ensure that each process in the IMS has regular reviews for effectiveness, relevance and currency for the process owner.
Management Review	Capture and analyze all available data to ensure IMS remains relevant and effective (e.g. audit results; IFA feedback; process performance). Identify improvement opportunities, resources, and training needs.
Improvement Plans	Incorporate outputs from the Management Review into improvement plans which identify the person responsible for implementing improvements and the schedule in which to achieve this.

See **Section 4.2.3** for detailed approaches relating to the other C2 Quality Management processes.

RESPONSIBILITIES FOR DELIVERING OUR QUALITY MANAGEMENT PLAN: The key responsibilities for the WVB quality management approach are shown in the approach summarized in **Figure 4.1-12** and detailed in WVB's preliminary Project Management Plan in Volume 2 Appendices. The chart shows how, as part of our approach to "Right First Time" (RFT) delivery, we operate comprehensive inspection, testing and commissioning procedures during the design, construction and the Operating Period for both on- and off-site items.

WVB's inspection, test and commissioning procedures are incorporated into our IMS. Construction Quality Control Manager, John Reid, is responsible for the implementation of these procedures. John reports directly to Construction Quality Manager, Courtney Norris. WVB's organization includes an independent inspection team which is completely separate from production responsibility. All inspections are performed by qualified and experienced personnel under John's direction. To ensure WVB's quality management approach specific responsibilities are given to the key members of the quality team. Specific quality management responsibilities are shown in more detail in **Figure 4.1-11**.

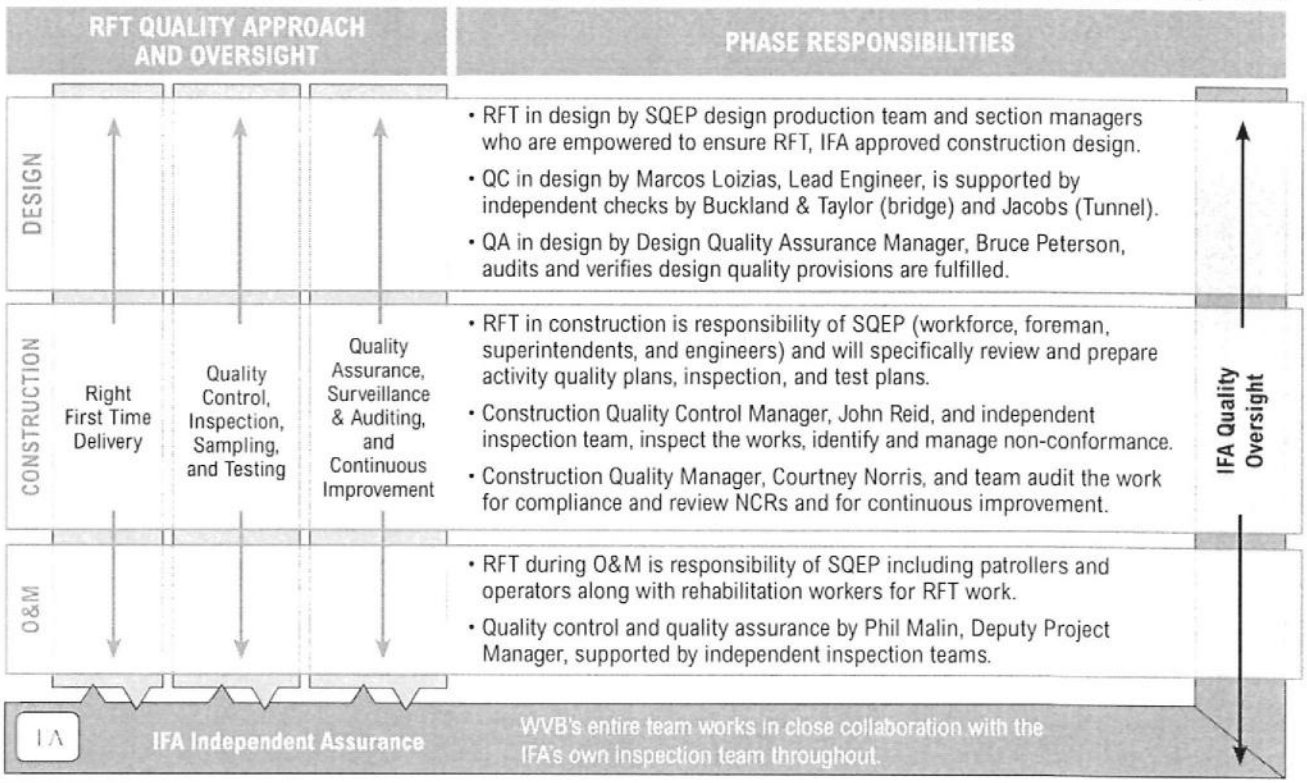
As part of WVB's IMS, everyone on site has responsibility in the delivery of the QMP; all team members are qualified for their role and responsible for compliance of their tasks with requirements.

DUPLEX A86 HIGHWAY TUNNEL

WVB partners have proven experience constructing products of the highest quality including VINCI CGP's construction of the Duplex A86 Highway Tunnel in France, which received the "Best Result for Safety" by the European Tunnel Assessment Program.

FIGURE 4.1-11 QUALITY MANAGEMENT APPROACH

Management approach with RFT delivery and IFA oversight, expanded details provided in preliminary PMP in Volume 2 Appendices



4.1.6 COST CONTROL, SAFETY, ENVIRONMENT & RISK MANAGEMENT

Vertical integration and consistent application of WVB's Project IMS ensures the safe, sustainable delivery and operation of a quality Project.

4.1.6.A COST CONTROL

WVB's project management approach implements proven cost controls that enable us to measure and report on performance against targets for key areas, maximizing visibility and predictability for IFA at every stage.

The comprehensive control and assurance procedures WVB has implemented, as well as our information technology (IT) systems for document and project controls, are incorporated within our IMS. These procedures and systems build on the best practice, proven project controls, and key performance indicators (KPIs) already in use by the WVB partners. The management systems used to control, review, and coordinate costs and schedule consistently during the design, construction, and O&M phases are:

- **Document Control:** All documentation is stored and controlled online in WVB's electronic Dynamic Management of Documents systems (DyMaDoc). See Section 4.1.7 for more detail.
- **Cost:** WVB's commercial organization has been designed to manage and control cost effectively, calculating Earned Value Analysis (EVA), Cost Performance Index (CPI), and Schedule Performance Index (SPI) data to support predictive trend analysis. Cost is managed at both the SPV and Walsh-VINCI CJV levels using current in-house systems, CMiC and Pegase systems.
- **Schedule:** Past production rates from local and global projects were input for each construction activity to schedule the Project. The resulting schedule, developed in Primavera P6, is based on a realistic assessment of outputs, resources, site access, and other Project constraints.

TIME AND BUDGET

Because WVB partners are involved throughout the Project, we can use consistent controls and processes, like DyMaDoc, to ensure costs are coordinated and controlled in all phases of design, construction, and O&M.

DESIGN AND CONSTRUCTION: WVB's three Section Design Managers direct the scope, schedule, and budget for design work, monitor related design unit development, and report progress to Andrew Brennan, Design Manager. The Section Design Managers develop three-week look-ahead schedules and establish plans to accelerate the design schedule if needed. WVB's construction Section Project Managers are owners of their budgets and cost reports. These monthly cost reports compare actual costs to original estimates for each Project section. Scott Singleton, Scheduling Manager, oversees schedule management efforts including weekly reviews of man-hour based production, monthly Critical Path Method (CPM) schedule updates, and weekly updates to detailed three-week look-ahead schedules.

OPERATIONS AND MAINTENANCE: WVB uses IFA's asset management system to define and monitor the schedule of routine inspection and maintenance. WVB has extensive experience in using a range of Computerized Maintenance Management Systems (CMMS) for this purpose.

INFORMATION FLOW: The fully integrated project controls system WVB has implemented is tailored to suit the specific Project requirements. For all stages of the Project, the project controls system serves as a single source of accurate information for the project partners, capturing and sharing accurate and meaningful data recorded against KPIs. This allows WVB to anticipate and resolve issues before they impact the Project, and enables continuous Project improvement by supporting the effective analysis of to-date performance in all areas.

A19 MOTORWAY

WVB's IMS, DyMaDoc and cost control measures were successfully used on WVB partner's construction of many projects including the $1.1 billion A19 Motorway in France.

4.1.6.B SAFETY

WVB's philosophy regarding safety is "No One Gets Hurt." We believe this can be achieved on the Project when all personnel are actively engaged in a safety culture. To achieve a safe environment, WVB implements a comprehensive Project Safety Plan, covered under IMS Process C4, developed to deliver the principles of our Safety Strategy (**Figure 4.1-12**).

WVB's core safety components include competent people, engineered temporary works, and reliable equipment and tools. WVB's Safety Strategy is reinforced by six areas of activity:

- **Leading:** Strong, proactive leadership by all managers and supervisors to instill a positive culture and safe behaviors.
- **Anticipating:** Designing out risks in all stages, using lessons learned from previous jobs, challenging existing practices and simplifying processes to ensure understanding.
- **Engaging:** Communicating risks and controls internally to our design, construction, and O&M teams. Communicating risks externally to third parties. Inviting feedback for improvement and to achieve team buy-in to WVB's safety approach.
- **Implementing:** Mike Lawler and his site safety team are responsible for the implementation of the Safety Plan including all training and on-site instruction. All WVB personnel are responsible to meet our goal that "No One Gets Hurt".
- **Tracking:** Proactive and systematic monitoring and reporting of WVB's actions and performance to control delivery and achieve continuous improvement.
- **Improving:** All identified potential improvements are captured in a Safety Management Action Plan, and monitored continuously by WVB's Safety Manager, Mike Lawler.

SAFE AND SUSTAINABLE

WVB implements successful safety programs like a "Blue Hard Hat" program to identify and supervise new employees, toolbox talks, and daily task-hazard analysis.

FIGURE 4.1-12 WVB'S SAFETY STRATEGY

WVB's project Safety Plan describes actions required in each of these key areas for each stage of project delivery, the related management processes, systems and controls and all reporting requirements. Related responsibilities are clearly assigned to team members. Training and on-site instruction overseen by safety professionals includes site inspection and toolbox talks to ensure all team members are aware of site rules, risks, safety measures and emergency procedures. Subcontractors and suppliers are included and expected to comply with the Safety Plan at all times.

NO ONE GETS HURT

WVB member Walsh Construction's proven safety culture contributed to 680,000 man-hours with no lost time accidents in 39 months of work on the Accelerate I-465 program.

The Walsh-VINCI CJV uses a blue hard hat program, successfully used on the Milton-Madison Bridge and Cannelton Hydroelectric projects, to identify all new employees to ensure that they are being watched out for by the experienced personnel on the staff.

Specific safety risks and controls for particular activities, including working in the Tunnel, working near or over water, and road safety, are included in related method statements, and the teams involved in the work receive focused training. Specialized safety equipment and personal protective equipment are provided for particular tasks.

The safety of the traveling public is a key priority and WVB's Safety Plan establishes how WVB ensures the traveling public's safety through the use of advanced warning, appropriate signage and the use of safety barriers to create physical separation of personnel and equipment and the traveling public.

4.1.6.C ENVIRONMENTAL MANAGEMENT

WVB commits fully to achieving all of IFA's goals for the Project. This includes innovative and efficient design, construction and O&M solutions to minimize environmental impacts. The PMP ensures that all environmental requirements, permits and commitments are complied with, and provide evidence to demonstrate this. This includes the requirements of the 2012 Record of Decision (ROD), 2003 Final Environmental Impact Statement (FEIS) and 2012 Supplemental Final Environmental Impact Statement (SFEIS), and all other environmental approvals and laws. These procedures are defined in Control Process C3 in our IMS.

4.1.6.c.i Environmental Compliance Manager and Environmental Team

WVB has selected Gina Morris with Third Rock Consultants as the Environmental Compliance Manager (ECM), Gina is the single point of contact for all environmental matters throughout the Project. Third Rock Consultants is a strong Kentucky-based environmental DBE consulting firm with prequalifications in both Indiana and Kentucky. Gina has over 35 years of experience in NEPA documentation, environmental assessment, permitting and mitigation.

Prior to joining Third Rock, Gina was Assistant Director of the KYTC Division of Environmental Analysis,

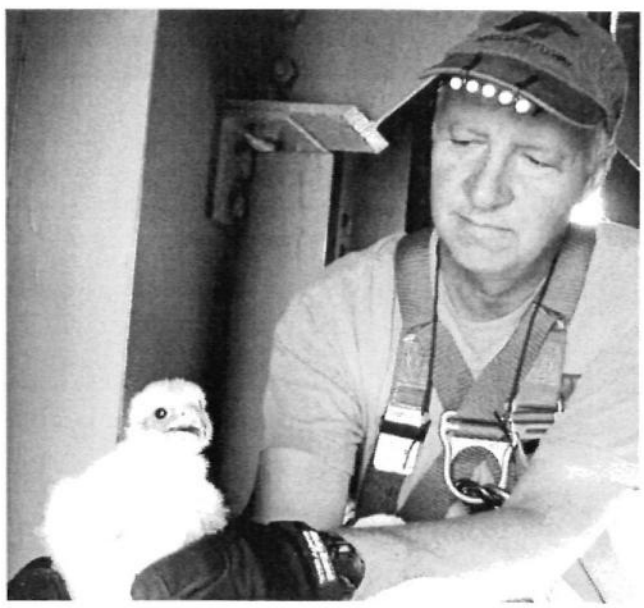
SAFE AND SUSTAINABLE

Gina Morris, Environmental Compliance Manager, has over 35 years of experience including environmental compliance for KYTC.

and is a Professional Wetland Specialist as well as Professional Geologist. For many years she was responsible for ensuring environmental compliance for all KYTC projects. While at KYTC, she reviewed and commented on all environmental base studies and the Draft and Final EIS for the Louisville-Southern Indiana Ohio River Bridges project. As a result, she has a thorough understanding of the specific environmental commitments for the Project. Supervisors throughout the WVB team support Gina with environmental management. Many of WVB's task managers have proven experience with environmental management, such as permit applications, erosion control, noise abatement, and vibration monitoring.

ENVIRONMENTAL MANAGEMENT

WVB's experience includes relocating wildlife, such as this Peregrine Falcon at the Milton-Madison Bridge.



4.1.6.c.ii Environmental Compliance Management Plan (ECMP) Component Parts

Gina Morris, ECM, in collaboration with WVB's supervisors, oversees the completion of the ECMP and its submission for IFA approval in line with PPA requirements and in time for design work to begin.

ACHIEVING COMPLIANCE WITH ENVIRONMENTAL COMMITMENTS AND REQUIREMENTS: WVB has reviewed the Project environmental commitments and has incorporated them throughout preliminary design. As decisions made at design stage influence sustainability in all later project stages, Gina works closely with Laurent Agostini, Design-Build Coordinator, and Pierre Morand, Site Manager, to ensure all commitments and related controls, mitigations and monitoring measures are integrated effectively into our designs and construction approach.

All commitments and requirements are recorded in a Project Environmental Commitment Matrix, with owners assigned for each item. This is used to track achievement of each commitment and requirement. An associated schedule is developed to ensure permits are obtained, commitments satisfied, and reports submitted on time to allow design and construction to progress as planned. Gina also inputs to the ongoing development of the overall Project schedule, identifying upcoming environmental activities that require WVB team member involvement.

AVOIDING AND MINIMIZING ENVIRONMENTAL IMPACTS: The WVB Environmental Team has worked with our design, construction, and O&M staff to develop a Project Environmental Risk and Opportunity Register to identify potential impacts, suitable mitigation measures, and assign responsibility to appropriate team members. This includes potential impacts to woodlands, 4(f) resources, parks, historical properties, threatened or endangered species, and wetlands and waters of the United States.

NOISE/VIBRATION ABATEMENT

Walsh Construction's means and methods for the Wacker Drive Reconstruction project in downtown Chicago took into account the 57 high-rise buildings adjacent to the project site, requiring noise and blasting/vibration abatement plans.

ENVIRONMENTAL STEWARDSHIP

US 90 Bridge over Bay St. Louis included environmental management measures for construction around sensitive marine environment and endangered species.

Gina is directly involved in decisions in specific management plans and the approved Project environmental documents. She coordinates with Pierre Morand during activities adjacent to or within sensitive environmental resources to ensure appropriate environmental mitigation and control measures are implemented.

DOCUMENTATION: The ECMP includes a list of all related documentation, including applicable laws, regulations and industry best practice. This list is updated as necessary to ensure WVB remains compliant with the latest requirements. Environmental documentation is managed by our administrative team, according to IMS support process S7. It is made available to all team members online via our electronic document management system.

COMMUNICATION: The ECMP also describes WVB's procedures for environmental communication and reporting. This includes our organizational structure and reporting lines as well as contacts with IFA, stakeholders, and other third party organizations.

Environmental training requirements are finalized in a Project Environmental Compliance and Mitigation Training Program appended to the ECMP and includes the following:

- Design team training to ensure awareness of environmental requirements and constraints.

- Induction training to communicate key environmental concerns and controls.
- Brown bag talks to address specific issues in construction.
- Environmental progress and performance indicators communicated via progress review meetings and on-site posters.

WVB implements a reporting protocol describing the format for individual activities oversight reports and monthly environmental progress summaries. This information is used for progress reports required by the IFA and the end-of-Project documentation communicating steps taken to respond to changes during construction.

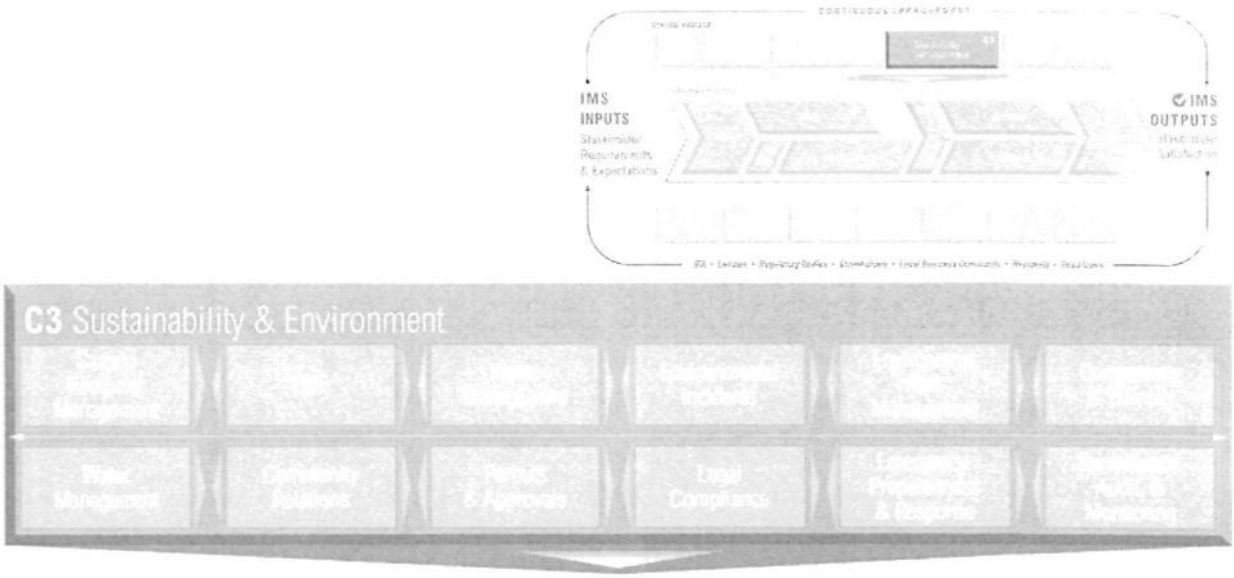
QUALITY CONTROL AND ASSURANCE: WVB conducts weekly and unannounced site inspections to confirm the correct implementation of all environmental controls. Martine Julia-Sanchez, our Quality and HSE Manager, owner of Control Process C3 (**Figure 4.1-13**), and the Project quality controls and assurance team lead bi-annual audits of the IMS including the Environmental Management System. All monitoring, testing, inspection, and audit results are recorded in templates appended to the ECMP to provide consistency in reporting. Results are analyzed by Gina and her team to enable trend analysis and the identification of any areas of non-compliance.

TAKING CORRECTIVE ACTION: Where monitoring, inspection or audit activity reveals potential or actual non-compliance. Gina evaluates the extent of damage, assesses the root causes and engages those members of her team with the appropriate expertise to determine additional plans, actions or approvals required before work can proceed. A corrective action plan is prepared and submitted for IFA approval and implementation. This plan is then monitored for effectiveness and tracked to completion. An agreed upon matrix of potential issues and their solutions with IFA and any relevant third party is implemented to minimize schedule impacts.

4.1.6.c.iii Integrating Permits, Issues, & Commitments into O&M

The IMS and WVB's sustainability policy apply through all stages of Project delivery, including the Operating Period. Project Manager, David Sikorski, owns the sustainability policy during design and construction; it then becomes the responsibility of Vincent Meyer, O&M Manager, once the new facilities become operational. Our O&M Team is involved throughout the design development process to maximize their awareness of, and input into, all decisions made at this time, including environmental matters.

FIGURE 4.1-13 CONTROL PROCESS C3 IS OWNED BY THE QUALITY AND HSE MANAGER



WVB's Environmental Commitment Matrix and Environmental Risk and Opportunity Register are reviewed and updated throughout design and construction stages for a clear record to use in the Operating Period. Vincent reviews these documents in advance of construction substantial completion to ensure any permits required to allow the Operating Period to commence are obtained. He then continues to update the matrix and register to provide ongoing assurance of our environmental compliance during the Operating Period.

During the final punch list stage of construction, WVB coordinates the workshop with IFA/INDOT to confirm the sustainability principles to be implemented during the Operating Period.

4.1.6.c.iv Mitigating, Eliminating & Reducing Risk

WVB applies a structured risk management approach to identify all Project environmental risks, assess potential consequences and calculate likelihood. This allows us to identify and implement appropriate measures to either eliminate a risk, or reduce and mitigate potential impacts (**Table 4.1-13**).

To ensure WVB's proposal incorporates necessary mitigation measures, our team has already begun to identify potential environmental risks. This continues through the design development and construction stages to ensure the Project remains compliant with any changes to legal or corporate requirements. Throughout this process, the WVB O&M Team is involved to ensure

TABLE 4.1-13 PROJECT-SPECIFIC ENVIRONMENTAL MITIGATION MEASURES

Area of Concern	Risks	Mitigation Measures
Groundwater and well head protection areas, surface water, wetlands and waters of the United States	Contamination of ground or surface water, by pollutant spills/ dust/run-off. Sediment damage to water quality and aquatic habitats.	All permanent roadway/structures in the WHPA designed so water is collected, filtered and disposed of at Harrods Creek. Haul roads constructed with liners and drainage for run-off water in the WHPA. Construction vehicles not to access wetlands and floodplains. Silt fences constructed where needed.
Riverbed (erosion)	Permanent loss of riverbed. Temporary loss of water quality.	Design uses a precast cofferdam tub footing, eliminating construction on the riverbed and removing this risk.
Restricted work zones	Non-compliance leading to e.g. damage to historical assets	Erect fencing and signage to demarcate restricted work zones. Cover restrictions in personnel training.
Reforestation	Permanent/temporary loss of vegetation	Develop designs to limit impacts and minimize footprint. Develop, implement and monitor project-specific Reforestation Plan. Use restrictive fencing and signage to prevent access/ damage by construction vehicles.
Terrestrial & aquatic wildlife, including endangered, threatened, rare species, and invasive species (zebra mussels)	Temporary or permanent loss of habitat/mobility. Noise/light/ vibration disturbance – incl. in breeding/nesting season.	Provide wildlife crossings for use in construction and operation. Develop construction access routes to limit temporary crossings of habitats. Schedule construction around breeding/nesting seasons. Methodology to limit requirement for construction activities in water. Training and awareness.
Cultural Resources due to blasting operations and construction vibration – Archaeological sites – Historic estates	Direct/indirect damage to/ destruction of archaeological or historic assets – identified and unidentified	Design works to avoid impacts. Fence off areas identified to prevent access and damage. Develop, implement and monitor a project-specific Noise and Vibration Plan. Train operatives in related issues and controls. Monitor to ensure noise/vibration stays within agreed limits.
Noise and viewshed	Disturbance of local residents. View disturbance. Wildlife disturbance	Construct temporary and permanent noise barriers; screening measures such as earth walls, noise walls, trees/shrubs and fencing.
Local residents and surrounding road	Blocking of access to local properties. Increased local congestion/noise/air pollution.	Implement design optimizations at Wolf Pen, Port Rd, SR 62, US 42 to limit staging timeline and off-site trucking. Route trucks onto major arteries. Brief drivers.
Hazardous materials	Increased waste disposal costs. Air, water and soil contamination. Safety risk.	Develop designs to limit potential for disturbance. Carry out ground surveys & develop Hazardous Materials Management Plan to control in line with best practice.

potential impacts on the Operating Period made during design and construction are considered and addressed.

4.1.6.c.v Compliance with the Environmental Management System

WVB uses the IMS to control project management through all stages of delivery. This system incorporates the best practice and proven management systems and controls in use throughout the WVB parent companies. It uses VINCI CGP's corporate ISO14001:2004-certified Environmental Management System (EMS) as a baseline.

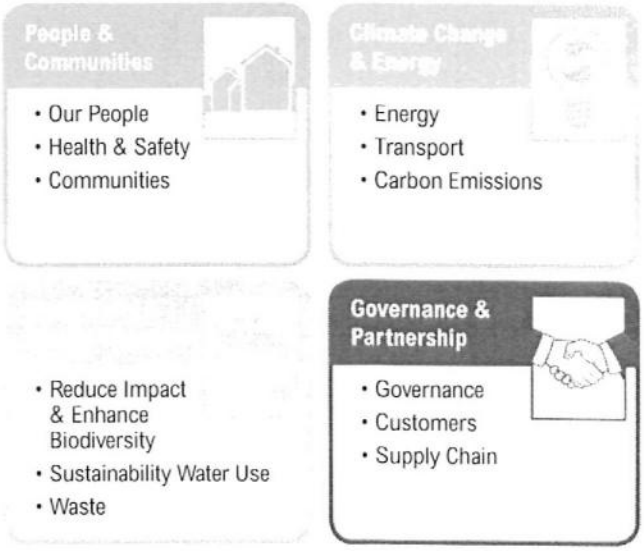
It is the overall responsibility of ECM, Gina Morris, to ensure compliance with the EMS at all times. Gina attends all relevant design-stage meetings to ensure WVB Design Team is fully aware of EMS requirements and incorporates these into designs and construction methodologies. She leads environmental risk identification and mitigation activity, trains other team members in their associated responsibilities, and maintains all required records during delivery.

Regular audits to ensure compliance are carried out at all Project stages. Compliance with the WVB EMS is audited and confirmed annually. Audits continue throughout the Operating Period to ensure continued effectiveness and application of the EMS.

ENVIRONMENTAL & SUSTAINABILITY ACHIEVEMENT

Constructed by VINCI CGP under ISO compliance and maintained by VINCI Concessions, Confederation Bridge won an Environmental Achievement Award and National Canadian Gold Award for Leadership.

FIGURE 4.1-14 SUSTAINABLE DELIVERY



4.1.6.c.vi Sustainability Management Plan

WVB's draft Sustainability Management Plan (SMP) is included in the Volume 2 Appendices. The SMP addresses each element of our sustainability strategy (**Figure 4.1-14**). It identifies Project-specific targets, key performance indicators, management procedures and responsibilities, as well as monitoring and reporting mechanisms. This ensures all aspects of sustainable development — environmental, economic and social — are considered throughout project delivery.

WVB's compliance with IFA/INDOT's requirements for a sustainable project throughout design, construction and operation:

- Is safe and secure
- Provides long term security
- Improves cross-river accessibility and mobility
- Optimizes life-cycle costs
- Provides economic opportunity
- Protects and conserves environmental resources
- Provides for proactive engagement with the public

The SMP is reviewed and updated at all monthly specialist sustainability team meetings to ensure it remains relevant, meets regulatory requirements and delivers IFA/INDOT expectations.

4.1.6.D RISK MANAGEMENT

WVB's risk management plan and risk register addresses each of IFA's concerns, including:

- 4.1.6.d.i Identification of Risk
- 4.1.6.d.ii Potential Consequences
- 4.1.6.d.iii Probability of Identified Risks
- 4.1.6.d.iv Risk Sensitivity Analysis
- 4.1.6.d.v Risk Mitigation Strategies

The following plan summarizes WVB's six-step project risk management approach. We identify and assess the potential probability of consequences of all significant risks on the Project. This approach allows us to identify and implement appropriate measures to either eliminate a risk entirely or reduce and mitigate the potential impacts of the risk. Applying this approach during the proposal period has contributed to the development of the project risk register, an extract from which is shown in **Table 4.1-14**.

1. Risk Management Planning: Engages key stakeholders (including IFA, INDOT, engineering, construction and health/safety/quality/environmental (HSQE) operations) to collaborate to manage risk.

2. Risk Event Identification: Identifies potential risk events and, for each, the affected process area, category, action owner, potential effects if no action is taken, and potential cause of failure.

3. Qualitative Risk Analysis: Prioritizes risks by analyzing the probability of occurrence, categorized in five levels across a range of 0-100% certainty, and impacts, categorized in five levels to determine potential impact on schedule, cost and resource.

4. Quantitative Risk Analysis: Assigns a risk relating to the potential impact on overall Project objectives. This analysis serves to place risk events on a heat map according to the total quantitative risk calculated as (Risk Probability) x (Risk Severity).

5. Risk Response Strategy: Determines options and action plans to mitigate events and enhance opportunities. This begins with all red (high level) risk events, then continues to yellow (medium) and green (low) risk events. Further priority can be established according to the risk level number. WVB uses Monte Carlo sensitivity analysis to ensure we prioritize risks correctly. Each risk is assigned an owner who is the most appropriate person to address that risk.

SAFE AND SUSTAINABLE

WVB uses a risk register that is constantly evolving throughout the life of the Project to ensure changing risks are accurately reflected. We use Monte Carlo sensitivity analysis to properly prioritize and address these risks.

6. Risk Monitoring and Control: An ongoing process overseeing the effectiveness of risk responses, monitoring residual risks at a predetermined frequency, recording action status, identifying and documenting new risks and assuring risk management processes are followed. This process is monitored and controlled using the project risk register.

The risk register remains an evolving document throughout Project delivery to ensure WVB can adapt its delivery approach to changing conditions. Relevant parts of the register are discussed and updated at all project review meetings, with the most significant risks reviewed at monthly senior management team meetings.

RISK MANAGEMENT IN PPP

WVB partners use proven risk assessment measures throughout all phases of finance, design, construction, and O&M learned from major PPP projects such as the Rion-Antirion Bridge.

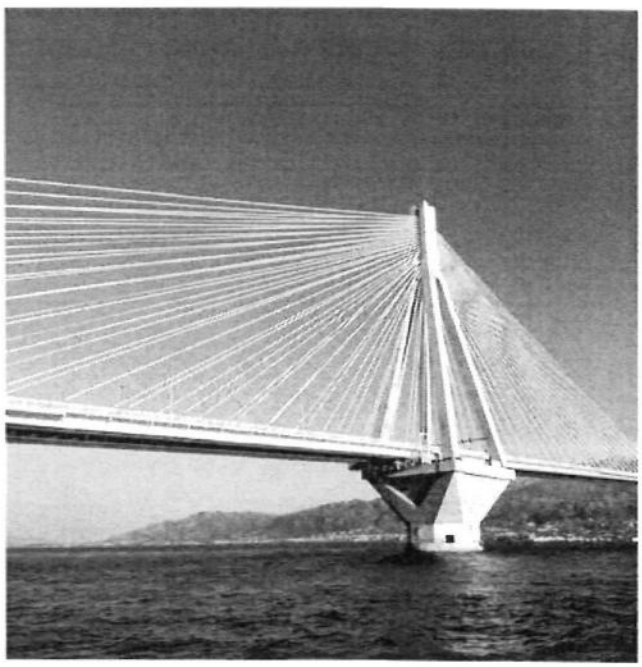


TABLE 4.1-14 WVB RISK REGISTER WITH BEFORE AND AFTER MITIGATION RISK RATINGS

		BEFORE MITIGATION				AFTER MITIGATION				
Category	Description	Probability (P)	Severity (S)	Risk Rating	Mitigation Actions/Comments	Probability (P)	Severity (S)	Risk Rating	Potential Cost Impacts	Potential Schedule Impacts
Access & ROW	Right-of-way not available when needed	3	3	9	WVB has reviewed IFA expected ROW Access dates and has adjusted schedule of work to provide float between when parcels are required. Critical path activities are outside of unsecured parcels. No need to buy new parcels.	2	2	4	None	Medium
Geological	Tunnel geological site discrepancies	4	4	16	WVB has reviewed IFA provided GDR and GBR. WVB has completed 4 internal and independent reviews of data and all parties have agreed on correct Tunnel work plan. WVB has based schedule and cost of GBR information to remove risk. Additional measures are included for temporary support and excavation as required for each rock classification.	2	4	8	Medium	Medium
Design	Main span drilled shaft foundations; final design and geological considerations	4	4	16	Design risks for foundations include geological conditions, seismic loading, vessel impact and wind loading. Foundation design based on assumptions from IFA provided boring information and technical provisions. WVB has done preliminary wind/seismic/vessel studies and included info into design. Osterberg test to be completed to confirm assumptions prior to design completion.	3	3	9	Medium	Medium
Gov't Approvals	Delays from permitting and government approvals	2	4	8	IFA is providing major government approvals and providing preliminary permits. WVB has kept all major bridges within same footprints of permitted bridges to remove risk of requiring revised permits.	1	3	3	None	None
Earthquake	Damage and delays due to seismic events	1	5	5	Design performance criteria such as strain limits in reinforcing steel and concrete for primary and secondary bridge elements to minimize levels of damage.	1	3	3	Low	Medium
Flooding	River flooding causing delays to construction	4	5	20	Design innovation includes precast tub footing to limit required timeline for foundation work. This limits time susceptible to flooding risk during foundation work. Temporary causeways and tower crane are designed to be able to continue work through minor flooding.	2	4	8	Low	Medium
Hazardous Material	Delays due to encountering hazardous waste	2	3	6	Majority of construction is through greenfield, residential and farmland. The probability for finding hazardous materials is unlikely. Hazardous material spills from third parties is unlikely during construction since existing roadway is not hazardous material route. WVB will have all field personnel trained on our Hazardous Material Plan, including how to spot hazardous material and steps to take once hazardous material is found including communication to IFA and mitigation of spreading.	1	3	3	Low	None
Construction Completion	Schedule completion delay	4	5	20	WVB has completed detailed schedule of early events (administrative, financing and design) to ensure early construction start. Early design packages allow for early RFC drawings and earlier construction throughout. Bridge design removes bridge from critical path work and provides float. Tunnel work is on critical path from start to finish. Tunnel schedule is based on 5 days per week. This allows for schedule recovery on weekends during excavation work. All other Tunnel work could be accomplished with second and third shifts to reduce time frame.	3	3	9	High	High
Operations	Traveling public complaints	3	3	9	WVB will have the appropriate organization structure, with staff available 24/7 and an on-call duty for managers, to adequately respond to emergencies, incidents and any user complaint rapidly	1	2	2	None	None
Maintenance	Unexpected maintenance required	3	4	12	WVB has put in place a proactive maintenance strategy with daily visual inspections and frequent detailed inspections to rapidly identify and rectify smaller defects before they become big problems. Durability of construction materials are engineered at design stage.	3	2	6	Low	None
Demand	Lack of personnel/materials/ equipment to complete Project	3	4	12	WVB is pulling from team members local work force and is subcontracting with many local subcontractors to utilize existing workforce, management and equipment that is already within the region. Material vendors and additional subcontractors have already been communicated with and are aware of schedule constraints and have confirmed ability to meet demands.	2	2	4	None	None
Inflation	Inflation during construction and O&M	4	2	8	WVB has designed reliable and long-lasting elements, such as concrete pavement that decrease the amount of maintenance and frequency of replacements, minimizing risk from exposure to future cost escalation. Early stage procurement during construction and equipment purchasing	2	2	4	Low	None
Financing	Difficulties obtaining funds required to pay for work	2	4	8	WVB has created a finance plan taking into account both financing costs and the financial needs throughout the design and construction phase.	1	4	4	Low	Low
Legislative Policy	Changes in design and construction requirements due to new safety regulations	2	3	6	WVB has a strong safety plan that exceeds, when possible, current standards and enables WVB to react to and incorporate quickly new legislation.	2	2	4	Medium	Low
Technology	New technology makes current systems obsolete	4	2	8	WVB uses up-to-date technology for its ITS and bridge monitoring systems.	3	2	6	Low	None
Residual Value	Anticipation of rehabilitation works if needed before end of O&M period	3	3	9	WVB will create a plan six years before handback and, through the three inspections leading up to handback, identify and take care of issues. Design has incorporated added residual life for items such as concrete pavement and existing structure deck replacements.	2	2	4	Medium	None

Probability (P)	1	2	3	4	5	
Severity (S)	1	2	3	4	5	
Risk Rating (P x S)	1	4	9	16	25	

4.1.7 ELECTRONIC DATA MANAGEMENT SYSTEM (EDMS)

A significant volume of data is generated, processed and shared within WVB's Team and with the IFA on a daily basis over the life of the Project. The documents and records to be controlled are summarized in **Figure 4.1-15**. WVB's approach and Electronic Document Management System (EDMS), called DyMaDoc, address each of the IFA's concerns:

- 4.1.7.a Maintaining Documents
- 4.1.7.b Format
- 4.1.7.c Project Documentation Security and Backup Approach

All documentation is securely stored and controlled digitally in DyMaDoc. This process controls the evolution of a document during all stages of its life, from preliminary to as-built status, regarding all comments, review status (stamps obtained from designated authorities), and distribution. It provides intuitive access to all applicable documentation via a simple web-based interface. At all stages of construction, records are available to the IFA.

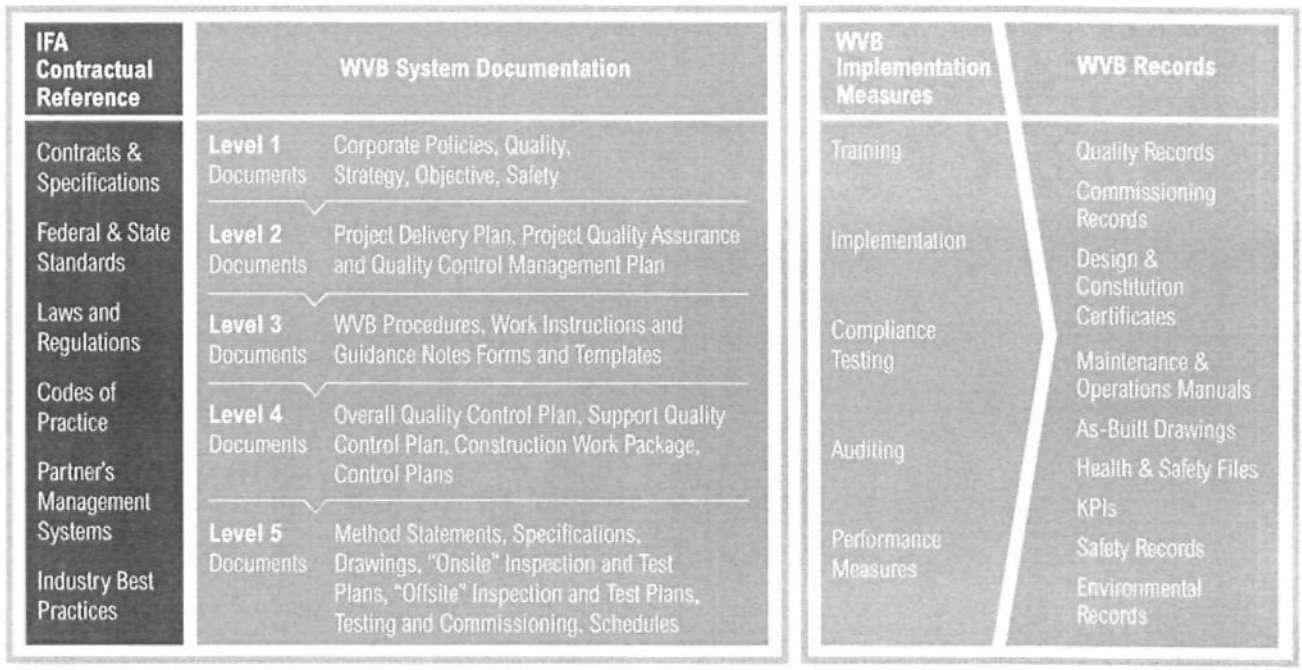
Secure access to the dedicated documentation, procedures and forms for each project management process is provided online via a fully interactive version of the IMS, linked to DyMaDoc. Users click on a particular strategic process within DyMaDoc, which shows the user the related management process. Selecting a part of this process provides the user with an associated management process profile sheet that lists and provides links to all related documentation (such as, descriptions of procedures, template forms and applicable permits. Upon the start of the Operating Period, documents are transferred to the WVB O&M Team.

Documents to be distributed for information and review only are stored as PDF files, preventing unauthorized changes. Original, editable versions of documents are accessible only by authorized personnel. Documents are stored in the most relevant format; Microsoft Office, Primavera P6 or AutoCAD files, as appropriate.

Access to project documentation is available only to authorized personnel. Access is granted, accounts created and passwords provided for individuals according to their status on the project. Access is controlled via standard Windows Access Control Lists based on group memberships defined within an active directory.

Data is backed up to a secure cloud provider, where it is encrypted with a key known only to WVB personnel.

FIGURE 4.1-15 DOCUMENT CONTROL SUMMARY



Form N - Completion Dates

FORM N

COMPLETION DEADLINES

Milestone Schedule
For East End Crossing

IFA Last Allowable Dates:

Milestone	Deadline
Baseline Substantial Completion	**June 30, 2017**
Financial Close Deadline	the date established by the Developer for Financial Close in its proposal, as such date may be extended by IFA as provided in the PPA, but in no event earlier than February 15, 2013
Long Stop Date	12 months after Baseline Substantial Completion
Final Acceptance Deadline	120 days after Substantial Completion Date

Proposal Commitment Dates (cannot exceed the above table):

Milestone	Deadline
Satisfaction of NTP1 Conditions	**0** calendar days after the execution of the PPA
Satisfaction of NTP2 Conditions	**139** calendar days after the date IFA issues NTP1
Financial Close Deadline	**4/1/13**
Commencement of Construction	**6/3/13**
Baseline Substantial Completion	**10/31/16**
Long Stop Date	**10/31/17**
Final Acceptance Deadline	**2/28/17**

EXHIBIT 2-F

INITIAL DESIGN AND CONSTRUCTION COMMITMENT

[attached]

4.2 Design-Build Plan

4.2 DESIGN-BUILD PLAN

WVB East End Partners (WVB) has developed a Design-Build Plan (DBP) for the East End Crossing (Project) that is tailored precisely for IFA with the "End Goal in Mind." Led by the Walsh-VINCI Construction Joint Venture (Walsh-VINCI CJV), WVB's DBP provides IFA with innovative design, construction, and permitting solutions, which will result in the delivery of a high-quality, durable, maintainable, and aesthetic facility.

WVB's approach incorporates technical solutions with innovative features that exceed the contract requirements to provide IFA and the local community a world-class Project. WVB's integrated team combines Walsh's local and national knowledge with VINCI's technical and global experience, supported by qualified local subcontractors and designers.

Walsh-VINCI CJV's DBP is built on the principles of quality and safety in all elements. Both CJV partners being a part of the Concession and Operations and Maintenance (O&M) Teams strengthens the developmental processes through vertical integration and proves WVB's long-term commitment to IFA.

One Team, One Project, One Community
This symbol highlights items that show WVB's value added throughout the document.

This combined teamwork ensures a quality result and approach throughout the entire delivery process, guaranteeing a successful Project for all parties.

The Walsh-VINCI CJV is led by our Construction Manager, Brian Hoppel. Brian has managed many successful projects for the State of Indiana and has the proven skills for incorporating innovation and quality into design and construction. These qualities can be substantiated through his most recent success, the Milton-Madison Bridge project.

Walsh-VINCI CJV understands the established Project expectations and goals. WVB's DBP has been developed to exceed the needs and expectations of IFA and the public. With the proven processes and experienced personnel in place, WVB will hit the ground running with creative and sensible technical solutions.

4.2.1 DESIGN-BUILD TECHNICAL SOLUTIONS

Development of the Project provides the unique challenge of meeting the needs and requirements of two states while uniting them for a prosperous future with the East End Bridge serving as the connecting inspiration.

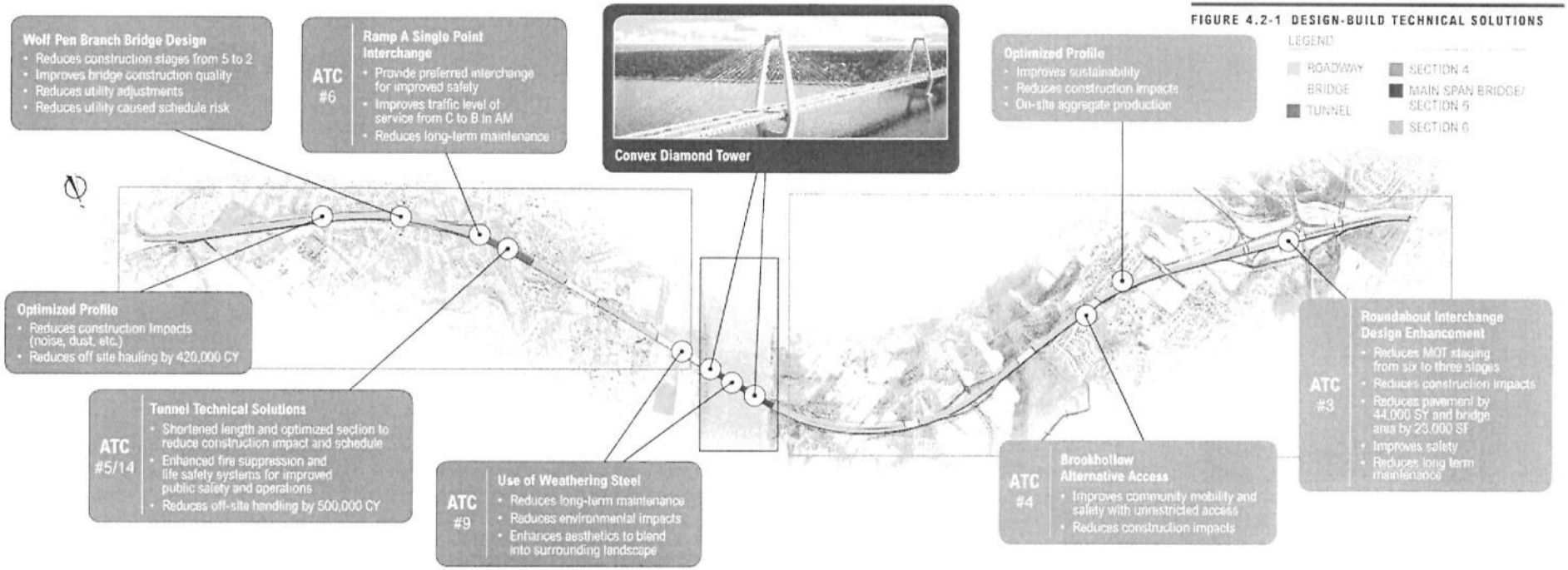
With IFA's provided Reference Information Documents (RID), the Walsh-VINCI CJV has analyzed the preliminary design and local community goals to develop innovative design and construction solutions. Involving the local community and other stakeholders in the development of the solution ensures the end product is a source of pride for the entire community.

Walsh-VINCI CJV developed solutions that meet all Project objectives and minimize environmental and construction impacts. Included in these solutions are seven ATCs that enhance design, provide long-term benefits to safety and maintainability, and provide IFA a net present value savings. Originally presented as WVB ATC #3, the enhanced SR 265/SR 62/Port Road interchange improves construction efficiency for this element of the Project by 40 percent compared to the original concept, significantly minimizing associated construction impacts, improving safety, and reducing long-term maintenance. Walsh-VINCI CJV provides a summary of incorporated technical solutions and associated benefits in **Figure 4.2-1**.

LONG-TERM ASSET

WVB's creative and context-sensitive technical solutions, including the enhanced SR 265/SR 62/Port Road interchange, provide IFA with a higher quality long-term asset with reduced maintenance.

FIGURE 4.2-1 DESIGN-BUILD TECHNICAL SOLUTIONS



Walsh - VINCI CJV Design-Build Innovative and Technical Solutions

Section 4 - East End Kentucky Approach

Challenge	Technical Solution
• Tunnel geotechnical excavation and support	• Four Internal analyses to optimize excavation and support measures; optimal cross-section and shape, ATC #14
• Tunnel construction schedule	• Shorten Tunnel length by 14% and 24hr/day (3-shift) excavation schedule
• Constructing highway through historical character area	• Minimize construction activities to reduce impact to historic area and design portals to blend with surrounding landscape
Construction Impact	**Mitigation**
• Wolf Pen local residence and maintenance of traffic	• Adjusted bridge location for single stage bridge construction and reduced utility conflicts
• Dust, noise, and, vibration	• Optimized profile to reduce rock blasting and reduced haul-off by 920,000 CY equating to over 2,024,000 truck miles
• Constructing within historical districts	• Restricted work zones, temporary and permanent viewshed barriers, fencing and landscaping

Section 5 - East End Bridge

Challenge	Technical Solution
• River flooding	• Precast floating tub foundation to mitigate river fluctuations and provide shortened construction schedule
• Bridge height 300' restriction and other commitments	• Convex diamond tower provides most efficient cable/superstructure design
• Bridge aesthetics	• Reduced overall section for streamline design with blended limestone color and convex diamond tower
Construction Impact	**Mitigation**
• Marine traffic and safety	• Optimized design and construction staging to reduce schedule and time in water
• Louisville Water Company wellhead protection	• Utilizing off site tug/barge yard, designed liner system for access road
• Long term maintenance/ environmental	• Weathering steel for reduced maintenance and environmental impacts, ATC #9

Section 6 - East End Indiana Approach

Challenge	Technical Solution
• Interchange maintenance of traffic	• Enhanced interchange design with reduce traffic stages and improved safety
• Earthwork balancing	• Optimized mainline and local road profiles
• Existing bridge maintenance and handback	• Replaced existing bridge decks for enhanced useful life and reduced long-term maintenance
Construction Impact	**Mitigation**
• Brookhollow subdivision access	• Alternate access route, ATC #4
• Environmental footprint	• Roundabout design reduced area footprint by 15 acres, reduced environmental impacts and improved public safety
• Traveling public disruptions	• Reduce traffic disruptions and adds residual life at handback by utilizing a long-term concrete pavement design that minimizes maintenance and rehabilitation work.

4.2.1.1 EAST END BRIDGE STRUCTURE

WVB envisions a unique, innovative bridge structure fitting seamlessly with the historic characteristics of the region. To meet this vision, WVB used the Bridge Type Selection Process (BTSP) information along with state-of-the-art engineering and construction techniques to provide the most efficient, durable, long-lasting and aesthetically-pleasing structure. WVB selected and designed a bridge structure exemplifying local historic characteristics, including slenderness and visual transparency, that are a source of pride for the community.

WVB experts, including Marcos Loizias and Donald MacDonald (Lead Engineer and Aesthetic Manager, respectively) evaluated each available structure type on the criteria shown on **Table 4.2-1**. WVB selected the most effective solution that meets all requirements and commitments: a cable-stayed bridge with convex diamond towers, Bridge Alternative A-3.

TABLE 4.2-1 BRIDGE TYPES COMPARISON MATRIX

Bridge Type (Per TP Section 15.4.1)	Aesthetics	Construction Cost	Life-Cycle Costs	Construction Time	Constructability	Engineering Performance	Maintenance	Security / Protection
A-1: Steel Tied Arch	●	●	●	●	●	○	●	○
A-2: Concave Diamond Tower Cable Stayed	○	○	○	○	●	○	●	○
A-3: Convex Diamond Tower Cable Stayed	●	●	○	●	●	●	●	●
A-4: Median Tower Cable Stayed (Outside Cables)	○	○	○	○	○	●	●	●
A-5: Median Tower Cable Stayed (Median Cables)	●	●	●	●	○	●	○	●
A-6: Median Tower Cable Stayed with Suspension Cables	○	○	○	○	●	○	●	○

● Low ● Medium ● High

4.2.1.1.a Preliminary Bridge Schematic

The 2,280-foot-long convex diamond tower steel composite cable-stayed design provides an aesthetically pleasing and structurally efficient design. The bridge is flanked at each end by 115-foot-long steel plate girder simple spans for a total main span structure length of 2,510 feet.

While the overall length of the main span matches the RFP concept, WVB has reduced the length of the cable-stayed bridge by 230 feet, which provides several benefits including structural optimization, reduced construction and life-cycle costs, and improved constructability and safety. The Kentucky approach span is 1,966 feet long and features an eight-span continuous steel plate girder bridge. The full schematic of the East End Bridge is shown in provided roll plots and summary layout in **Figure 4.2-2**.

4.2.1.1.b Substructure Preliminary Design

The substructure for the main span structure consists of Anchor Pier 2, Tower 3, Tower 4, and Anchor Pier 5 to support the cable-stayed bridge; flanked by Kentucky Pier 1 and the Indiana Abutment.

The locations of Anchor Piers 2 and 5 have been optimized to 540 feet from the towers compared to 430 feet per the RFP concept. This arrangement:

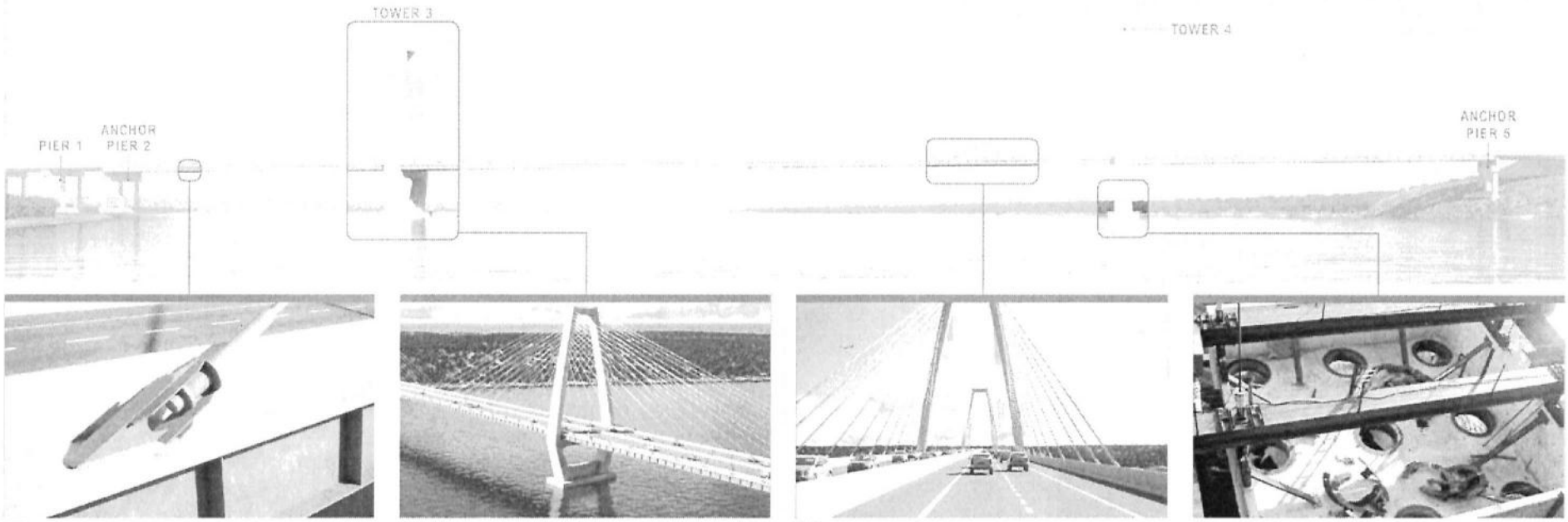
- Improves superstructure efficiency
- Reduces pier vulnerability to collision loads
- Reduces bank impacts during construction
- Enhances access for future bearing inspections

The anchor piers comprise three 8-foot-diameter, reinforced concrete columns extending from drilled shaft foundations. The Kentucky approach span piers are also three-column bents for aesthetic consistency but are founded on driven H piles.

The two convex diamond towers extend approximately 300 feet above normal pool elevation to become the dominant visual element of the bridge. The tower shape provides greater torsional and transverse stiffness to resist wind, seismic, and other load demands, and is a more redundant and robust structure than a single pylon structure.

Analysis of the provided geotechnical information concluded that the towers be supported by 8-foot-diameter drilled shafts socketed into bedrock at a depth of 110+ feet from normal pool. The drilled shafts are capped with a 16-foot-thick waterline footing and have a transverse shear wall between the tower legs for added strength to resist ship impacts. The waterline footings, constructed inside precast cofferdam tubs, minimize river flow disruptions, future riverbed scour, and navigation disruption during construction.

FIGURE 4.2-2 SUBSTRUCTURE AND SUPERSTRUCTURE COMPONENTS FOR THE EAST END BRIDGE STRUCTURE



STAY-CABLES *(Superstructure)*

- Stay cable system has a design service life of up to 75 years, 15 more than required.
- Bridge is supported by 104 parallel-strand stay cables arranged in a modified fan arrangement, which improves efficiency and reduces force demands on the edge girders.
- Stay cables are connected to edge girders using in-line, fin-shaped anchorages welded to the top flange of the edge girder, which provides a direct load path of the stay forces through the top flange into the girder webs.
- Parallel strand cables composed of multiple 0.60-inch diameter strands with multiple levels of corrosion protection.
  - Individual strands encased in a polyethylene sheath filled with a corrosion blocking compound entirely surrounding the wires of the strands. The blocking compound also reduces fretting between wires and increases the fatigue life of the strands.
  - Strands housed inside a two-layer, co-extruded HDPE sheath with double-helix fillets to mitigate rain and wind vibration.
- Engineered so that individual stay cable strands can be removed for inspection and testing, or replacement if necessary, while maintaining traffic on the bridge.

MAIN TOWERS *(Substructure)*

- Aesthetically pleasing and structurally efficient convex diamond stay towers extend approximately 300 feet above normal pool elevation to become the dominant visual element of the bridge.
- Inclined reinforced concrete tower legs, with a hollow box section, are stiffened by a roadway strut and a top strut, thereby reducing bending moment demands in the tower legs.
- Tower legs permit clear passage of the superstructure for ease of construction and simplicity of details. Fly-thru arrangement offers greater ease for stay cable force adjustments.
- Structural steel stay cable anchor boxes are cast into the upper tower legs to provide anchorage to the stay cables. These assemblies resist tensile forces and unbalanced cable loads.
- Anchor box sections in 12-foot long segments are easily lifted into place with a tower crane and connect to each other with bolted connections. The anchor boxes are shop fabricated as a unit to fully incorporate the geometry requirements for the stay cable anchors.
- The stay cables and anchorage boxes are offset from the centerline of the tower legs to provide easy access for anchorage inspection inside the towers. Access ladders and platforms are installed from deck level to tower top.

DECK CROSS-SECTION *(Superstructure)*

- Inclined stay cables support the bridge deck on each side, providing for out-to-out deck width of 123 feet 8 inches (reduced from 131 feet 6 inches per RID).
- Bridge deck is composed of 7-foot-deep longitudinal steel edge girders on each side connected by transverse floorbeams which support 10-inch-thick precast concrete deck panels and cast-in-place infills to create a composite roadway deck.
- Use of steel-concrete composite section minimizes the weight of the bridge and accelerates construction.
- 2-inch-thick latex modified concrete overlay is placed atop the precast panels, providing for greater durability and extended life of the deck.
- Stay cable anchorages are spaced 45 feet apart while the floorbeams are spaced at 15 feet intervals, providing optimum efficiency of structural steel framing and concrete deck.
- HPS 70W structural steel and high-performance concrete are used in the bridge superstructure, providing optimum design and reduced maintenance costs.
- A full-length inspection catwalk with access holes through the floorbeams is provided under the deck to allow inspectors to easily walk the bridge length below the deck.

FOUNDATIONS *(Substructure)*

- Each stay tower is supported by 8-foot diameter drilled shafts socketed into competent limestone at a depth of 110+ feet from normal pool elevation.
- Precast concrete cofferdam tubs are used as a template for installing the drilled shafts and to cast the waterline footings. Tubs are used as sacrificial forms and are not treated as structural members, mitigating maintenance of foundation concrete as related to local damage in the event of vessel collision.
- Cofferdam tubs allow for minimal use of marine equipment for drilled shaft installation, mitigating impacts to normal Ohio River barge traffic and recreational users.
- Drilled shafts are capped with a 16-foot thick waterline footing that, along with a transverse shear wall at the base of the stay tower legs, provides added strength to resist ship impacts.
- Waterline footings offer cost savings and easier construction while reducing environmental impacts, minimizing river flow disruptions, and preventing future riverbed scour.

Stay-cable connections at the towers consist of structural steel anchor boxes cast into the upper tower legs. The stay cables and anchorage boxes are offset from the centerline of the tower legs to provide easy access for anchorage inspection inside the towers. Construction sequence of the towers, substructure, and superstructure is detailed in **Figure 4.2-3**, with full sequencing details and schedule provided in Volume 2 Appendices.

4.2.1.1.c Superstructure Preliminary Design

The deck of the cable-stayed bridge is a composite steel section comprised of 7-foot-deep longitudinal steel I-shaped edge girders on each side, transverse floor beams, and 10-inch-thick precast concrete deck panels. High-performance concrete (HPC) is used in the precast deck panels and infills, while high-performance structural steel (HPS) 70W is used for efficient girder sizes that resist axial and load demands.

HPS 70W weathering characteristics provide a more durable design with low life-cycle costs that achieves the 100-year design service life while minimizing long-term maintenance costs. Stay cable anchorages are welded directly to the edge girder top flanges, providing a direct load path from the cable through the top flange and into the girder webs. This design enhances the aesthetics of the edge girders and optimizes structural performance.

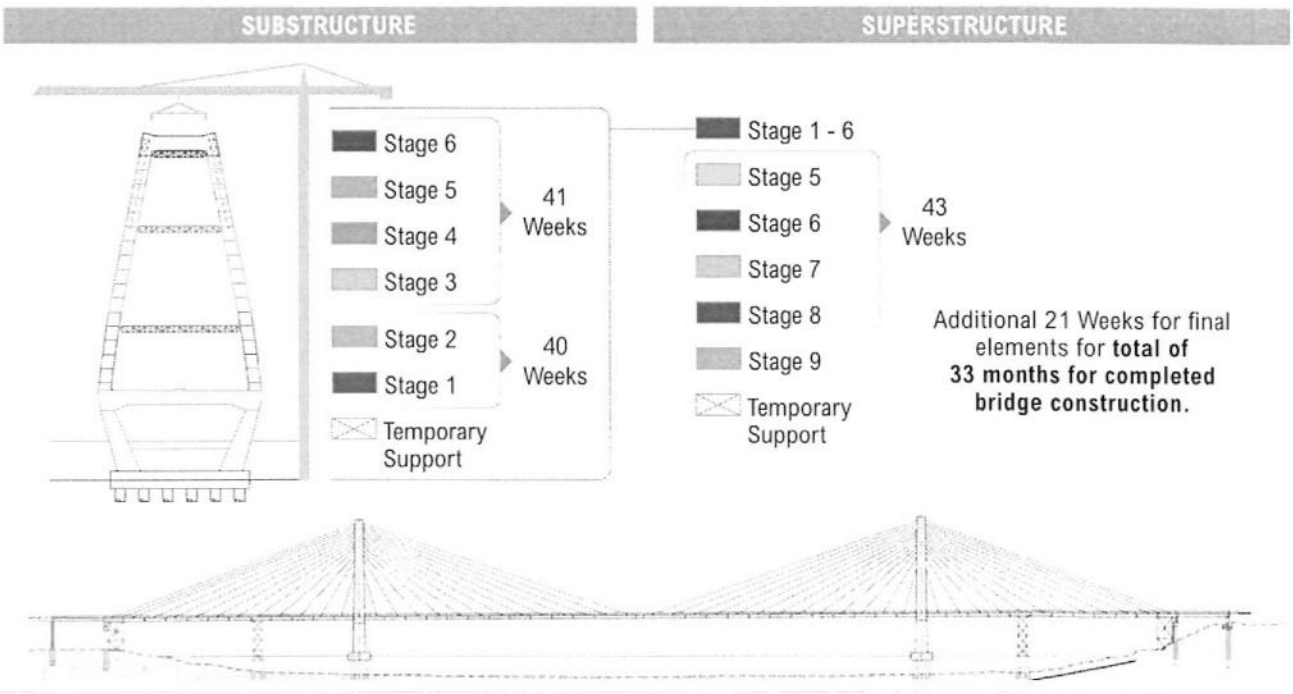
The superstructure is erected simultaneously at the two towers using the balanced cantilever method, as shown on **Figure 4.2-4**, to expedite schedule. Pre-assembled 45-foot-long segments consisting of two edge girders and three floor beams are erected with a pair of stay cables installed and stressed, followed by erection and connection of precast deck panels. The superstructure section is erected using barge-mounted and tower cranes. Our staggered

FIGURE 4.2-4 BALANCED CANTILEVER METHOD

WVB utilizes a fast-track, 7-day segmental erection cycle based on experience constructing Rion-Antirion Bridge in Greece.

FIGURE 4.2-3 EAST END BRIDGE ERECTION SEQUENCE AND SCHEDULE

WVB's construction sequencing and corresponding schedule are based on experience from other cable-stayed and river crossing structures, such as the Q-Bridge in Connecticut and the second Severn Crossing in the United Kingdom.



erection sequence accommodates uninterrupted river traffic by typically isolating the floating equipment to a single side of the channel.

The Indiana transition and Kentucky approach span consist of nine lines of steel composite girders to support a reinforced concrete deck slab. The steel girders of the Kentucky approach are erected using land-based cranes to erect pier (cantilever) segments followed by drop-in segments between inflection points.

4.2.1.1.d Requirements and Commitments

WVB's design meets the requirements of Government approvals, the NEPA documents and environmental commitments, and is sensitive to Louisville Water Company's (LWC) Wellhead Protection Area (WHPA) (**Table 4.2-2**).

4.2.1.1.e Architectural Argument

The BTSP produced four publicly-presented aesthetic recommendations that have been followed by the WVB Design Team. The convex diamond towers and other curved vertical elements, such as the roadway lighting and pedestrian walkway railings, give the bridge a curvilinear theme. Bridge coloring uses uncoated concrete elements, rust colored structural steel, warm grey metal bridge elements, and classic white aesthetic lighting on the bridge. The BTSP also produced a list of suggested refinements during the design phase. Many of these refinements, including towers detailed with reveals and the curved open diamond shape creating slender towers, are clearly reflected in WVB's proposal design. Our design adheres to the MOA commitments including minimizing light, noise, and sensitivity to the historic cultural context.

POSITIVE IMPACT ON THE AREA AND COMMUNITY

WVB's vision of the East End Bridge can be appreciated in the bridge animation in the Volume 2 Appendices.

WVB's design addresses all nine of the Technical Provisions' essential aesthetic design guidelines while creating a visually outstanding bridge (**Figure 4.2-5**). The bridge design honors the local historic and cultural context, borrows from local building traditions, and strikes a modern, efficient aesthetic tone to create an understated architectural symbol for the community that maximizes natural views of the river and surroundings.

TABLE 4.2-2 MEETING REQUIREMENTS AND COMMITMENTS

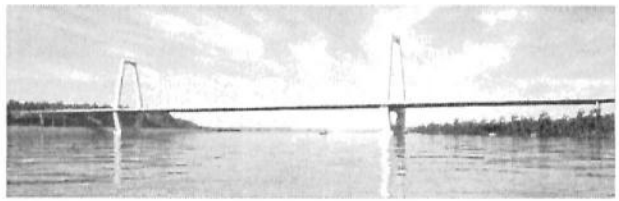
WVB's schematic design meets NEPA, governmental approvals, and environmental commitments.

Government Approval	Controlling Element	Comments	Meets Commitments
FAA Tall Structures Permit – for Crane	Crane Height	Crane height will be below height approved in FAA permit	✓
FAA Tall Structures Permit – for Bridge	Bridge Tower Height	Tower height will be below height approved in FAA permit	✓
USCG Section 9 Permit	Bridge Clearances	Provides full 900-ft permanent channel width and 600-ft channel during construction	✓
USACE Section 10 Bridge Permit	Construction in Navigable Waters and fill	Proposed temporary and permanent fill placement is within range shown in permit application and is within RID design	✓
USACE Section 404 Permit	Placement of fill in waters of the U.S.	Proposed temporary and permanent fill placement is within range shown in permit application and is within RID design	✓
IDEM Section 401 Water Quality Certification Permit	State Water Quality Standards	Proposed construction essentially the same as RID proposal in manner and extent	✓
LWC Filtration Tunnel	Construction near Tunnel	No pier construction within 40 ft of Tunnel	✓
LWC/WHPA	Discharge of bridge drainage	All bridge runoff will be collected and properly disposed	✓
LWC/WHPA	Use of polymer slurries	No bentonite or polymer slurries used for drilling within WHPA	✓
Zebra Mussels	Construction Equipment free of zebra mussels	All construction equipment used in the Ohio River and tributaries is free of zebra mussels	✓

FIGURE 4.2-5 WVB EAST END BRIDGE DESIGN EXCEEDS ALL AESTHETIC DESIGN GUIDELINES

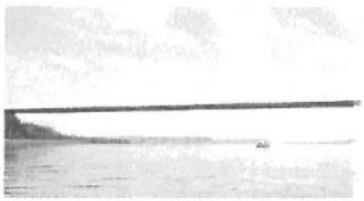
Leveraging the historic, cultural, and environmental context of this unique Ohio River region, the WVB's design creates a safe, symbolic 21st century structure that addresses all nine of the essential aesthetic design guidelines.

1 The bridge towers are modeled after the historic ground hog type lime kiln to create a **symbolic, memorable bridge for local residents**. Both the lime kiln and bridge towers possess a simple, utilitarian aesthetic that highlights their understated gently curved architectural flair. Drivers will experience the tower legs' stacked concrete gradually arching up and over them as they go through the tower openings reminiscent to lime workers passing through the historic lime kiln's arched doorway.



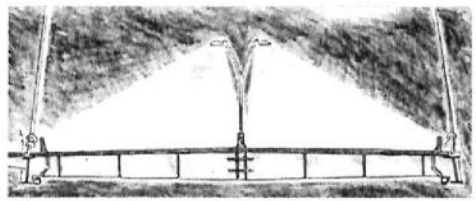
2 WVB's design utilizes modern efficiency to be as **visually transparent and unobtrusive** as possible. By splitting the superstructure into thinner members with an open diamond design, along with judiciously spacing the cables to spread out as they descend to eye-level, viewers can better see through the bridge to the landscape beyond. The number and thickness of elements are efficiently minimized and spread across the view to substantially lessen the effect of the bridge on the view shed.

3 The pedestrian path is designed to be the most enjoyable way to cross the bridge due to its being **user-friendly and maximizing the feeling of safety**. User-friendly elements include the pedestrian-scale size and spacing of barrier elements and the extra space provided at the towers to stop, rest, and take in the view. Pedestrians feel safer due to the physical and visual separation created by locating cables and barrier elements between the path and roadway all the way across the bridge.

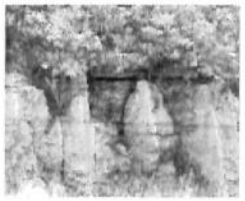


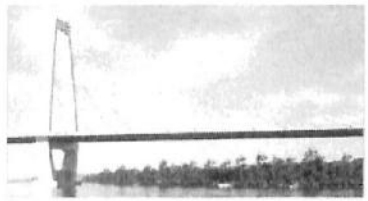
4 **Natural views are preserved** by maximizing the use of horizontal design elements because they do not restrict as much of the viewer's range as vertical elements and thus appear less obtrusive. For example, barrier components are designed to be mostly horizontal. The roadway section depth is minimized, contributing to this horizontality to be viewed as a line in the horizon. Furthermore, the pedestrian path provides previously unseen views downstream enhancing the area's natural views.

5 By paying critical attention to detail, **the bridge becomes meaningful**. Tapering and properly proportioning the towers elements are critical large scale details. Smaller components are tailored at a scale appropriate for the various speeds of the bridge's different users, such as roadway lights for drivers and handrails for pedestrians. To create a coherent experience throughout, the understated simplicity of efficiency is used where detail without any meaning would visually clutter the bridge.

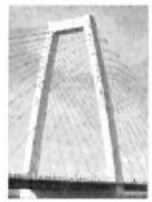


6 Safety, aesthetic, and environmental **lighting design features are implemented to be subtle and non-intrusive**. Towers and cables are up lit from the roadway to gradually diffuse higher up and disappear into the sky. Roadway lighting is mounted in the center of the roadway spaced at the maximum safe distance so the roadway edges will prevent light spilling over the bridge edge and intrusively flooding down onto the river or shoreline. Only highly efficient LED lights are used to further minimize any environmental impact.





7 The bridge **blends into the landscape by relating to local colors and finishes**. All concrete support structures are uncoated concrete with horizontal grooves to mimic local horizontally layered limestone cliffs. Supporting the layer of concrete roadway deck, a layer of weathering steel girders and beams creates a horizontal rust-colored datum similar to the rust-stained layers of iron oxide rich local limestone. Cable and other metal elements are a warm grey color found to be the most likely to blend in with the naturally occurring stone.



8 The bridge complements the surroundings by **relating to the local vegetation, landforms, and materials**. Bent roadway lighting poles and pedestrian barriers are modeled after organically bent mature native trees along the river. The horizontal nature of the roadway's form complements the area's numerous natural horizontal forms, such as the surface of the river, the layered limestone outcroppings, and the flat-topped bluffs overlooking the river.

9 The East End Bridge is **one part of an overall transportation project** that stretches through Indiana and Kentucky. A consistent palette of materials and building forms honoring the native landscape is used throughout to achieve cohesiveness, such as weathering steel, stacked limestone forms, and gently curved shapes. Efficient design enables a shorter construction period creating consistent aging throughout the whole project and further lending cohesiveness through historic consistency.

4.2.1.2 TUNNEL ELEMENTS

The portals and approaches for the Tunnel have been designed to blend with the existing surroundings and enhance the overall local landscape (**Figure 4.2-6**). Technical solutions incorporated into the plan minimize impacts during construction while providing the most efficient design to prolong asset life and increase public safety.

State-of-the-art life safety systems are used to provide an exceptional level of protection against a variety of fire types. A fire detection system is coupled with a foam/water sprinkler system and added drainage inlets to create a complete fire suppression system capable of controlling a flammable liquid fire. This system restricts the rapid spread of a Tunnel fire, allowing additional time for traditional fire-fighting techniques and emergency evacuation, improving safety for emergency responders. The Tunnel electrical system has been designed to fully withstand a fire event, further enhancing public safety. These design solutions, accompanied by an improved interior configuration, maximize safety egress and maintenance access, while providing a better long-term asset for KYTC.

Further, these solutions prolong the life of the structure and allow for an efficient O&M program when the Tunnel is completed. Consideration has been taken to shorten the construction schedule, reduce local impacts, and minimize maintenance requirements and cost.

With the Tunnel being the Project's critical path schedule activity, Walsh-VINCI CJV incorporates several innovations to complete Tunnel construction prior to

LONG-TERM ASSET

The state-of-the-art life safety systems will maximize safety and egress while providing a better long-term asset for KYTC.

IFA's deadline. This early completion allows opening of the Project to revenue-generating traffic by October 31, 2016, eight months ahead of IFA's goal of mid-2017.

4.2.1.2.a Early Construction of Tunnel Elements

The excavation and support schedule for the Tunnel is based on the geotechnical conditions under the Drumanard Estate. A detailed review of the conditions led to the selected drill and blast process resulting in specific temporary support measures and excavation cycle times for each rock classification. The cycle-times were expanded to develop the overall schedule using an offset multiple heading excavation plan as shown on **Figure 4.2-7** and detailed in Volume 2 Appendices: Tunnel Construction Methods and Tunnel animation, showing the full Tunnel construction sequence. The temporary support system mitigates potential geotechnical risks and reduces the need to implement Tunnel contingency plans. Tunnel excavation and temporary support items are constructed on a 24-hour per day, five day a week schedule, with concrete liner work occurring around the clock.

Before commencing Tunnel construction, several preconstruction processes occur immediately after Project award and during the design phase. These include: community notifications, establishing a settlement and seismic monitoring system, and erosion mitigation measures.

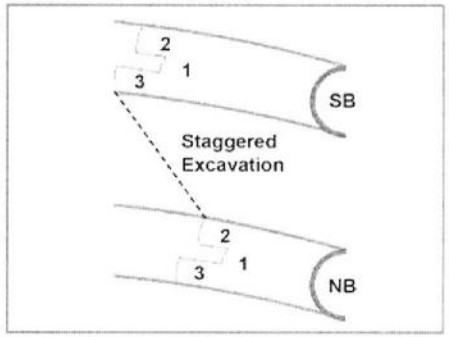
FIGURE 4.2-6 DRUMANARD TUNNEL NORTH PORTAL DESIGN

WVB's Tunnel design blends with the existing surroundings and enhances the overall landscape.

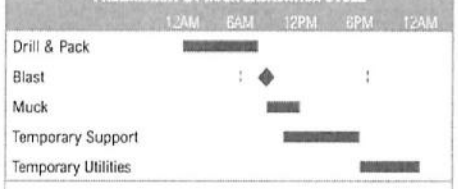
FIGURE 4.2-7 PROPOSED TUNNEL CONSTRUCTION METHODS AND SCHEDULE

A Excavation & Temporary Support

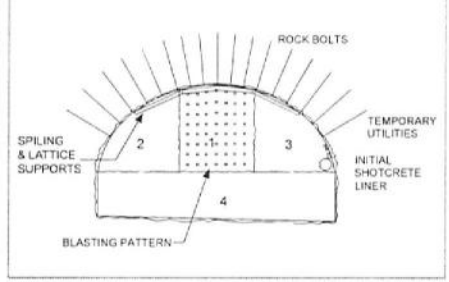
- NB tunnel to advance ahead of SB tunnel by approximately 200 ft.
- Top section split into three headings led with pilot heading (1)
- Side headings (2, 3) to stagger behind approximately 50 ft.
- Bench excavation (4) to follow up headings
- Drill and Blast method to be utilized for excavation with blasting patterns and delays to control noise and vibrations
- Daily cycles to be utilized for increased productivity, improved safety and reduced overall schedule and construction impacts
- Temporary support and daily blasting lengths to be based on actual rock geology
- Further details provided in Volume 2 Appendices



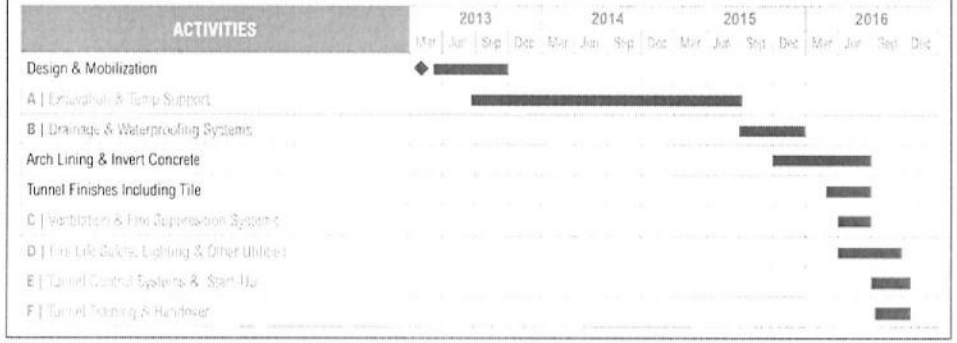
PRELIMINARY 24-HOUR EXCAVATION CYCLE



24-hour construction cycle accelerates the schedule, providing improved safety while minimizing impact to the local community.

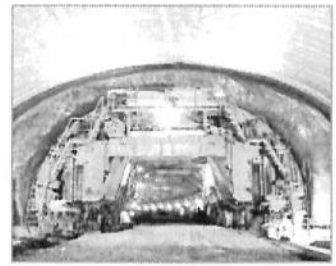


CONSTRUCTION GENERAL SEQUENCE

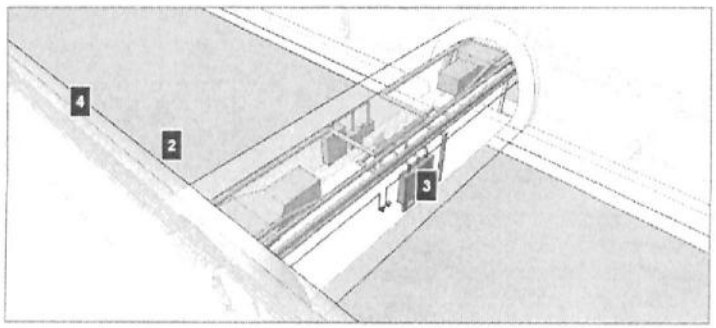


B Drainage & Waterproofing System | Arch Lining and Invert Concrete

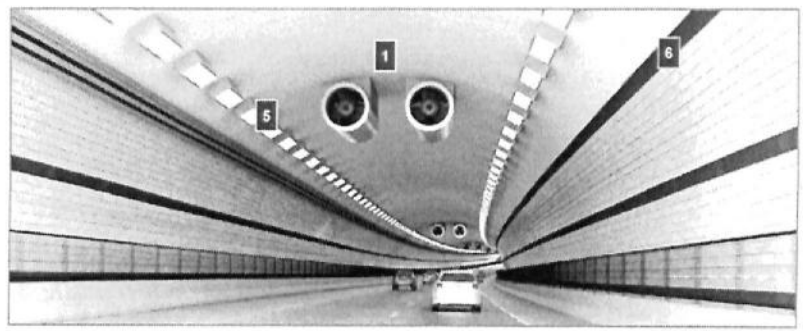
- After excavation is completed, all drainage systems including waterproofing will be installed
- Leveling shotcrete layer to be placed prior to waterproofing membrane to ensure solid contact
- Waterproofing membrane to be installed using high quality proven material
- Reinforcement and inserts to be set in place for arch liner
- Arch liner to be poured in 40-48 ft. increments using a form traveler
- Drainage and structural sub-base to be placed along with reinforced concrete invert
- Barriers to be placed with slip form paver followed by conduit installation and walkways



C-F Ventilation, Fire Suppression, Lighting & Other Utilities | Tunnel Control Systems, Start-Up and Training | Tunnel Handover



1. Jet Exhaust Fans (6 in the SB; 12 in the NB Tunnel)
2. Foam Suppression System (3-inch line in both tunnels)
3. Deluge Valve Box
4. Fire Main & Sprinkler Systems (6-in. line in the SB Tunnel; 8-in. in the NB Tunnel)
5. Lighting
6. Ceramic Tile Finish



4.2.1.2.b Interfacing with Property Owners

Keeping nearby residents informed of potential construction impacts is a top priority throughout the duration of Tunnel construction. The WVB Public Involvement Plan contains specific procedures for interacting with local residents and property owners near the Tunnel, including the Harbor at Harrods Creek, Bridgepoint, Shadow Wood, and historic properties such as Allison Barrickman House and Drumanard Estates & Strater House. WVB holds preconstruction and construction update meetings along with weekly notifications of blasting. These measures are in addition to WVB's proactive public relations approach to maintain public trust and integrity. A pre-construction survey is conducted as the first step of a detailed blasting plan, which utilizes a system to monitor vibration levels and settlement at surrounding structures. **Table 4.2-3** summarizes this proactive approach.

TABLE 4.2-3 WALSH-VINCI CJV WILL PROVIDE A PROACTIVE PUBLIC RELATIONS APPROACH

Proactive Public Relations Measure
Sponsor Tunnel construction pre-work and update meetings.
Send weekly correspondence regarding blasting times (website, Twitter) as noted in our Public Involvement Plan.
Perform pre-blast vibration and noise analysis.
Perform pre-, during, and post-construction inspections of residences and local roadways.
Provide 24-hour emergency contact information.
Ensure local fire, police and emergency response dispatchers have updated information.
Use temporary information signs to inform traveling public of blasting and construction events.

4.2.1.2.c Limiting Dust, Noise and Vibrations

To reduce the impacts to the surrounding properties, Walsh-VINCI CJV minimizes the construction activities at the root of such impacts. The Walsh-VINCI CJV design shortens the overall Tunnel length, optimizes the Tunnel cross-section and raises the portal profile to significantly reduce the overall amount of rock excavation, resulting in less blasting, stockpiling, and haul-off. Additionally, the portal approaches have been designed to limit material haul-off and overall blasting. Technical solutions that remove impacts in addition to mitigation measures are summarized in **Table 4.2-4**.

TABLE 4.2-4 WALSH-VINCI CJV's MITIGATION MEASURES FOR TUNNEL CONSTRUCTION

Mitigation Measures	Dust	Noise	Vibration	Public Safety
DESIGN TECHNICAL SOLUTIONS				
Raised South Portal Approach profile decreases rock blasting quantity by 500,000 cubic yards, and associated haul-off of 1,100,000 truck miles	✓	✓	✓	✓
Shortened Tunnel length by 14%, reducing blasting timeline and overall construction schedule, minimizing construction impacts	✓	✓	✓	✓
Cross section optimized to reduce walkway width and minimize liner thickness to eliminate excessive excavation, haul-off, and blasting (ATC #14)	✓	✓	✓	✓
CONSTRUCTION MITIGATION SOLUTIONS				
Strategically identified haul routes minimize construction traffic	✓	✓		✓
Drilling and blasting operations to occur during daylight hours only	✓	✓	✓	
Utilize blast detonation delays and adjust drill patterns to reduce noise and vibration, while maximizing efficiency	✓	✓	✓	✓
Temporary or permanent noise barriers, including earthen berms, placed to limit disruption to surrounding neighbors; improving viewshed		✓		✓
Project-specific Blasting & Vibration Plan with associated training, noise/vibration monitoring and pre-blast analysis of surrounding structures	✓	✓	✓	✓
Implement best management practices to minimize impact to public; i.e., water trucks, equipment mufflers, OSHA training	✓	✓	✓	✓

These design innovations minimize construction activities and reduce the use of public travel ways for construction purposes, lessening the overall carbon footprint while improving safety for the traveling public.

As part of the mitigation measures, an open door policy is used with the surrounding communities to provide feedback if the initial mitigation measures are not sufficient. Walsh-VINCI CJV strives to mitigate all impacts promptly, while using community interaction to recognize and avoid potential complications.

4.2.1.2.d Access Plan and Haul Route Plan

Included as an impact mitigation measure of Section 4.2.1.2.c are the intended access plan and primary haul routes as shown in **Figure 4.2-8**. The Walsh-VINCI CJV has developed an access and haul strategy that decreases impacts to the environment, surrounding community, and traveling public. WVB's access plan allows early commencement of Tunnel excavation and continued progress throughout each traffic stage.

The original estimated 1.7 million cubic yards of haul off material would require a substantial amount of truck traffic through the local historic districts, drastically disrupting the everyday life of the local communities. Walsh-VINCI CJV has designed an optimized roadway profile that decreases the amount of rock excavation for the Tunnel south portal by 500,000 cubic yards. Additionally, the Walsh-VINCI CJV design improves sustainability by increasing the amount of fill material north of Harrods Creek, allowing for a overall haul-off decrease of 920,000 cubic yards, a 57 percent reduction.

LONG-TERM ASSET

Local roads and highways see a reduced traffic impact by 2.0 million truck miles with Walsh-VINCI CJV haul-off reductions versus RFP.

Local quarries have agreed to process the excavated rock into a material suitable to be reused on the Project and other surrounding construction projects. The recycled rock is incorporated in natural berms for noise reduction and improve viewsheds for the historic districts such as the Rosewell House. Furthermore, a large quantity of material is transported to the north of Harrods Creek fill zone. Walsh-VINCI CJV identified primary haul routes along the KY 841 corridor that minimize construction traffic and reduce overall impacts to the surrounding communities.

4.2.1.3 ROADWAY ELEMENTS

Walsh-VINCI CJV has incorporated many technical solutions into the roadway elements to provide IFA a lasting, durable, and sustainable East End Crossing. During preliminary design of the roadway elements, Walsh-VINCI CJV coordinated with WVB's O&M Team to review and provide increased life-cycle solutions throughout.

FIGURE 4.2-8 PROPOSED ACCESS AND PRIMARY HAUL ROUTE PLAN

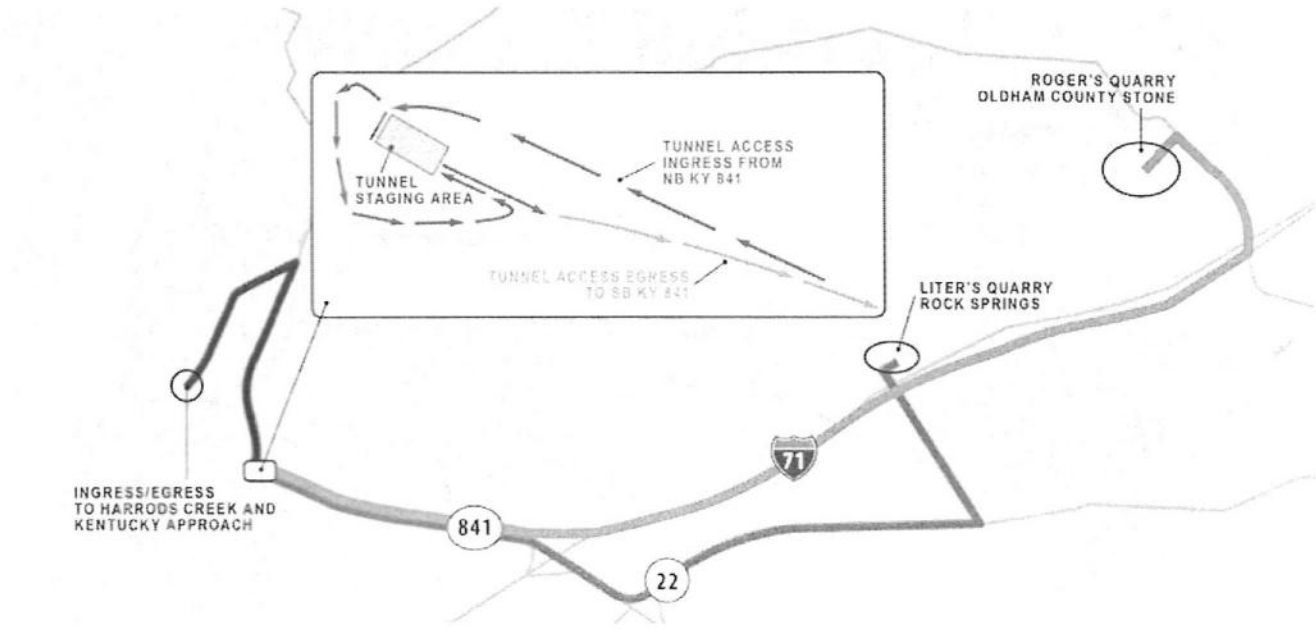


FIGURE 4.2-9 ROUNDABOUT INTERCHANGE

WVB enhanced roundabout interchange design (as presented in WVB ATC #3) uses 1 two multi-lane roundabouts (that replace the crossover diverging diamond and traffic signals) and 2 one single-lane roundabout (that replaces two loop ramps) that provide a safer and higher level of service.

Among the technical solutions is the roundabout interchange at SR 265/SR 62/Port Road (**Figure 4.2-9**). The redesigned interchange benefits include:

- Reducing long-term maintenance by eliminating two loop ramps and reducing 44,000 square yards of pavement and 23,000 square feet of bridge deck.
- Reducing traffic idle time and related carbon footprint by eliminating two traffic signals.
- Improving safety and reducing impacts to traveling public by reducing construction staging and removing 33 percent of traffic conflict points.
- Improving safety and increasing level of service by realigning ramps as shown in interchange traffic simulation (in the Volume 2 Appendices).
- Decreasing environmental impact from construction activities by reducing the overall Project footprint by 15 acres.

4.2.1.3.a Staging, Traffic Control, and Sequencing

During design development, Walsh-VINCI CJV sought out design solutions in construction staging and sequencing that limit impacts to the traveling public. Along with the reduced staging of the roundabout interchange, beneficial solutions were developed at three other locations:

Wolf Pen Branch Bridge redesign allows for single stage bridge construction (removes temporary bridge construction) and two stage MOT in lieu of five stages.

US 42 Single Point Interchange ATC #6 modifications provide improved level of service and reduced construction impacts to local roads and communities.

Brookhollow Drive Alternate Route ATC #4 improves safety and reduces construction impacts through unrestricted access for subdivision residences.

4.2.1.3.a.i. Traffic Management, Control, Sequencing

Walsh-VINCI CJV employs a proactive traffic management approach to reduce impacts on the surrounding area and traveling public. Walsh-VINCI CJV's Maintenance of Traffic (MOT) Manager, Mark Fournier, has developed a Traffic Management Plan (TMP) with this approach to ensure a safe, continuous operating roadway for the traveling public that leads to limited disruptions. The TMP includes elements listed in **Table 4.2-5**.

TABLE 4.2-5 TRAFFIC MAINTENANCE PLAN ELEMENTS

Temporary Traffic Control Plan with detailed MOT plans and traffic analysis
Temporary pavement design and unrestricted access details for all businesses and residents
MOT phase change procedures with clear responsibilities and processes for temporary signage markings that provide for safe traffic switches with limited disruptions
Work zone access, truck routes, and haul route maps to allow for safe ingress/egress for personnel and traveling public
Detour routes and project closures to be approved by IFA
Traffic Operations Plan describing key personnel and responsibilities
Emergency Plan and coordination with emergency services
Coordination meetings with adjacent projects, transit operators, utility owners, and local public agencies
Coordination with PIP and public communication implementation by Public Information Coordinator
Proactive communication measures such as public meetings, temporary signage, PCMS, and website notices

4.2.1.3.a.ii Conceptual Staging Plans

Walsh-VINCI CJV developed detailed construction staging and MOT plans to ensure all components of the design are coordinated. Revised traffic staging at US 42, Wolf Pen, and Roundabout Interchange provide added benefits to the traveling public including reduced impacts and improved public safety. The conceptual construction staging diagrams are summarized in **Figure 4.2-10** and **4.2-11** (and detailed in Volume 2 Appendices) for the following areas:

- KY 841 at US 42 and US 71
- Wolf Pen Branch Road
- SR 265/62/Port Road Interchange

During development of the traffic staging plans, Walsh-VINCI CJV reviewed and incorporated all requirements for ramp treatments and temporary or permanent drainage work. With enhanced designs and traffic staging, an added benefit is the limited amount of temporary drainage required. Local roads, including River Road, Utica-Charlestown Road, Brookhollow Drive, and Utica-Sellersburg Road, have minimal disruptions and all construction and staging activities adhere to the final TMP. Preliminary detour plan for Utica-Sellsburg Road is provided in the Volume 2 Appendices.

4.2.1.3.a.iii Business and Residential Access

Throughout the Project, Mark Fournier, MOT Manager, works with Dan Hartlage, Public Information Coordinator, to ensure safe unrestricted access for all residents. Details for temporary access driveways, detours, temporary closures and timelines are described in the TMP, approved by IFA and communicated to the public. Design solutions such as Brookhollow Alternate Route and Wolf Pen Bridge allow for reduced disruption to the local communities and unrestricted access.

The enhanced roundabout interchange staging provides unrestricted access to the Port of Indiana and River Ridge Development. The temporary traffic staging is designed to allow access for long-trailer vehicles including shipments of windmill blades or other long cargo. By way of the TMP, Walsh-VINCI CJV works closely with the Port of Indiana, other businesses, and local residents to ensure that construction impacts and disruptions are limited.

SAFE AND SUSTAINABLE

WVB's enhancement in design and staging provide improved public safety, higher quality, and reduced impacts to the traveling public, environment, and stakeholders.

4.2.1.3.a.iv Construction Schedule & Sequence to Minimize Impacts

Walsh-VINCI CJV has mitigated potential impacts and the overall construction timeline through design innovation and traffic sequencing, most notably for the SR 265/SR 62/Port Road interchange. The revised roundabout interchange allows for more natural traffic movement and a simpler construction sequencing plan. The entire interchange can be constructed in three main stages, with only two adjusting traffic configurations. This approach drastically reduces disruptions to the traveling public and overall impact to the environment.

Along Wolf Pen Branch Road, Walsh-VINCI CJV developed a final bridge design that allows bridge construction in a single traffic stage with access within right-of-way, reducing traffic disruptions, and improving quality. Early in the development phase, public information meetings are held with subdivision residents to explain the traffic sequencing for Wolf Pen Branch Road and ensure community support.

Walsh-VINCI CJV has incorporated environmental protection and mitigation into the overall design and development of the Project and will continue to further enhance mitigation measures throughout construction. These mitigation measures ensure that Walsh-VINCI CJV's construction efforts respect the existing landscape, ultimately providing a Project with minimal environmental impact.

4.2.1.3.a.v Laydown, Recycling, Staging, Disposal and Maintenance Locations

As part of the environmental training program, all employees are notified and trained on specific construction requirements around historic, restricted, and sensitive work zone areas, to help mitigate noise, dust, viewshed, and environmental impacts. Walsh-VINCI CJV has designated many construction staging, recycling, and laydown areas with these restrictions in mind as shown in **Figure 4.2-10** and **Figure 4.2-11**.

FIGURE 4.2-10 WVB's CONCEPTUAL STAGING SUMMARY AND POTENTIAL USE LOCATIONS FOR SECTIONS 4 AND 5

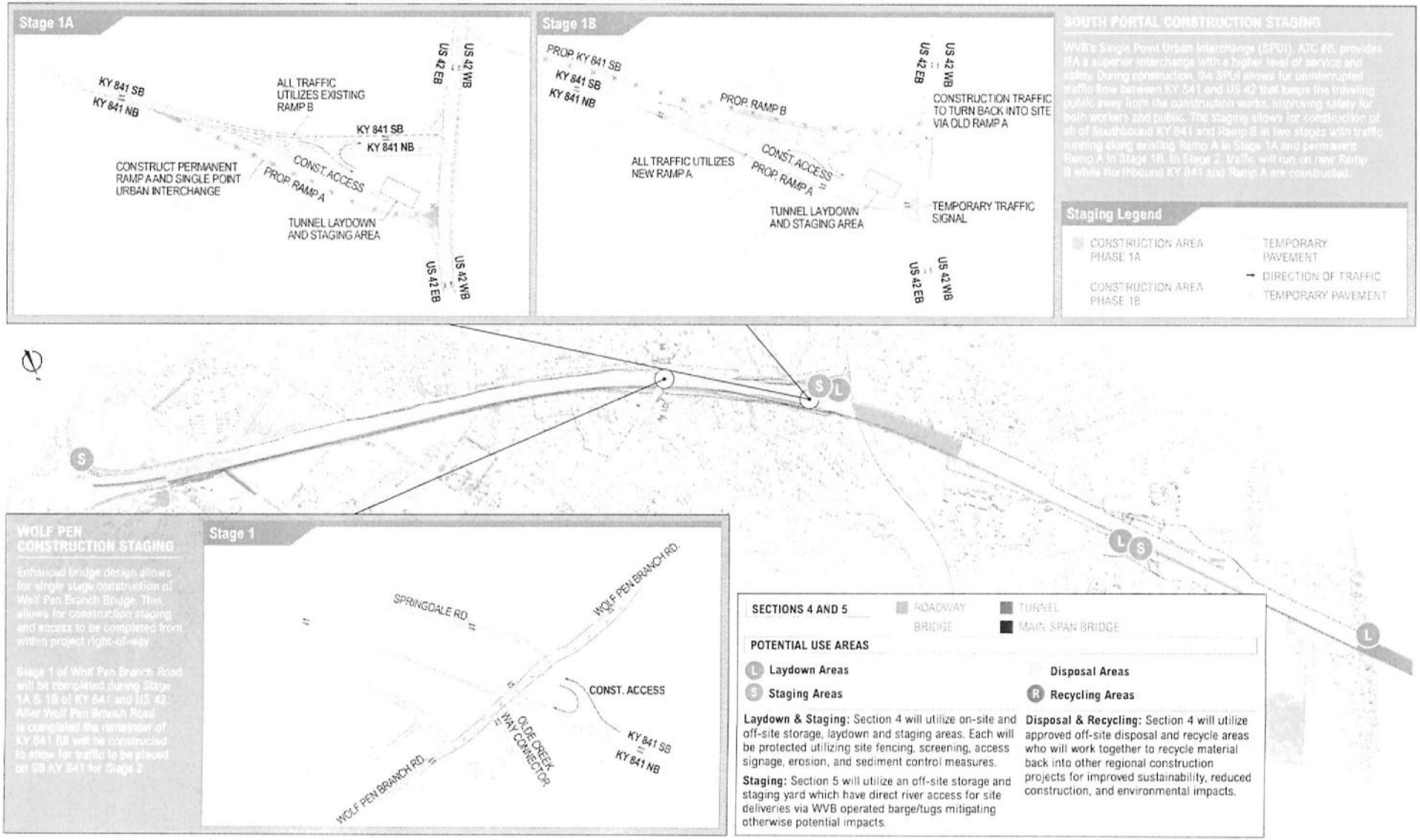
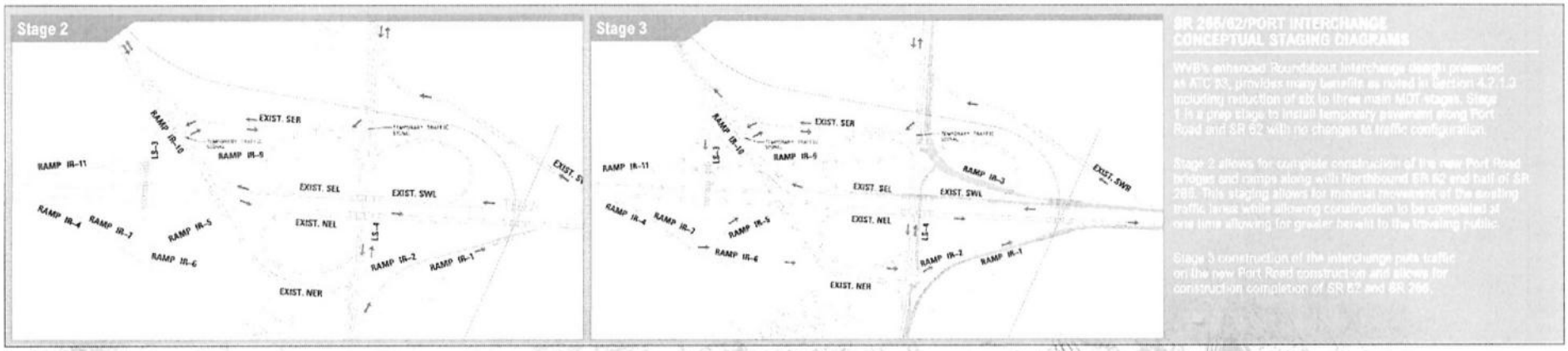


FIGURE 4.2-11 WVB's CONCEPTUAL STAGING SUMMARY AND POTENTIAL USE LOCATIONS FOR SECTIONS 6



SR 266/62/PORT INTERCHANGE CONCEPTUAL STAGING DIAGRAMS

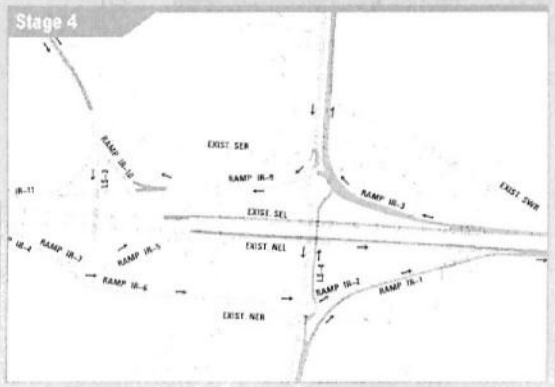
WVB's enhanced Roundabout Interchange design presented as ATC #3, provides many benefits as noted in Section 4.2.1.3 including reduction of six to three main MOT stages. Stage 1 is a prep stage to install temporary pavement along Port Road and SR 62 with no changes to traffic configuration.

Stage 2 allows for complete construction of the new Port Road bridges and ramps along with Northbound SR 62 and half of SR 266. This staging allows for minimal movement of the existing traffic lanes while allowing construction to be completed at one time allowing for greater benefit to the traveling public.

Stage 3 construction of the interchange puts traffic on the new Port Road construction and allows for construction completion of SR 62 and SR 266.

SR 265/62 PORT ROAD INTERCHANGE CONCEPTUAL STAGING DIAGRAMS

Stage 4 allows traffic to run with limited maintenance of traffic equipment for maximized traveling public safety. Altogether, the enhanced interchange design, along with Walsh-VINCI CJV's TMP, allows for improved safety during and after construction while further minimizing construction impacts to the environment and traveling public.



Staging Legend

- CONSTRUCTION AREA PHASE 2
- CONSTRUCTION AREA PHASE 3
- CONSTRUCTION AREA PHASE 4
- TEMPORARY PAVEMENT
- DIRECTION OF TRAFFIC
- CLOSED TO TRAFFIC

UTICA-SELLERSBURG OVERPASS

Essential to Walsh-VINCI CJV's construction staging is the early completion of the Utica-Sellersburg Overpass, which will be done under the six month closure, see preliminary detour plan in Volume 2 Appendices. Retaining this asset to the community early will drastically reduce construction impacts. During construction, Walsh-VINCI CJV will first construct permanent pavement underneath the overpass to divert construction routes without relying on local roads.

SECTIONS 5 AND 6

ROADWAY | TUNNEL | BRIDGE | MAIN SPAN BRIDGE

POTENTIAL USE AREAS

- (L) Laydown Areas
- (S) Staging Areas
- (S) Staging Areas
- (R) Recycling Areas
- (M) Operations & Maintenance Building

Laydown & Staging: Section 6 will utilize on-site storage, laydown, and staging areas. Each will be protected utilizing site fencing, screening, access signage, erosion and sediment control measures.

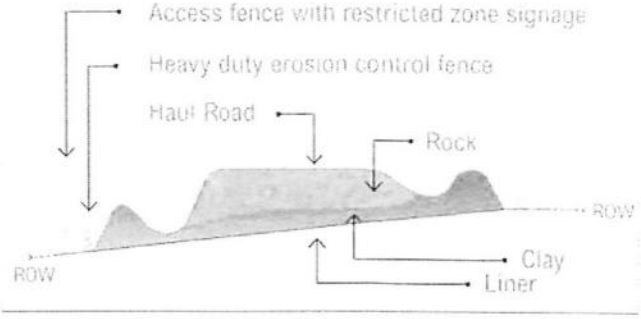
Disposal & Recycling: Section 6 will utilize on-site recycling and disposal areas which reduces off-site trucking, construction impacts to the environment and local residents, and improves Project sustainability.

Operations & Maintenance Building Location: WVB will utilize IFA Parcel 25 for the O&M Building. Included in this location, as stated in 4.3.1.2.6, will be the O&M Building, storage facility, maintenance shed, and open to public parking for use of the Project pedestrian path.

Staging and stockpile areas are kept off and away from sensitive and restricted work zones. Stringent restrictions are placed on all activities within the wellhead protection area (WHPA), specifically in the area of the Transylvania Beach Kentucky Approach Bridge (**Figure 4.2-12**). Site-specific environmental training is provided to all workers who enter the WHPA including strict restrictions that must be adhered to for all work.

FIGURE 4.2-12 WHPA HAUL ROAD

Walsh-VINCI CJV developed a protective system, including impermeable liner and fencing, for haul road and laydown yard within the WHPA for the KY Approach and Main Span Bridges.



4.2.1.3.b Geotechnical Issues

To proactively deal with geotechnical concerns, additional borings are taken throughout the site. The exploratory drilling helps provide additional information on types of materials to be found, depth of rock strata, and possible existence of karst features.

Based on the provided information and for additional locations where poor ground conditions are encountered, the best-suited solution is implemented to remedy the situation (**Table 4.2-6**).

To improve Project sustainability, limestone material is recycled as embankment material and aggregate material. The reuse of rock increases stability in large embankment areas and improves poor soil conditions. Walsh-VINCI CJV has performed near site investigations and discussed potential risks with local quarries and contractors familiar with the surrounding geotechnical profile. Where shale is present within the final excavation limits, a protective membrane layer is applied within 24 hours of exposure to prevent deterioration of the shale face due to the elements. The portal walls have also been designed to minimize the shale exposure in the rock slopes, resulting in less maintenance for KYTC and improved traffic safety.

TABLE 4.2-6 TECHNICAL SOLUTIONS FOR SOIL IMPROVEMENT

Potential Soil Improvement Areas	Improvement Required	Technical Solution
North Portal Approach	Potential Swelling Shale; Fractured Rock	Shotcrete Membrane
Tunnel Approaches	Rock Face Stability	Rock Bolts
Port Road Structures over Mainline 25/26	Poor Soils, Settlement, Stability	Soil Undercuts with Added Geotextile Fabric and Granular Embankment
Mainline Bridge Structure 11/12	Poor Soils, Settlement, Stability	Aggregate Piers
River Road Fill Zone	Settlement	Pre-Loading
Throughout Mainline Fill Zones	Poor Soils, Stability	Rock Embankment and Limited use of Geogrid with rock/cohesive fill
Throughout Mainline Fill Zones	Poor Soils	Disk/Dry Soils for Reuse on Project
Throughout Mainline Fill Zones	Settlement	Staged Construction for Embankment

Additional soil improvement measures are not expected to be needed, but WVB has extensive knowledge with other improvement types such as low density fill material, cement or lime treated soil modification, geogrid, and wick drains.

4.2.1.3.c Road and Property Maintenance & Protection

Walsh-VINCI CJV takes measures to reduce trucking impacts on local roads, maintain a clean site, and minimize construction activities that may significantly impact sensitive areas. These efforts are supported by continuous two-way communication with local stakeholders and residents and are managed and monitored through our project Public Involvement Plan. Measures to minimize impacts are summarized in **Table 4.2**-7.

Additionally, near historic and residential areas, temporary or permanent viewshed improvements are implemented to limit the viewshed impact from the construction activities. To further limit impacts to the surrounding communities and local roads, Walsh-VINCI CJV has incorporated material staging within the site limits whenever possible to improve sustainability, reduce off-site trucking, and reduce the overall carbon footprint of the Project.

LONG-TERM ASSET

Walsh-VINCI CJV's 50-year pavement design exemplifies WVB's commitment to minimizing traffic disruptions with a long-lasting asset.

4.2.1.3.d Preliminary Roadway Schematic

Walsh-VINCI CJV's technical solutions and roadway concept are shown on the roll plots. These solutions include:

- Enhanced SR 265/SR 62/Port Road Roundabout
- US 42 Single Point Urban Interchange
- Brookhollow Drive Alternative Route
- Mainline Profile Optimizations
- Other beneficial characteristic changes

Walsh-VINCI CJV team members, American Structurepoint, Heritage Group, and other pavement consultants have worked with VINCI Concessions to develop an innovative and easily maintainable pavement design that provides a long-lasting life-cycle. As discussed in Section 4.3.1.2.a, the pavement life-cycle analysis proved the designed concrete pavement structure, which follows INDOT pavement design guidelines including open drainage layer, provides the best long-term solution for IFA and stakeholders and provides additional residual life beyond the requirements.

4.2.1.3.e Characteristic Comparison

Table 4.2-8 highlights the characteristics of our schematic that differ from the RID Schematic.

TABLE 4.2-7 ROADWAY AND ENVIRONMENTAL MAINTENANCE PROTECTION MEASURES

Measures	Impacts Mitigated							
	Noise	Vibration	Erosion	Local Road Drainage	Viewshed	Public Safety	Local Community	Local Roads
Design improvements (profile optimization, raising Tunnel south portal, staging adjustment at Wolf Pen and interchange)	✓	✓			✓	✓	✓	✓
Limited night and after hours work activities including guidance near residential, historic and sensitive areas	✓	✓					✓	✓
Water control, street sweeping, and calcium chloride				✓		✓	✓	✓
Perimeter erosion control, ditch checks, diversion ditches, rock check dams, and sediment basins			✓	✓				
"No Access" fence and signage						✓	✓	
Temporary and permanent noisewalls, berms, and landscaping	✓	✓			✓		✓	
Pre-work plans	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 4.2-8 CHARACTERISTIC COMPARISON

Walsh-VINCI CJV has incorporated these technical solutions including design refinements and ATCs that provide benefits to IFA, traveling public and local communities

Schematic Element	Description of Changes from RID	Benefits to East End Crossing and IFA	Supporting Documentation
Optimized Profile and Sections of Entire Roadway System – Including East End Bridge	• Raised KY 841 profile from Wolf Pen Branch Road and through Tunnel to the north Tunnel portal and adjusted retaining walls • Raised overall profile of Tunnel • Lowered profile of East End Bridge, while maintaining all required vertical clearances • Raised roadway profile above 100-year storm elevation at the north portal of the Tunnel • Lowered the roadway profile through the fill area between the Harrods Creek and approach bridges • Adjusted cross-sections throughout Section 4 to match technical provisions • Adjusted profile throughout Section 6 including at Utica-Sellersburg Road, Brookhollow Road, and river approach	• Provides a better balance of cut and fill requirements reducing moving of material onto and away from site • Reduced off site hauling by 920,000 cy, which reduces truck trips and their impacts to local residents and roadways • Reduces noise and dust impacts associated with hauling • Reduces Impacts of local traffic during construction • Reduces construction duration, meaning reduced impacts to local residents, traffic and the environment associated with ongoing construction • Reduce total quantity of rock cut, thereby reducing blasting and its potential impacts to local residents • Reduces flooding risk to Tunnel, improving safety and reducing maintenance costs • Reduces bridge height minimizes visual impact of main span bridge and approaches	• Roll Plot Schematics • Section 4 – Sheets 1-4 of 4 • Section 5 – Sheet 1 • Section 6 – Sheets 1-10 of 10
Modified US 42 Interchange of KY 841 with US 42 (ATC #6)	• Eliminate "flyover" on Ramp A and replace with single point urban interchange style connection between NB KY 841 and US 42	• Reduces conflict between Tunnel construction and ramp construction • Improves safety during Tunnel excavation • Provides improved long term capacity to handle traffic growth and maintain acceptable level of service • Reduces traffic impacts to traveling public by achieving final configuration earlier	• ATC # 6 • Roll Plot Schematics – Section 4 – Sheet 2 of 4
Provide Alternative Access to Brookhollow from SR 265	• Provide access to Brookhollow development via alternate route • Eliminate Bridge 13 from RID	• Reduces construction requirements thereby shortening construction period and reducing impacts • Reduces maintenance costs by reduction of bridge elements • Provides for future widening without local traffic impacts	• ATC #4 • Roll Plot Schematics – Section 6 – Sheet 2 of 10
SR 265/SR 62/Port Road Interchange Configuration	• Eliminated diverging diamond interchange at SR 265/SR 62/Port Road and replaced with roundabout interchange • Roundabout design adjusted ramp locations, bridge locations, profiles, bridge widenings and other associated items (lighting, drainage, signage) • Roundabout design reduced number of new bridges from 5 to 2	• Eliminates long term maintenance associated with traffic signals • Reduces long term inspection and maintenance by reduction in pavement of 44,000 sy and bridge deck of 23,000 sf • Continuous movements of roundabout reduce congestion and fuel consumption providing more sustainable solution • Allows improved MOT reducing phases, shortening construction and reducing impact to traveling public and residents	• Roll Plot Schematics – Section 6 – Sheet 3 of 10
East End Crossing – Main Cable-Stayed Bridge and Kentucky Approach	• Selected Bridge Type A-3, convex diamond, for East End Crossing • Eliminated center columns and moved roadway sections together into a single structure for Main Span Bridge and KY Approach Bridge • Adjusted roadway approaches cross-section to match bridge	• Reduces overall footprint and impact of the project on the adjacent environment and aesthetic viewshed • Allows Piers 2 and 5 to be moved to land reducing their impact on the river • Narrower width reduces impacts to LWC Wellhead Protection Area • Reduces the number of beam lines required to support the same number of traffic lanes	• Roll Plot Schematics – Section 5 – Sheet 1 of 1 • Roll Plot Schematics – Section 4 – Sheet 3 of 4
Revised Emergency Access Road in Section 4	• Shifted the emergency access road to the west side of KY 841 • Eliminated three retaining walls • Replaced artificial treatment structure with natural detention pond	• Eliminates operations and maintenance associated with stormwater treatment structure • Eliminates maintenance and any future repairs of three retaining walls that are no longer required • Reduce off site impacts of material hauling and disposal, overall reduction of environmental impact	• Roll Plot Schematics – Section 4 – Sheet 3 of 4
Wolf Pen Bridge – Revised Configuration	• Shifted Wolf Pen abutments • Construct Wolf Pen Bridge in single stage	• Eliminates need for temporary bridge and construction impacts to traffic • Allows for traffic control patterns that are easier to navigate providing safer conditions for motorists • Shortens construction duration reduces impact to traveling public and residents	• Roll Plot Schematics – Section 4 – Sheet 2 of 4
Optimized Tunnel Cross Section, Access Road, Reduced Pillar Width, and Tunnel Length	• Reduced Pillar Width at South Portal from 40 ft to 35 ft • Modified walkway widths and cross-passage locations within the Tunnel • Shortened both Tunnels by 270 ft • Optimized cross-section shape and all utility systems per technical provisions	• Reduces quantity of rock excavation for Tunnel which reduces impacts from blasting activities and hauling of spoil material off site • Reduces Tunnel maintenance costs associated with lighting, cleaning and drainage • Reduces construction timeline associated with Tunnel construction and overall Project schedule • Minimizes shale mitigation measures, as the Tunnel begins beyond the shale layer, reducing temporary support • Improves the efficiency of the Tunnel ventilation and fire suppression systems and reduces long-term maintenance • Improves Tunnel access and safety for emergency crews	• ATC #5 and 14 • Roll Plot Schematics – Section 4 – Sheet 2 of 4
SR 265 interchange with Utica-Sellersburg Road	• Shortened Structure 14 and reduced overall bridge deck area	• Reduces long-term maintenance of bridge elements; reduced long-term inspection requirements	• Roll Plot Schematics – Section 6 – Sheets 2 of 10
O&M Pavement Design Section	• WVB 50-year concrete pavement design • Optimal shoulder design	• Reduces long-term maintenance • Provides higher residual life • Reduces disruptions to traveling public	• Roll Plot Schematics – Section 4 – Sheet 3 of 4 • Roll Plot Schematics – Section 6 – Sheets 1-10 of 10

4.2.1.4 BRIDGE STRUCTURES, RETAINING WALLS, NOISE WALLS, & SURFACE STRUCTURES

Along the East End Corridor, vehicles travel over and past bridges, retaining walls, and other structures that are designed to harmonize with the natural landscape of the region (**Figure 4.2-13**). As part of the technical solutions incorporated by Walsh-VINCI CJV, weathering steel and prestressed concrete beams are used throughout for visual appeal and reduced maintenance. Wolf Pen Bridge was redesigned with adjusted abutment locations to allow for a single stage construction and improved quality.

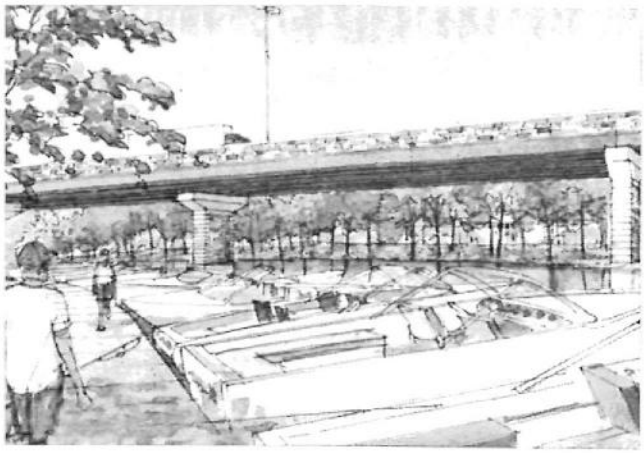
Walsh-VINCI CJV's enhanced staging plan for the SR 265/SR 62/Port Road interchange minimizes bridge widening, provides improved quality, and reduces construction impacts. Through careful design, material selection, and construction quality, Walsh-VINCI CJV delivers structures that minimize long-term maintenance and provide self-sustainable, aesthetically pleasing structures that blend with the character of the region.

4.2.1.4.a Selection of Materials

To meet IFA's goals of Project quality, safety, sustainability, durability, and cost, the material selection process was completed by WVB's qualified architectural, construction, and procurement teams, with additional support from the Environmental and DBE teams. The choice of construction materials for each structure was based on the unique structure setting requirements and WVB's first-hand knowledge of material selection that works with Midwest features and climate. Walsh-VINCI CJV's goal is to utilize materials with:

- **Superior Quality and Proven Performance:** Use only structural steel, concrete beams, and MSE walls from suppliers with proven performance.
- **Durability, Reliability, and Sustainability:** Reuse limestone material on-site and locate a concrete plant to decrease environmental impacts and improve material quality.
- **Reduced Long-Term Maintenance:** Use weathering steel where applicable to reduce future painting expenses. Continuous structural units and integral bents remove unwanted joints at bridge decks.

FIGURE 4.2-13 HARRODS CREEK BRIDGE
Weathering steel, as seen here for Harrods Creek Bridge, used throughout for long life cycle, reduced maintenance and enhanced aesthetics.



- **Visual Appeal:** Subdued, unobtrusive materials that blend with their surroundings are selected. In Indiana, precast beams blend with the subdued landscape; in Kentucky, weathering steel blends with naturalistic stained limestone.

Walsh-VINCI CJV actively encourages local vendor/DBE participation to positively impact local business and community relations.

4.2.1.4.b WVB's Schematic

WVB has advanced the design of the RID documents for the bridges and walls with the following goals:

- Provide constructible/cost effective structures.
- Reduce impacts of construction on adjacent properties and traveling public.
- Provide opportunities for aesthetic enhancements consistent with the existing environment.
- Standardize structural elements to optimize both the design and construction processes.
- Implement structural details that promote durability and ease of maintenance.

The location, size, type and clearance information for all of the bridges and walls are shown on the provided roll plots and summarized in **Figure 4.2-14** and **4.2.15**.

FIGURE 4.2-14 WVB's SECTION 4 STRUCTURE SUMMARY SCHEMATIC

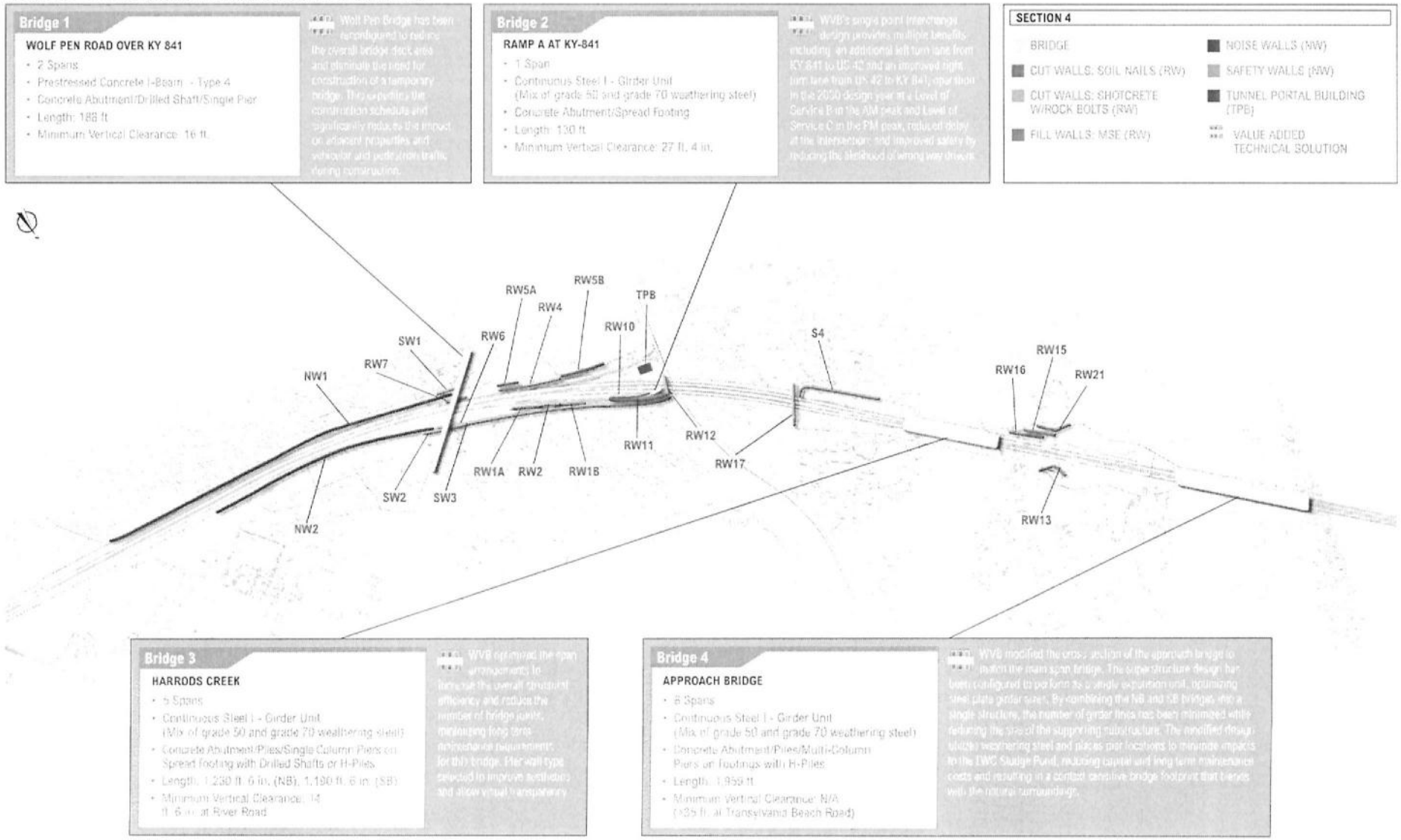
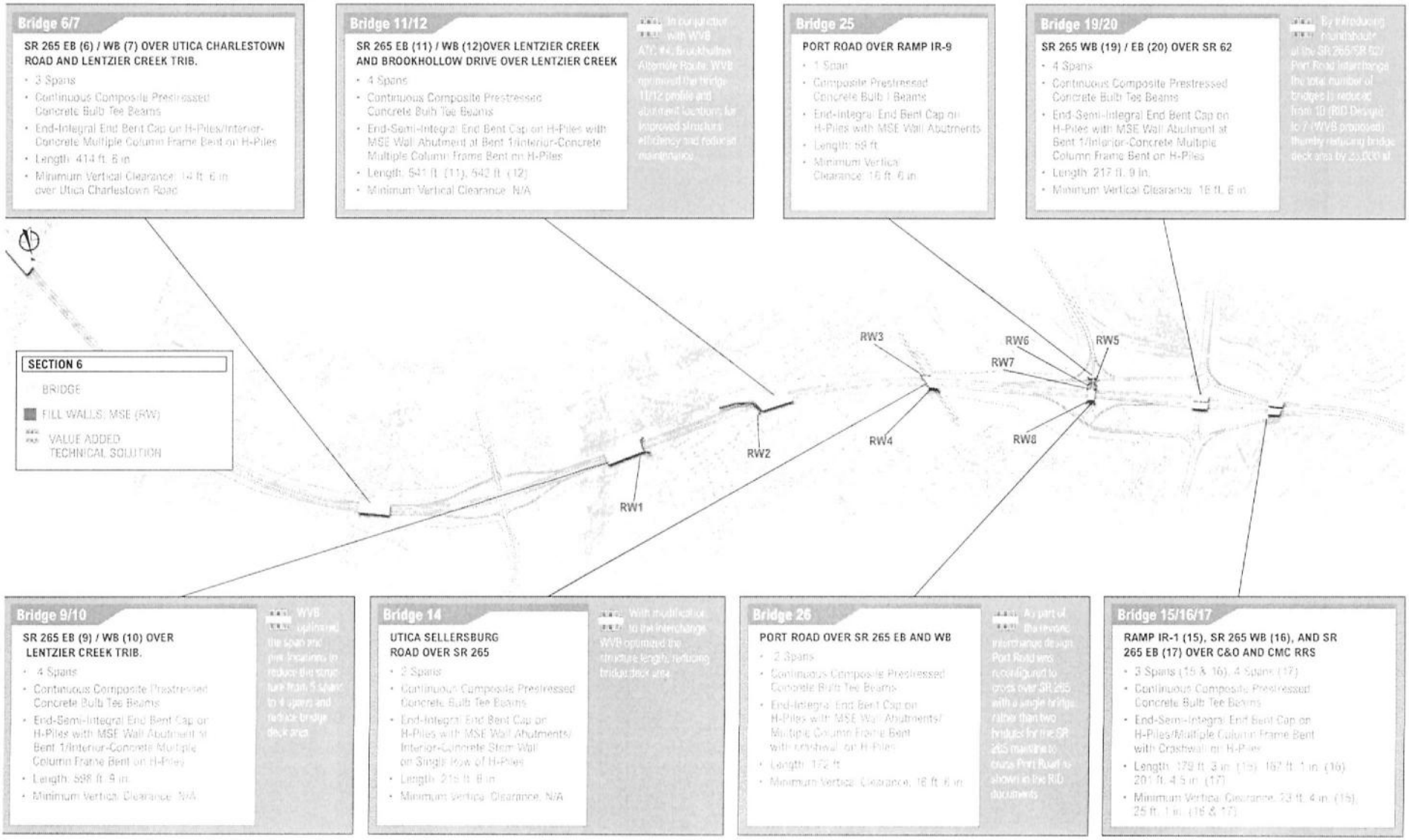


FIGURE 4.2-15 WVB's SECTION 6 STRUCTURE SUMMARY SCHEMATIC



4.2.1.5 ITS SYSTEMS

Because of the importance of design, selection and installation of an Intelligent Transport System (ITS), WVB has teamed with INDOT's major player in ITS construction, James H. Drew. Having successfully completed over $250 million of electrical work in Indiana during their 65 years of experience, James H. Drew successfully designed and installed more than $30 million of ITS work over the past 12 years (**Figure 4.2-16**). With an outstanding record and ITS pre-qualifications with INDOT and KYTC, James H. Drew solidifies the team's preliminary design and construction effort to formulate a detailed ITS design (including commissioning) and open to traffic plans that meet INDOT and KYTC expectations.

FIGURE 4.2-16 ELECTRICAL CONTRACTOR
James H. Drew has completed major electrical and ITS works throughout KYTC and INDOT including tower installations.

4.2.1.5.a ITS Equipment Placement

The system is extremely modular to allow for upgrades, and to interface the new systems with existing systems. IFA's ITS program requires advanced sensors, communication systems, and data processing to identify incidents quickly, and aid in response to minimize traffic effects. The proposed locations of ITS system elements are summarized in **Table 4.2-9** and are shown on the ITS Schematics in the Volume 2 Appendices.

The ITS design includes all communications, power and supporting infrastructure to provide a fully operational network. The system is fully integrated and controlled by the Department Traffic Management Center (TMC) for devices located in Indiana and by TRIMARC for devices located in Kentucky.

WORK TOGETHER

WVB's ITS work will be completed by James H. Drew and has completed over $30 million of ITS work on INDOT and KYTC projects.

TABLE 4.2-9 LOCATIONS OF ITS ELEMENTS

Vehicle Detection	Spaced every 0.25 to 0.30 miles
Roadway Weather System	Kentucky approach of the East End Bridge
Virtual Weigh Stations	Along each direction on Indiana river side
Reference Markers	Along all approaches of proposed highways
CCTV	Interchanges, on bridges, and inside the Tunnel
DMS	Kentucky approaches (4), Indiana approaches (2)
Lane Control Systems	Inside the Tunnel
Wrong Way Detection	Tunnel approaches
Intrusion Detection	Installed in maintenance access areas on East End Bridge
HAR & WIZARD System	Installed at the East End Bridge

4.2.1.5.b Preliminary ITS Test and Commissioning Plan

Before new systems go into operation, Walsh-VINCI CJV monitors and oversees formal documented testing. As part of the Definitive Design of Operations (DDO) document, Walsh-VINCI CJV developed a test plan to verify the functionality of the ITS components, devices, and communication networks. The test plan includes a test schedule, system acceptance criteria, procedures for troubleshooting and retesting failed equipment, and all test procedures. Test logs are developed to record results and are used to submit a formal test report to IFA that includes test-by-test results. Elements of this testing plan include:

- Factory acceptance testing with required access and advance notification to IFA.
- Post-delivery testing.
- Integration from third party integrators.
- Installation testing with confirmation of compatibility with TRIMARC, TMC and MetroSafe.
- Final acceptance testing with end-to-end, controlled environment integration tests of hardware and software in accordance with the test plan.

4.2.1.5.c Preliminary ITS Installation Plan

As part of the DDO document, Walsh-VINCI CJV develops a preliminary installation plan that includes:

- Installation management procedures
- Control of the work and record keeping
- Subcontractor activities
- Activities by worksite
- Subsystem and component installation sequence
- Completion schedules by phase.

All ITS design is reviewed by WVB's quality process including coordination with other civil and structural disciplines. The full design is integrated and installed with coordination from TMC and TRIMARC to ensure WVB provides the best system.

4.2.1.5.d Open to Traffic Plan

Walsh-VINCI CJV's Open to Traffic Plan (OTP) establishes our coordinated approach with TMC/TRIMARC in taking over and using the ITS to support the safe, successful opening to live traffic. The plan describes the measures taken prior to and following opening, including team member responsibilities and related performance monitoring steps. Prior to opening, WVB does the following:

- Develop a schedule to support handover
- Train personnel and provide O&M manuals
- Demonstrate full functionality prior to opening
- Plan handover activity to anticipate and resolve any potential issues in advance

Following opening, WVB continues to communicate with TMC and TRIMARC to ensure systems operate correctly and initially maintains day-to-day operations of the system. Walsh-VINCI CJV's OTP establishes our related communication procedures that commence with the identification of the sequence and schedule of construction works to be communicated to motorists. The OTP includes the development of messages to be used on the DMS at approaches and throughout the corridor, as well as advance signage required to alert the public to construction works and subsequent road changes.

To support communication with TMC and TRIMARC during construction, ITS devices (such as DMS, CCTV and HAR) are used to monitor work zones and advise TMC and TRIMARC of unexpected traffic conditions such as accidents and congestion.

4.2.1.6 CONTEXT-SENSITIVE SOLUTION ELEMENTS

Throughout WVB's preliminary design, special attention was devoted to developing the East End Crossing to fit the region's historic character. WVB has developed the plan from previous research, such as the 2007 Aesthetics and Landscape Architecture Guidelines (ALAG), Kentucky East End Approach Aesthetic Design Guidelines and the Bridge Type Selection Process (BTSP) documents. From these documents supported with site visits, photographs, and other research, WVB developed an Aesthetic and Landscape Concept Master Plan (ALCMP) as provided in Volume 2 Appendices.

The ALCMP provides design solutions for landscape and aesthetic enhancements along the corridor that are sensitive to geographic, natural, historic, and cultural context and responsive to expressed preferences and desires of the local community and stakeholders. The context sensitive design vision set forth by IFA provides information on the context, concepts, and design criteria envisioned by stakeholders, which WVB has integrated and translated into new proposed design solutions. WVB's intrinsic philosophy shown in the ALCMP addresses the needs and desires of the stakeholders to have an aesthetically pleasing environment along the new transportation corridor, while creating a context sensitive solution and preserving the integrity of historic landscapes and character areas (**Figure 4.2-17**).

FIGURE 4.2-17 STREETSCAPES ENHANCEMENTS
Streetscapes enhancements along Wolf Pen Branch Road provides visual aesthetics while improving safety.

Key principles to providing environmentally appropriate landscape and aesthetics design are as follows:

- Respect, restore, and emulate the character of the existing natural environments and cultural landscapes, both natural and man-made features, impacted by the new improvements.
- Select material and architectural framework for context sensitive solutions of the various historic properties and the surroundings.
- Reinterpret materials and architectural styles with modern materials and treatments for safety, durability, and efficiency.
- Leverage new improvements to provide new and restored habitat for native wildlife and provide connectivity for plant, wildlife, and communities.
- Sustainable planting palette that includes adapted, native, low water use and non-invasive species.

WVB's ALCMP, as summarized in **Figure 4.2-19** respects aesthetics created by historic landscapes designed by Fredrick Law Olmsted, Marian Cruger Coffin, and Arthur Westcott Cowell. The Master Plan design works within this cultural, historic framework to illustrate how context-sensitive architectural details, textures, finishes and colors can be consistently applied to a variety of elements throughout the Project. Care has been given to apply solutions that minimize the visual and auditory impact while maximizing the safety, durability, and maintainability of the project components. The aesthetics palette visually unifies the features with an approach that adheres to the naturalistic qualities of the local vernacular, while reinterpreting them in a modern way.

EAST END BRIDGE STRUCTURE: The aesthetics of the East End Bridge honor and reflect the local historic and cultural context while remaining as visually transparent and unobtrusive as possible. WVB's aesthetic concept utilizes simple, natural shapes and adjusts the scale, proportion, and repetition in which they appear throughout the bridge to create a cohesive, symbolic structure that has a light impact on the existing landscape. To complement, enhance, and coexist with its natural surroundings, WVB's design for the East End Bridge creates visual transparency through efficient engineering, enabling more slender bridge components which are optimally distributed. The design applies an aesthetic touch to the bridge elements to relate them to the natural landscape so they blend in (e.g., weathering steel, WVB ATC #9, blends with natural limestone).

POSITIVE IMPACT ON THE AREA AND COMMUNITY

WVB's landscape and aesthetics solutions are sensitive to geographic, natural, historic, and cultural context, and responsive to the expressed preferences and desires of the local community and stakeholders.

As the largest scale elements of the bridge, the towers, are modeled in reference to an icon of the region: the historic ground hog type lime kiln with its Gothic arch opening. Similarly, the towers of the bridge efficiently serve their main structural function of supporting the roadway while also possessing an understated flair. A gentle convex curve above and below the roadway lends a local style to the diamond shaped towers. Reminiscent of workers entering the lime kiln, drivers on the bridge experience the stacked concrete sections of the towers gradually arching up and over them as they cross the river on their way to work.

The East End Bridge Structure is not just a physical connection between Indiana and Kentucky, but is also WVB's avenue for a seamless, aesthetic connection (**Figure 4.2-18**).

FIGURE 4.2-18 WVB's AESTHETIC RENDERING OF THE EAST END BRIDGE

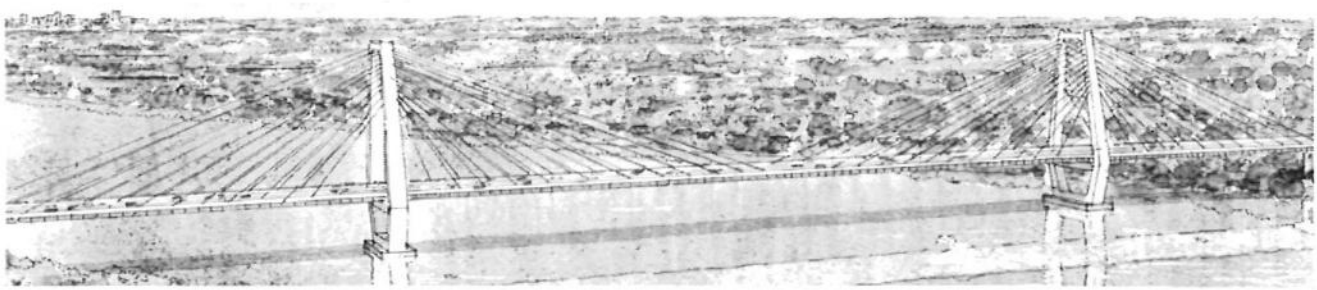
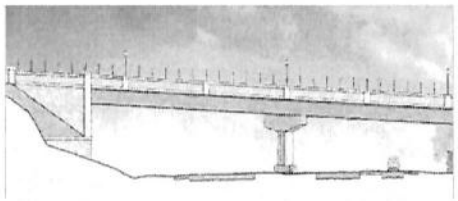
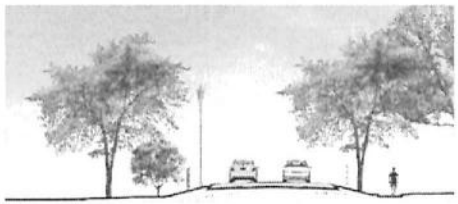


FIGURE 4.2-19 THE MAJOR AESTHETIC FEATURES OF THE ALCMP PROVIDE A CONTEXT-SENSITIVE SOLUTION THAT PRESERVES THE INTEGRITY OF HISTORIC LANDSCAPES AND CHARACTER AREAS.



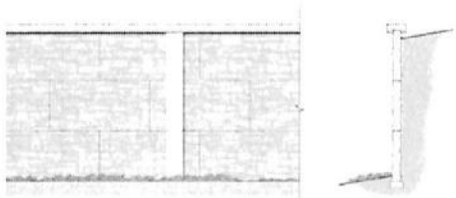
1 BRIDGES: Concrete texturing and detailing creates a unifying aesthetic between bridges and references natural stone materials. Weathered steel is used per Stakeholders' preference. Pilaster articulation adds classic styling, masks joints, and accentuates the stone wall texturing. Decorative metal fencing references area historic estates and is a pedestrian-scale enhancement.



2 STREETSCAPE ENHANCEMENTS: Enhanced crosswalks provide traffic calming and pedestrian crossing articulation. Enhanced safety walls become gateway walls into the community. Traditional fence design ties the new intersection streetscape into the rural road character of the surrounding countryside, and help visually narrows the roadway to help calm traffic.

3 BICYCLE AND PEDESTRIAN FACILITIES: Connectivity between Wolf Pen Branch neighborhoods affected by the new highway alignment is improved. Trail head rest area along the shared use trail provides a staging point for both local recreational use and for pedestrians and bicyclists who continue across the East End Bridge.

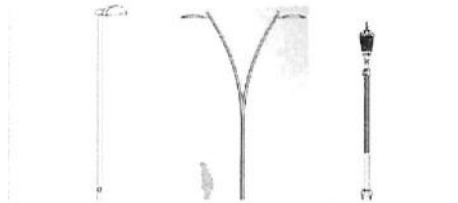
4 CONTOUR GRADING: Berming approach creates a more natural looking landform that matches the existing area character. The scale of the sloped fill condition can be broken up and views improved toward the highway from adjacent properties. Use of landform berms and plantings will effectively screen views from historic properties such as Rosewell and Belleview.



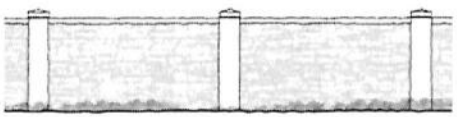
5 RETAINING STRUCTURES: Enhancements reflect the local vernacular forms, colors and textures which helps integrate new structures into the existing visual environment. Consistently applied concrete texture and detail using these materials creates a unifying visual aesthetic that provides visual linkage between wall and bridge structures along the corridor.

6 SLOPE PROTECTION & VEGETATION: Adjacent neighborhoods and historical properties are screened from highway views and roadway areas are softened (e.g., on top of Tunnel portals and rock slopes). The natural landscape is enhanced and impacted historic cultural landscapes are restored. Trees, shrubs and grasses on new fill slopes and berms provide a permanent solution to slope protection.

7 HISTORIC PRESERVATION: Berms break up the scale of the slopes and provide more natural-looking landforms that help screen views from historic properties. Plantings restored in this cultural landscape are a visually-pleasing amenity along the highway corridor. Landform and landscape screening helps preserve the character of historic properties impacted by new highway alignment.



8 STREET LIGHTING & TRAFFIC SIGNALS: Decorative light fixtures on Wolf Pen Branch Bridge provide a pedestrian-scale amenity for pedestrians crossing the bridge between neighborhoods bisected by the highway. Dark, natural-toned surface treatments for vertical light posts along the corridor help them blend into the natural color palette of the landscape.



9 FENCING AND SCREENING: These structures use existing fencing types and wall texturing that incorporate the local stone wall vernacular. Landscape plantings enhance screening. Soundwalls along the corridor provide noise mitigation and a safety barrier. The architectural surface treatment will be the same creekstone texture and color used on the bridge structures.

10 ARCHITECTURAL CONCRETE TEXTURES: Enhancements reflect the local vernacular forms, colors and textures. Artisanal treatment to refine shotcrete-facing provides human scale and visual interest. Concrete texture and detail unifies visual aesthetic that provides visual linkage between wall and bridge structures along the corridor.

11 ARCHITECTURAL SURFACE FINISHES: A range of earth-toned stain colors recreate the color tones of the existing natural and built features in the landscape. Smooth textured concrete creates a refined visual aesthetic for built elements. Dark painted surfaces and elements, along with unpainted weathered steel, blend with the natural surroundings as favored by the community.

12 TUNNEL PORTAL TREATMENTS: Using an artisanal treatment to refine the shotcrete-facing material, the massive cut-rock face of the Tunnel portals will be transformed to a welcoming, human scale entrance into the Tunnel. The architectonic look of a constructed stone wall provides a natural transition from the sheer rock wall cuts to man-made Tunnel feature.

4.2.1.7 UTILITY RELOCATION & ADJUSTMENT WORK ELEMENTS

WVB has developed a Utility Master Plan (UMP) that encompasses WVB's approach for utility adjustment work. Mark Hedrick, Utility Manager, manages the UMP and all utility work. Included in this approach is WVB's overall goal to reduce utility relocation and protection work through innovative design and construction measures. We have addressed each of the IFA's concerns:

- 4.2.1.7.a Utility Adjustment and Interface
- 4.2.1.7.b Construction Staging for Utilities
- 4.2.1.7.c Proactive Utility Coordination

WVB has identified and been in constant communication with utility owners including AT&T, City of Jeffersonville Wastewater, Duke Energy, Insight, LG&E, LWC, MSD, and Watson Water Company, to understand the concerns and meet the expectations of the utility owners.

WVB has developed a Utility Matrix to track and review the known and potential utility adjustments and protection items. The matrix began with the IFA-provided list of the adjustments. During the design process, WVB noted additional utility conflicts and adjustments and has worked proactively with IFA and the utility owners to address. The Utility Matrix, a portion of which is included in **Figure 4.2-21**, is continuously updated throughout construction and Operating Period. Each month the Utility Matrix is provided to the utility owners and IFA as part of WVB's efforts to work with all parties to determine necessary relocations and adjustments.

Based on communication with utility owners, WVB has designed innovations into the Project to avoid utilities and reduce overall exposure to utility adjustments. Design enhancements at the Kentucky Approach Bridge with adjusted pier locations removes conflict with LWC's sludge lagoon. At Wolf Pen Bridge, WVB's design removes a transmission pole conflict, and associated material lead time, allowing early construction commencement. Additional utility technical solutions are included in the figure on the next page.

Restricted and protected zones, such as LWC's WHPA and 60-inch watermain, have been identified, reviewed and discussed with utility owners for proper protection

SAFE AND SUSTAINABLE

WVB has redesigned the Kentucky approach by adjusting pier spacing to mitigate the sludge lagoon adjustments.

measures. Within the WHPA, WVB installs erosion control fencing and earthen berms with liner for the haul roads and laydown yards. WVB has determined alternatives to reduce impacts and has developed a design to avoid the most impactful conflicts. WVB continuously reviews potential utility conflicts to avoid cost and schedule impacts, and negative effects to the public.

During construction, communication with utility owners, IFA and the Department allows WVB to locate utilities using vacuum excavation in order to mitigate relocations (**Figure 4.2-20**). Further, WVB uses its local experience on past projects to identify local utility firms that WVB has worked with successfully to assist in any utility work.

WVB's construction staging and sequencing approach accounts for utility work that is completed by WVB and by utility owners; we coordinate with the utility owners, IFA and the Department to ensure timely completion of this work, especially those adjustments that might affect our Critical Path Schedule. Our approach ensures that any utility work done by WVB is planned in conjunction with utility owners in order to relocate utilities just once during construction, mitigating cost. Proactive communication with utility owners and IFA allows anticipated completion of a majority of utility work by mid 2014.

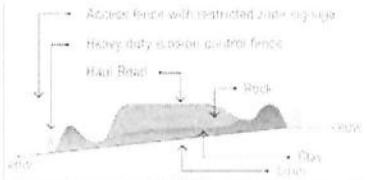
FIGURE 4.2-20 UTILITY PROTECTION

WVB has experience with local utility companies and subcontractors and with protection measures such as vacuum excavation and potholing.

FIGURE 4.2-21 UTILITY RELOCATION AND ADJUSTMENT WORK ELEMENTS

UTILITY AVOIDANCE TECHNICAL SOLUTIONS

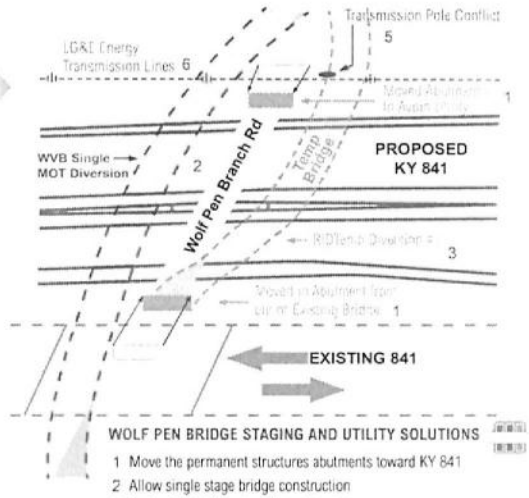
Area	Challenges	Innovations
[illegible]	• Design required relocation of a utility pole complicating construction, due to long lead time for pole, and traffic phasing	• Redesigned bridge avoids utility pole, allowing for a single stage construction and reduced impacts to residents
[illegible]	• Design called for two pier foundations that impacted the sludge pond which lies in an environmentally sensitive Wellhead Protection Area	• Redesign of Kentucky Approach, bringing the NB and SB bridge structures together as a single bridge, and adjusted pier spacing removes the sludge pond adjustment.
[illegible]	• Permanent Brookhollow Bridge under SR 265 caused sewer conflicts and environmental impacts (wetland / floodplain)	• ATC #4 removes the permanent bridge under SR 265 and the utility conflicts associated with it, and further mitigates the environmental impact
[illegible]	• Multiple utility conflicts to be completed in multiple stages and multiple stage RR impacts	• Enhanced roundabout design reduces overall footprint and bridge widenings for reduced utility adjustments; design also reduces railroad impacts



Haul road and laydown yard protection measures for the LWC Wellhead Protection during construction of the Kentucky Approach Bridge and Main Span Bridge

UTILITY AWARENESS AND PROTECTION

Area	Challenges	Innovations
[illegible]	• Existing main has at least three current fractures • Blasting activities for tunnel adjacent to main • Loss of watermain would create serious public inconvenience and harm • Material restrictions • Access restrictions • Contamination of well heads in major environmental impact area	• Preconstruction video survey • Continuous monitoring during blasting • Post-construction video survey • Follow up video survey one year after construction • Construct berms, liners • Haul roads with shot rock and stone caps • Preconstruction meetings with LWC and IFA • Specific review of design for LWC impacts



WOLF PEN BRIDGE STAGING AND UTILITY SOLUTIONS

1 Move the permanent structures abutments toward KY 841
2 Allow single stage bridge construction
3 Reduce RID traffic stages from five to two
4 Eliminate temporary bridge structure
5 Avoid conflict with transmission pole and 24-month utility adjustment
6 Eliminate shutdown of the high demand transmission line

- Reduce impact to traveling public and utilities.

UTILITY MATRIX EXCERPT

Company: Utility Type/Material	Relocation Type (1, 2 or 3)	Conflict Location	Expected Agreement Date	Construction Commencement Date	Notes
SECTION 4					
LG&E: Electric 69 kV Transmission Line	Type 3	SB KY841 Springdale to US 42	02/2013	02/2014	WVB has had several discussions with LG&E concerning their preliminary designs at Wolf Pen. Preliminary design does not include lines that are in conflict with the noise wall on the left side of KY841 that will be directly under the lines. LG&E is trying to obtain approval to keep lines in place and move noise wall toward center line in the design. Preliminary design includes self-supporting poles across Wolf Pen. LG&E took out 10.15.12 RID Volume 3.
MSD: 10-inch Gravity Sanitary Sewer	Type 2	Shadow Wood Sub	02/2013	06/2013	Preliminary design shows that after completion of the new gravity sanitary lines to pump station (estimated completion of September 2013), the existing gravity and effluent lines will be bulk headed and safe loaded. WVB has contacted MSD concerning preliminary work plan for new gravity line. WVB has preliminary redesign to relocate effluent lines and remove a portion of relocation.
ATT: Fiber Optic/Cabinets	Type 3	Wolf Pen	03/2013	07/2013	WVB has contacted AT&T in regards to the preliminary design that included temporary fiber optic cable relocate on the temporary bridge; WVB redesign of Wolf Pen eliminated temporary bridge and removes temporary relocate.
SECTION 6					
Duke: Aerial Distribution Line	Type 3	SR 62/SR 265/ Port Road	03/2013	03/2014	Communication has been opened up between WVB and Duke Energy. Relocation timeline incorporated into Project schedule. Enhanced roundabout interchange design reduces maintenance of traffic and construction issues with distribution line.
Vectren Gas:10-inch Transmission Line	Type 3	Station 244+50	01/2013	05/2013	WVB has contacted Vectren Gas to clarify relocation design. Preliminary design indicates to abandon gas main in place. Vectren will Install new 10-inch transmission line 25 feet offset from proposed SR 265.
Level 3: Fiber Optic	Type 2	Utica Sellersburg Road Thru SR62	02/2013	06/2013	After discussion with Level 3 Communication, it has been indicated existing facilities along Utica Sellersburg Road will be relocated underground in conduit bank along Utica Sellersburg Road through SR 62/SR 265 interchange.

4.2.2 DESIGN-BUILD MANAGEMENT APPROACH

The Walsh-VINCI CJV's approach to design-build management is based on full integration of design, construction, and O&M. This gives us greater control to ensure fulfillment of IFA and WVB goals.

WVB's "one team" approach shapes development of the project management organization and Integrated Management System (IMS) procedures. WVB's expertise provides a unified approach to design, construction, and quality control to enable efficient scheduling of design, construction, and review to ensure safe, timely Project delivery at all stages.

4.2.2.1 ORGANIZATION

The Walsh-VINCI CJV has an efficient organizational structure tailored for the Project, using our experience of safe, on-time delivery of similar projects and understanding of industry best practice. Our project management approach aligns our team structure with our IMS requirements to optimize delivery of all elements of design, construction, and quality control.

4.2.2.1.a Project Management Organization

Section 4.1.1(i) identifies the firms/organizations involved in the Project's design and construction. Brian Hoppel, Construction Manager, leads the Walsh-VINCI CJV and is the single point of contact to the SPV.

4.2.2.1.a.i Design Management

Laurent Agostini, Design-Build Coordinator, owns the design delivery process (D3) in the IMS. This process integrates directly with the construction delivery process (D4), as shown in **Figure 4.2-22** and described in **Table 4.2-10** on the next page. Laurent manages the interfaces between construction and design, working closely with engineering managers and Andrew Brennan, Design Manager. Andrew's responsibilities include:

- Coordinating with Design Section Managers to predict required staffing changes for their teams.
- Liaising with the design staffing coordinator regarding design team hiring/relocation issues.
- Overseeing corridor-wide coordination functions, including the global project CADD platform.
- Managing design subcontracts and allocates subcontractor resources to section teams as needed.

Design Section Managers manage scope, schedule, and budget for design work for their section. Each develop cost estimates for remaining design work for each unit; three-week look-ahead schedules; and accelerate the design schedule as needed.

FIGURE 4.2-22 DESIGN DELIVERY PROCESS (D3)

Utilizing WVB's IMS, Design-Build Coordinator, Laurent Agostini, will work closely with Construction Manager, Brian Hoppel, to deliver the Project.

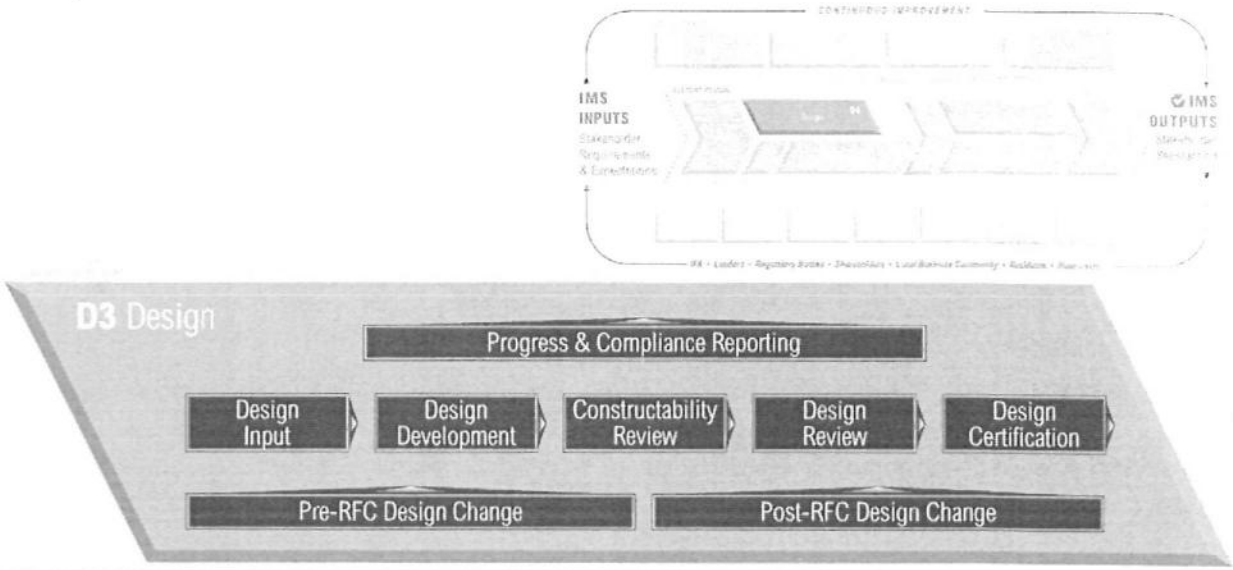


TABLE 4.2-10 PROCESSES COVERED BY THE DESIGN DELIVERY PROCESS (D3)

Phase	Description
Design Input	Design Team reviews preliminary designs and design brief to ensure specifications comply with contract and will deliver IFA and stakeholder requirements. Input data include temporary construction constraints.
Design Development & Construction Review	Design team processes and reviews design input data after interfacing with relevant others. Outputs design deliverables as per the schedule and plan. Engineering team reviews designs from a technical perspective to ensure quality and buildability, with specialist input (e.g., technical, geotechnical and environmental).
Design Review	DQAM leads WVB's review process to enable designs to be issued for Stage 1, 2 and RFC approval. Independent design checkers review and challenge bridge and Tunnel designs. IFA reviews phases.
Design Certification	DQAM confirms each design deliverable produces executed works that comply fully with project requirements/design inputs.
Pre-RFC Design Change	Design Manager oversees a structured change management process to ensure design changes needed (e.g., to improve buildability are recorded, managed, approved and costed appropriately).
Post-RFC Design Change	Engineering Manager ensures changes at this stage (to respond to non-conformances, environmental incidents, etc.) are recorded, managed, approved and cost appropriately.
Design Interface Management	Design-Build Coordinator ensures all interfaces are identified and continuous engagement conducted to keep stakeholders informed and take on board feedback. This will include the integrating issues discussed below.
Progress & Compliance Reporting	The Design Build Coordinator will report on design/engineering progress and performance as well as major issues to the CJV Executive Committee for decision making.

INTEGRATING RELATED ISSUES: WVB's Design Team receives input from several corridor-wide functions to ensure Project and stakeholder requirements integrate with:

- **Right-of-Way Coordination:** Although not anticipated, the ROW Coordinator notifies the team of any right-of-way acquisition changes to the design process so schedule impacts can be mitigated.
- **Utilities:** Mark Hedrick, Project Utilities Manager, provides routine updates on the status of utility adjustments. Mark arranges utility agreements and liaises during the design development.
- **Survey:** WVB's survey team, led by our Chief Surveyor, liaise with the design and engineering teams to incorporate results into design development.
- **Community Relations:** Dan Hartlage, Public Information Coordinator, leads external consultation and communication. He and the design team consult stakeholders and ensure feedback is used in design development.
- **Environmental Permitting:** Gina Morris, Environmental Compliance Manager, supports a review of environmental permits, commitments, and requirements. Gina also assesses sustainability risks and ensures designs incorporate measures for compliance during construction and the Operating Period.

4.2.2.1.a.ii Design Delivery

DESIGN RESOURCES: WVB works with local and international design experts to deliver the Project safely, on-time, and in line with IFA quality requirements. Mobilization of the design team begins at Notice of Award. To identify design staff requirements, we integrated the design schedule into the overall schedule and developed a staffing curve. We estimate a peak design staff of 150 professionals six months after mobilization. To meet staffing requirements, Jacobs partners with disadvantaged businesses.

DESIGN COORDINATION

The WVB Design Team's has proven coordination experience from PPP project's like Golden Ears, Confederation Bridge and Port of Miami Tunnel.

DESIGN TEAM LOCATION: Andrew Brennan, Design Manager, leads the design team, and manages and coordinates subconsultants. WVB strategically selected local design team offices to:

TABLE 4.2-11 PROPOSED MAJOR DESIGN TEAM LOCATIONS

Location & Type	Primary Functions
Utica, IN **Project Office**	• Design-Build Coordination • Quality Assurance Management • Post-RFC Design Coordination • IFA Review Phase Coordination
St. Louis, MO Indianapolis, IN **Primary Design and Production Facility**	• Corridor Wide Integration • Segment 4 & 5 Production Centers • Segment 6 Production Center (Indiana) Design Team Cost and Schedule Controls • CADD Production Management • Design Document Management • Resource Support

- Provide the required design functions at the project office as per the technical specifications.
- Locate all project-wide coordination and production functions in a central primary facility.
- Create cost-effective major support centers where larger staffs are available.
- Harness specialty technical expertise from other contributing locations.

Table 4.2-11 describes proposed locations. To minimize travel, WVB utilizes tele-, web- and video- conferencing capabilities at all design locations.

INTEGRATING AND COORDINATING DESIGN TO ENSURE CONSISTENCY AND QUALITY: WVB first communicates our single, uniform approach to design management to ensure consistency throughout design development. We agree on: design schedule, required formats for drawings and data, design review and approval protocol, and key contacts. Details are agreed to at initial workshops and captured in the Project Management Plan, Project Criteria Document (setting the baseline design criteria) and Design Quality Management Plan.

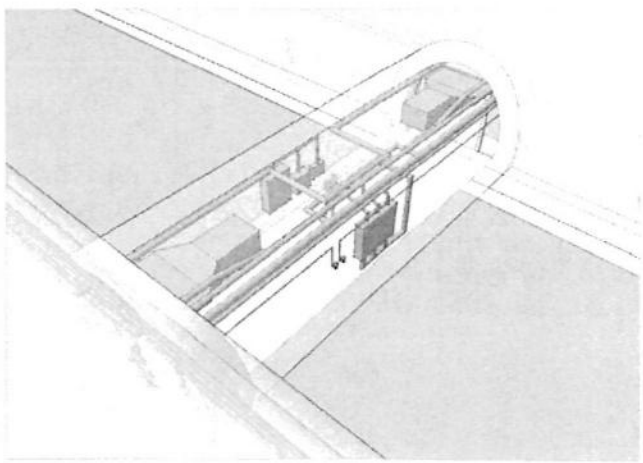
WVB requires all design team members to use common design and communication tools. DyMaDoc provides authorized parties access to Project documentation and drawings. Document change alerts are sent to relevant personnel to ensure the correct data is used. We use a Project-specific workspace environment in MicroStation to distribute to all offices, including subcontractors. This standardizes, for example, libraries, symbols, and colors for consistent plans.

IDENTIFICATION OF PHYSICAL INTERFACES & DESIGN INTEGRATION: A vital stage in the design process is the identification of critical physical interfaces between the various elements of the design. Once design team and subcontractors are appointed, WVB holds a workshop to identify all physical interfaces and prioritize associated areas. Early design has begun to identify areas of congestion within the schedules. Where this is more challenging or a serious risk to constructability, a more in-depth review is carried out.

For example, at the Tunnel utility cross passages WVB uses VINCI CGP's program, ARMA 3D©, to provide 3D/4D visualization of the complex utility placement from different disciplines within small cross-passage corridors: electrical, fire suppression, detection, and ventilation (**Figure 4.2-23**).

FIGURE 4.2-23 3D/4D VISUALIZATIONS

WVB Design Team has completed 3D/4D modeling of many key areas including Tunnel cross-passage to resolve utility interfaces.



4.2.2.1.B INTERNAL ORGANIZATION SYSTEMS

WVB's project organization systems enable full design and construction integration. We have an efficient management and delivery team that expedites communications and enhance the decision-making process to increase the value of the Project for IFA. Clear control lines and communication ensure the highest quality,

Construction Manager (CM), Brian Hoppel

Direct Reports: Project Controls Manager; Site Manager and Bridge Construction Manager; Administration Manager; Contracts Manager

Benefits of this Organization :

- Accurate reporting and informed decision making
- Integration of buildability, scheduling, economics and site constraints
- Admin. support and best use of staff/labor resources
- Can champion the contract with SPV and subcontractors

Site Manager & Bridge Construction Manager, Pierre Morand

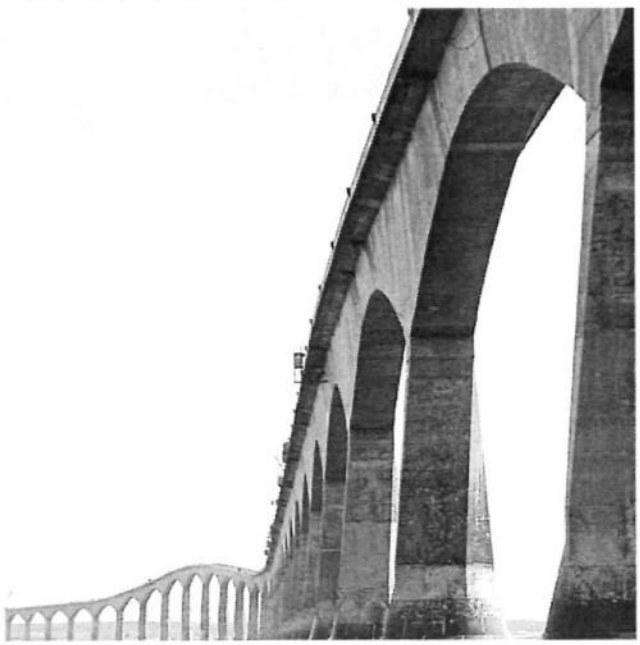
Direct Reports: Design-Build Coordinator; Logistics & Equipment Manager; Section 4 Project Manager (PM); Section 5 PM; Section 6 PM; Mechanical, Electrical and ITS Manager

Benefits of this Organization:

- Integrates site engineering with main and subcontract designs for efficient management of post-RFC changes
- Central service function streamlines equipment use and PPM scheduling for optimal safety and productivity
- Focused ownership of construction, scheduling, design-build coordination, works preparation and execution
- Section PMs own budget, time, quality and safety
- Coordinates with O&M and utilities

DESIGN-BUILD COORDINATION

Pierre Morand successfully managed and coordinated with WVB design partners IBT and Buckland & Taylor the Confederation Bridge, an eight mile prestressed bridge.



efficient work, issue identification, and resolution throughout construction.

By dividing the works into three sections based on geography and construction activities, Section Project Managers have autonomy to control a particular area. This autonomy improves response to local and task-specific commitments, requirements and concerns. Although divided, all works are delivered consistently, in line with our single IMS.

4.2.2.1.b.i Construction Management and Integration

Brian Hoppel, Construction Manager, leads the entire design-build delivery of the Project. Site Manager and Bridge Construction Manager, Pierre Morand, reports to Brian and directs the Design-Build Coordinator and Section Project Managers.

As the Project is divided into three geographic areas, we organized the management team based on this division:

- Section 4 – Kentucky Approach
- Section 5 – East End Bridge
- Section 6 – Indiana Approach

A Section Project Manager controls each section and all aspects of design and construction for that section. Geographic division of works facilitates management of environmental requirements and constraints, local stakeholders and interfaces. For each part (Tunnel, bridge, and roadway in both Sections 4 and 6), there is a dedicated Design-Build Coordinator. Individual Design-Build Coordinators for each of these portions ensures knowledge sharing and minimizes duplication. Section Design-Build Coordinators report to the Design-Build Coordinator, Laurent Agostini, who coordinates communication between sections during design and construction.

Design-Build Coordinators work with the Engineering Manager to support Laurent with management of design efforts and schedule assessment, interface, and constructability constraints. Design-Build Coordinators work closely with area-wide managers, such as Mark Hedrick, Project Utilities Manager, and Mark Fournier, MOT Manager, to support design development and review. Design-Build Coordinators are involved in both design and construction, and ensure construction requirements are considered during design

and design is understood in construction. **Table 4.2-12** provides specific physical interfaces that require design coordination.

Within each section, crews report to a Foreman, who in turn reports to a Superintendent. Multiple Superintendents report to each Section Project Manager. Regular two-way communication is maintained between all supervisors and reporting personnel to provide clear instruction and promote quality, productivity, safety, and sustainability, and to receive feedback. Field Engineers support related engineering and project controls activity, including monitoring and measuring to support reporting of key performance indicators. WVB's reporting structure is illustrated in **Figure 4.1-5** in Section 4.1.1.a.ii.

4.2.2.1.b.ii Unified Design, Construction, & Quality Approach

WVB is committed to collaborating with IFA to deliver the Project safely and responsibly, on schedule and within budget. Our Project Management Plan (PMP) sets out the delivery approach applied through design, construction, and the Operating Period. The PMP describes the management systems and procedures in our IMS, which incorporates our quality management system. The IMS applies at all stages, and everyone working with WVB is required to comply.

WVB applies a single governance approach and a consistent decision making process. Decision making and quality assurance are supported by inspection, measuring and reporting by our independent quality team. The quality team independently ensures the objective review and approval of all aspects of delivery.

WVB trains to ensure team awareness of quality requirements. Common induction training is provided to employees and supply chain personnel on our project management approach, individual responsibilities, site rules and specific quality messages. Focused training is provided to design team for design quality and environmental requirements.

WORKING TOGETHER

As Walsh Construction has done with past INDOT partnerships, WVB will create and sign a charter reinforcing our vision, values, and objectives.

COLLABORATIVE PARTNERING APPROACH: Early on, WVB and client senior managers define the project vision, values and objectives. We create and sign a project charter based on our vision, values and objectives.

An initial design workshop introduces design team members to the Project charter. Initial launch workshops for construction and O&M workforces reinforce WVB's vision, values, and objectives. We ask team members to sign the Project charter. Project induction training and regular briefings further communicate our approach. Additionally, regular social events are held to celebrate achievements and build lasting relationships within our team.

PARTNERING

WVB partners are leaders in construction industry that believe in collaborative partnering with the owner and all team members as has been done across INDOT projects such as Accelerate I-465.

TABLE 4.2-12 PHYSICAL INTERFACES AND DESIGN INTEGRATION

Design Element	Parties	Interface Concerns
Cable Stay Anchorage Point	Bridge structural engineer, cable stay supplier for anchor heads, pylon anchor box, DB coordination	High density of reinforcement around anchorage point, requires suitable space for tensioning and inspection.
Tower Lower Strut	Bridge structural engineer, form work manufacturer, bridge superintendent, DB coordination	High density of reinforcement and coordinated form work design for constructability.
Tunnel Cross Passage Utilities	MEP coordinator, lead Tunnel engineer, mechanical engineer, component manufacturers, DB coordination	Multiple utility lines running through cross passage.

4.2.2.2 DESIGN-BUILD BASELINE SCHEDULE

In developing our Project design-build schedule, WVB considered all elements of the work, related requirements and constraints, resource availability, risks, and construction best practices to optimize safe and efficient delivery.

4.2.2.2.a Schedule Methodology

The Project CPM schedule incorporates thousands of activities, including many to be completed by subcontractors. The CPM accounts for and tracks all aspects of the Project including design, fabrication, and construction activities.

4.2.2.2.a.i Schedule Preparation, Control & Update

WVB's approach to preparing the design-build schedule, as presented in Section 4.1.4, is based on a refined design approvals process and proven construction output rates. The schedule narrative and preliminary P6 schedule is provided in Volume 2 Appendices.

WVB's design approval methodology, as shown in **Figure 4.2-24**, optimizes design progression by coordinating subsequent Stages during the IFA approval periods. This provides a streamlined approval process for effective construction progress. WVB

TIME AND BUDGET

WVB delivers the East End Crossing to revenue-generating traffic by October 31, 2016, eight months ahead of IFA's goal.

collectively reviewed and agreed upon proposed methods, sequences, and proven production rates to provide a swift and efficient schedule that allows for substantial completion by October 31, 2016.

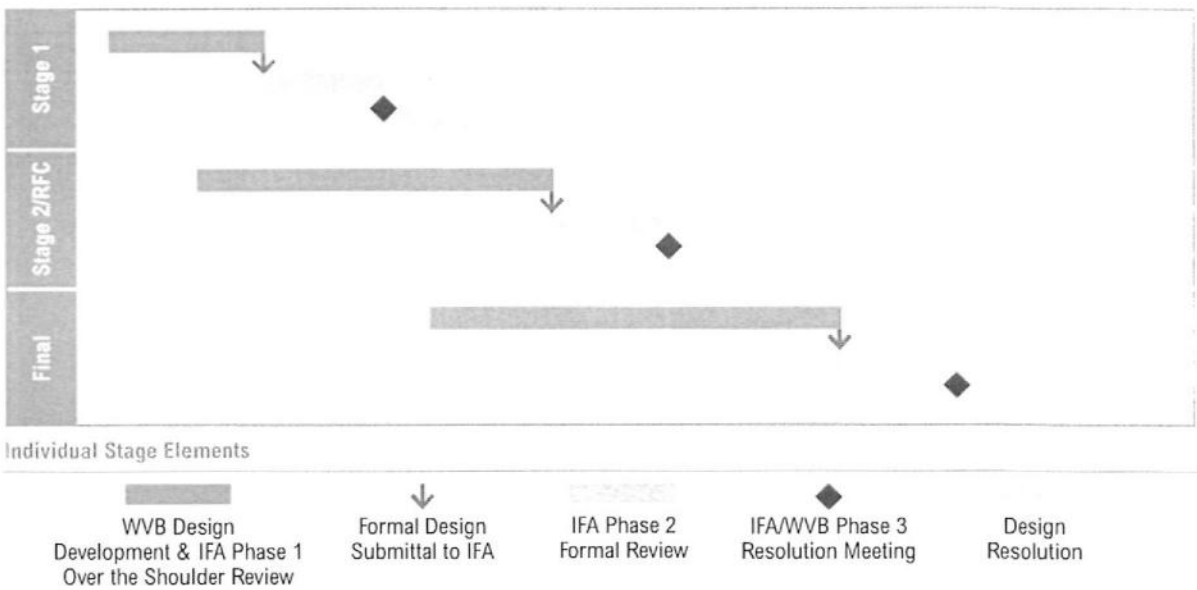
The WVB Design Team reviews progress on the design schedule on a monthly basis. This review identifies risk factors or opportunities previously unforeseen, and formulates solutions. Critical and near-critical activities are closely monitored throughout the design phase of the Project. Earned Value reports provide the design team leaders the information needed to manage their teams, and to brief the project management team on progress.

WVB's structured control and update system for scheduling this Project includes:

- Three-week look-ahead schedule produced weekly and reviewed by the design-build team.
- Project team meetings twice per month to compare the progress of the past two weeks against the previous schedule and update as necessary.

FIGURE 4.2-24 DESIGN APPROVAL PROCESS

WVB's design approval process summary schedule shows how IFA's three-phase review process will be incorporated into the three stages of the design process.



- Meeting minutes produced by the Project Scheduler and included as part of the encompassing monthly update provided to the IFA.

4.2.2.2.a.ii Work Breakdown Structure (WBS)

Iterations of alternative Work Breakdown Structures (WBS) were developed and reviewed to determine a fitting preliminary outline that accurately reflects the entire Project's scope and provides a sensible and accurate tool for planning through completion.

WVB Schedule Manager, Scott Singleton, has developed a detailed WBS in line with INDOT procedures for all activities including:

- **Contract Administration** (meeting financial close, satisfying NTP requirements, commencement of construction).
- **Section 4 – Kentucky Approach** (design and MOT phasing, Tunnel/roadway/bridge construction).
- **Section 5 – East End Bridge** (design, foundations, towers, superstructure, erection sequence, finishes).
- **Section 6 – Indiana Approach** (design and MOT phasing, roadway/bridge construction).

4.2.2.2.a.iii Integrating Subcontract Activities

WVB consults with key material providers and subcontractors to create and agree to the overall baseline schedule. The schedule includes a large collection of activities for Project procurement, including fabrication times for key items such as bridge bearings and beams, post-tensioning materials, Tunnel equipment, MSE walls, and overhead sign structures.

WVB works closely with all suppliers to ensure they have the capability and capacity to meet the requirements of the agreed construction schedule. WVB tracks supplier fabrication schedules and frequently visits fabrication shops. On-site subcontractors attend the twice-monthly Project team meetings and contribute to the schedule review to make modifications to the schedule where necessary. This is then applied to the development of our detailed three-week look-ahead schedules throughout the course of the Project to ensure all parties remain focused on predictability of Project delivery.

4.2.2.2.a.iv Managing Resources & Activities

WVB has based our schedule on productivity rates from our member's global portfolio of delivered projects. Once on site, we consider each element of construction separately to further optimize activities to reflect durations based on final quantities and demonstrated production rates.

WVB's project controls team, as part of WVB's C1 Strategy and Project Control Process, will drive our continuous improvement efforts. This effort focuses on optimizing our processes, identifying and implementing innovations, and adopting collaborative work practices to achieve improved delivery time.

WVB's approach ensures we meet and potentially improve our milestone dates. The following resource options for schedule recovery have also been considered:

- WVB's Tunnel excavation schedule is based upon three shifts working five days. Excavation on a sixth day provides a 17 percent production increase.
- The East End Bridge schedule is based upon one shift working five 10-hour days. Added shifts and extended hours offer multiple recovery options.

Every project introduces challenges that interrupt the planned schedule. Whether it requires alternative design solutions, additional equipment, extended labor shifts, or an increase in subcontracted activities, WVB has the local and global resources and experience to deliver the Project more effectively than any other team.

DESIGN-BUILD SCHEDULE SUCCESS

WVB uses design-build coordination to complete projects with aggressive schedules, such as the US 90 Bridge over Bay St. Louis, which won AASHTO schedule award in 2008.

4.2.3 DESIGN-BUILD QUALITY MANAGEMENT

WVB is committed to delivering a quality end product for IFA and providing assurance throughout all stages of Project delivery to confirm this commitment. Our Design-Build Quality Management approach is founded both on our use of knowledgeable personnel with relevant experience, and our commitment to achieving "Right First Time" delivery. As well as enabling us to exceed IFA quality expectations, our approach maximizes efficiency in delivery, bringing significant cost and schedule benefits.

In defining clear processes for the production and checking of design deliverables, WVB clarifies roles and responsibilities for team members and establishes all lines of communication and reporting from the Project outset to ensure smooth operations during delivery. High quality designs are produced efficiently, incorporating the full input of all relevant parties, and are approved in time for safe, responsible construction to begin on schedule.

QUALITY

"Right First Time" delivery to exceed IFA quality expectations, maximize efficiency, and provide cost and schedule benefits.

4.2.3.A DESIGN QUALITY

THE DESIGN DELIVERABLE PROCESS: The first step in this process is to identify all design deliverables required for the Project. Each is uniquely numbered and the relevant approval requirements and timings calculated so they can be incorporated into a Project design deliverables schedule. This aligns with the overall Project schedule to ensure designs are completed and approved in time for construction to begin as planned.

Design team members produce deliverables according to an agreed plan and common set of procedures. This determines the format in which drawings are to be produced and provides templates for related documents to ensure these record all necessary information. It also established the route each deliverable must take to ensure distribution and approval in line with WVB and IFA requirements.

OUR INTERNAL PROCESS FOR DESIGN REVIEWS: Throughout the design process, all calculations, analyses, models, and drawings are checked according to the procedure and requirements set out in our Design Quality Control Plan. This plan, developed by our Lead Engineer, Marcos Loizias, specifies the type and frequency of checks and assigns competent design checkers. Checks are performed by qualified engineers not involved in originating the work to ensure objectivity in checking and challenging the designs provided.

WVB performs independent design checks for the main span bridge and Tunnel items, using qualified engineers who are independent of the design team. These independent checks are in addition to the typical design quality control procedures. The WVB O&M Team is included in the design process to provide input for materials and details that optimize the durability and maintainability of the Project.

Initial designs go through a series of internal WVB reviews including constructability, safety, cost and schedule control, material selection, and sustainability concerns. Bruce Peterson, Design Quality Assurance Manager (DQAM), then reviews the package from both the design quality control checking process and internal reviews. He confirms compliance with our overall Project Quality Control Plan as well as the PPA requirements to ensure designs lead to client satisfaction in construction, operation, and maintenance of the end product.

THREE STAGE REVIEW PROCESS: The Technical Provisions specify a three stage design review process comprising Stage 1, Stage 2, and Final Stage reviews. Within each stage there are, in turn, three phases:

PHASE 1: Informal or 'over the shoulder' reviews, which we anticipate will be handled through the daily interaction of the WVB designers and IFA reviewers during regularly scheduled section or task force meetings.

PHASE 2: Formal submittal of the design to IFA for review. The durations for the formal IFA review process are defined in the PPA documents and will be agreed at the Design Kick-Off meeting.

PHASE 3: Design resolution meeting chaired by the DQAM Bruce Peterson, with the Responsible Engineer, the IFA's reviewers and other developer team members as appropriate. WVB will provide a written response to IFA's comments for review and resolution. If required, Bruce will obtain the revised designs and submit them as a revised Phase 2 submittal.

In order to meet the overall Project schedule requirements, certain construction activities need to start before the applicable design unit has completed the Final Stage of the design process. For these activities, including main bridge foundation and Tunnel south portal walls among others, specific early release RFP reviews are added to the review process. The DQAM submits these items for RFC approval with a certification that the design and quality process has been sufficient to enable the construction of the selected items of work identified in the relevant RFC package.

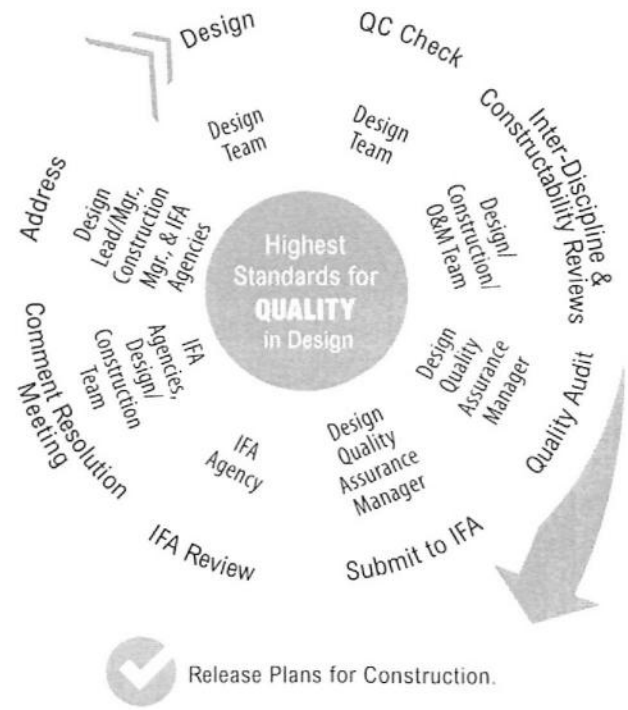
QUALITY ASSURANCE AND QUALITY CONTROL FUNCTIONS: WVB's Quality Assurance and Quality Control functions are described in Section 4.1.5 and detailed in preliminary PMP in the Volume 2 Appendices. WVB's DQAM, Bruce Peterson, is responsible for adherence to the design deliverable quality assurance processes, taking accurate input data into account, and maintaining all necessary records.

HOW THE IFA AND DEPARTMENT ARE INVOLVED: WVB engages IFA and Department via the Phase 1 over the shoulder reviews throughout the design development and approval process to ensure incorporation of all objectives and to provide status on the up-to-date progress on developing the designs ready for construction. IFA's participation in these reviews is vital to allow us to address any design-related issues proactively and expedite the formal review process. The IFA and Department are involved in approving and signing off designs as part of the Phase 2 and 3 reviews.

REPORTING RELATIONSHIPS AND RESPONSIBILITIES: The WVB Design Team structure, including reporting relationships, is shown in the organization chart in the Volume 2 Appendices PMP. As this illustrates, Bruce reports directly to our Project Quality Manager, Martine Julia-Sanchez. He focuses exclusively on the Design Quality Process independent of the Design Manager and the Lead Engineer.

IFA AND DEPARTMENT OVERSIGHT PROCEDURES TO BE IMPLEMENTED: WVB includes a Design Review Plan and Schedule in the Design Quality Plan to control and monitor compliance with oversight procedures. For each design unit, this Plan identifies related design documents to be prepared and submitted for review at each stage of development, including IFA design reviews. Completion of the Plan and associated schedule provides assurance that all required quality control activities have been delivered. The requirements set

DESIGN QUALITY PROCESS SUMMARY



out in the Plan are discussed and communicated to all Design Team members via an initial design workshop, scheduled to take place within 30 days of NTP1.

CONFORMANCE WITH FEDERAL OVERSIGHT REQUIREMENTS: Walsh-VINCI CJV's design complies with FHWA guidelines and is not expected to require any additional design exceptions other than those previously noted by IFA. We continue to work with FHWA to ensure the final design meets all requirements and Federal safety standards. The current design meets all NEPA commitments and Walsh-VINCI CJV will coordinate with INDOT/KYTC to ensure the final design meets all requirements and commitments.

DOCUMENTING DESIGN QUALITY MANAGEMENT: After Bruce has verified that all internal reviews have been completed for a design package, he prepares a certification of the package for submission to the IFA. For each submission, a complete package is placed in the online

QUALITY

Design process incorporates best experiences of design, construction, operations, and maintenance for unparalleled sustainability

DyMaDoc document control system, including all design quality control, internal review and quality assurance documentation.

MAKING CHANGES TO CORRECT DESIGN DEFICIENCIES: Design deficiencies identified are recorded by Bruce and communicated to the relevant members of the Design Team. Bruce creates a register of design deficiencies to review, track, and report on our progress of resolving these issues.

Any design changes are recorded and communicated to all relevant members of the Design Team to ensure incorporation in all drawings and future design development.

4.2.3.B CONSTRUCTION QUALITY

Implementation of Walsh-VINCI CJV's Design-Build Quality Management Plan ensures construction is in compliance with approved designs and specifications resulting in a high quality end product.

INTEGRATING WITH DESIGN: Throughout the design and specification of the Design Units (DUs), our experienced construction personnel interact with our design team to support development of material provisions, equipment installation requirements, construction tolerances, inspection and test standards, and acceptance criteria that meet or exceed IFA's specifications. Constructability reviews are carried out on each DU to ensure we achieve safe, efficient delivery of a high-quality end product.

WVB's Project IMS, incorporating our QMS, applies during design and construction. This includes common procedures for: document management; non-conformance/deficient design and build control; submittal and RFI; and communication and reporting. This facilitates quality control and ensures reporting consistency, making it easier to assess our ongoing quality performance.

DOCUMENTING THE CONTROL OF MATERIALS: The inspection of source materials is documented per IFA standards. Where possible, the selection of pre-qualified suppliers ensures materials are sourced from firms that have demonstrated their capacity and capability to uphold the Department's quality requirements. Records demonstrating the control of materials include Certified Material Test Reports and the results of physical material sample testing. Physical inspections and tests occur during in-process construction activities. All such records and results are managed via our secure online DyMaDoc document control system and also entered into IFA's requirement verification database application.

INSPECTIONS
ITPs provide details for inspectors use in field checks (rebar inspection at Cleveland Innerbelt. Walsh Construction).

REPORTING PROCEDURES AND METHODOLOGIES: WVB develops and implements a standard reporting discipline to ensure all results, records, and reports comply with common reporting parameters. This includes recording task-specific details, location, work element, workforce and supervision accountability; identification of incorporated material; major equipment use; inspection and test results; and the conditions under which construction was carried out. Quality performance is reported in IFA-approved formats and WVB provides report templates to ensure consistency and facilitate interpretation of results. Records provided include daily reports, schedules, work plans, ITPs (including mandatory hold points), witness points with signoffs, and quality results summaries.

All reporting is content driven, formatted, and approved by IFA authorities. This includes electronic meta data file structure and files. DyMaDoc is used for all document control and management including (but not limited to) quality records, drawings and specifications (see Section 4.1.7). WVB uses IFA's requirement verification database to review and respond to observations made during IFA quality oversight activities.

ACCEPTANCE TESTING, INSPECTION AND MONITORING OF CONSTRUCTION: Acceptance testing and inspection activities to be completed during construction are defined in inspection and test plans (ITPs) attached to method statements. ITPs typically include:

- Inspection type activity (hold point, witness point)
- Frequency of inspection
- Criteria of acceptance
- Responsibilities
- Records

Construction monitoring (**Table 4.2-13**) is primarily the responsibility of QC staff, but every member of our trained and empowered workforce is mindful of safe work practices and required quality standards.

TABLE 4.2-13 CONSTRUCTION MONITORING

Inspection and Confirmation of Work Plan Execution	Competent Project workforce responsible for Right First Time delivery
Inspection and testing of constructed components	Quality control professionals (directed by Construction Quality Control Manager, John Reid)
Affirmation of the results by split-sampling tests and surveillance inspections	Quality assurance personnel (directed by Construction Quality Manager, Courtney Norris)
Independent auditing	Independent personnel (directed by Quality and HSE Manager, Martine Julia-Sanchez)
IFA/Department oversight	IFA / Department personnel

CORRECTIVE ACTIONS: WVB is committed to right first time delivery and the use of quality planning, control and continuous improvement methodologies to achieve 'no surprises' during execution. This approach relies on our disciplined development of work plans; application of best practice quality control processes; and commitment to a philosophy of continuous improvement. Sustainable improvement is strengthened by quality assurance audits, management reviews of quality system results and the implementation of our strict non-conformance/corrective action (NCR/CA) procedure.

WVB's NCR/CA procedure requires anyone identifying non-conforming or deficient work or products to report this immediately for investigation and correction. A Corrective Action Plan is developed, implemented

QUALITY

"Right First Time" delivery — disciplined work plan development, best practice application, and continuous improvement commitment.

and monitored to ensure effectiveness in each case. NCRs are documented in CMiC and our EDMS. This allows our quality team to review results and identify any trends that warrant preventive actions to be introduced. Lessons learned are developed for sharing with IFA and throughout WVB supporting continuous improvement.

IFA AND DEPARTMENT INVOLVEMENT: IFA and the Department are notified in advance of all proposed construction quality activities. We achieve this through regularly scheduled coordination meetings, look-ahead schedules, formal IFA-WVB quality meetings and direct communication with appropriate IFA personnel. IFA approval is obtained before any construction activity can proceed from a mandatory hold/witness point.

CONSTRUCTION QUALITY PROCESS SUMMARY

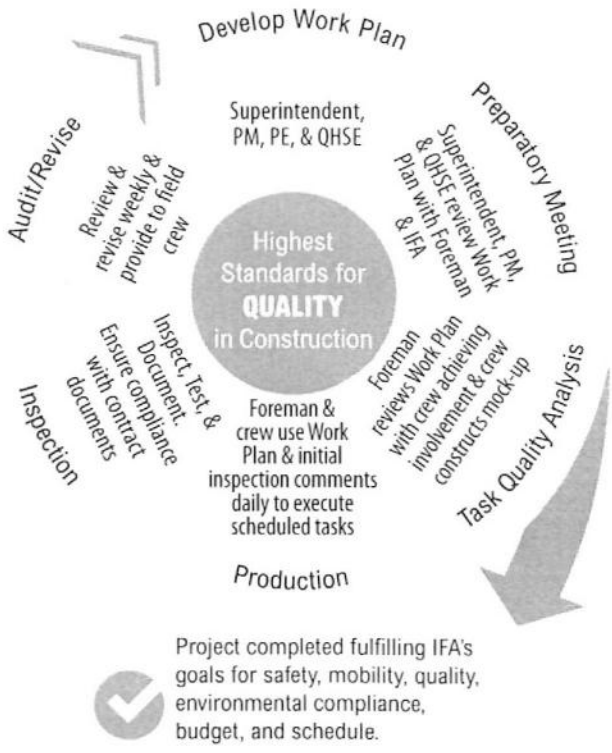


EXHIBIT 2-G

OPERATIONS AND MAINTENANCE PLAN

[attached]

4.3 Operations and Maintenance Plan

4.3 OPERATIONS AND MAINTENANCE APPROACH

WVB's East End Partners' (WVB) Operations and Maintenance (O&M) main objective for the East End Crossing is to safely provide a high quality rapid response service and maintain the roadway with reduced disruption to the traveling public.

To achieve this objective, WVB commits to self-perform more than 30% of the O&M work of the East End Crossing Project (Project). Combining the know-how and experience of our equity owners, we have a vertically integrated approach to provide efficient and safe O&M.

WVB, led by Project Manager David Sikorski, brings extensive experience from the O&M of similar roadways and facilities around the world with shareholders currently operating over 3,300 miles of roadway systems including four cable stay bridges, summarized in **Table 4.3-1**. Vincent Meyer, our Team's O&M Manager served as maintenance manager of 620 miles of highway on the ASF Network, from 2008 to 2011.

WVB's international expertise is reinforced by our knowledge of the local area provided by Walsh Investors of Chicago. The integrated approach fosters project innovation and optimization to support efficient and safe O&M. WVB's approach utilizes local

One Team, One Project, One Community
This symbol highlights value added items throughout the document.

Indiana contractors, including Walsh Construction, to complete major maintenance and rehabilitation work.

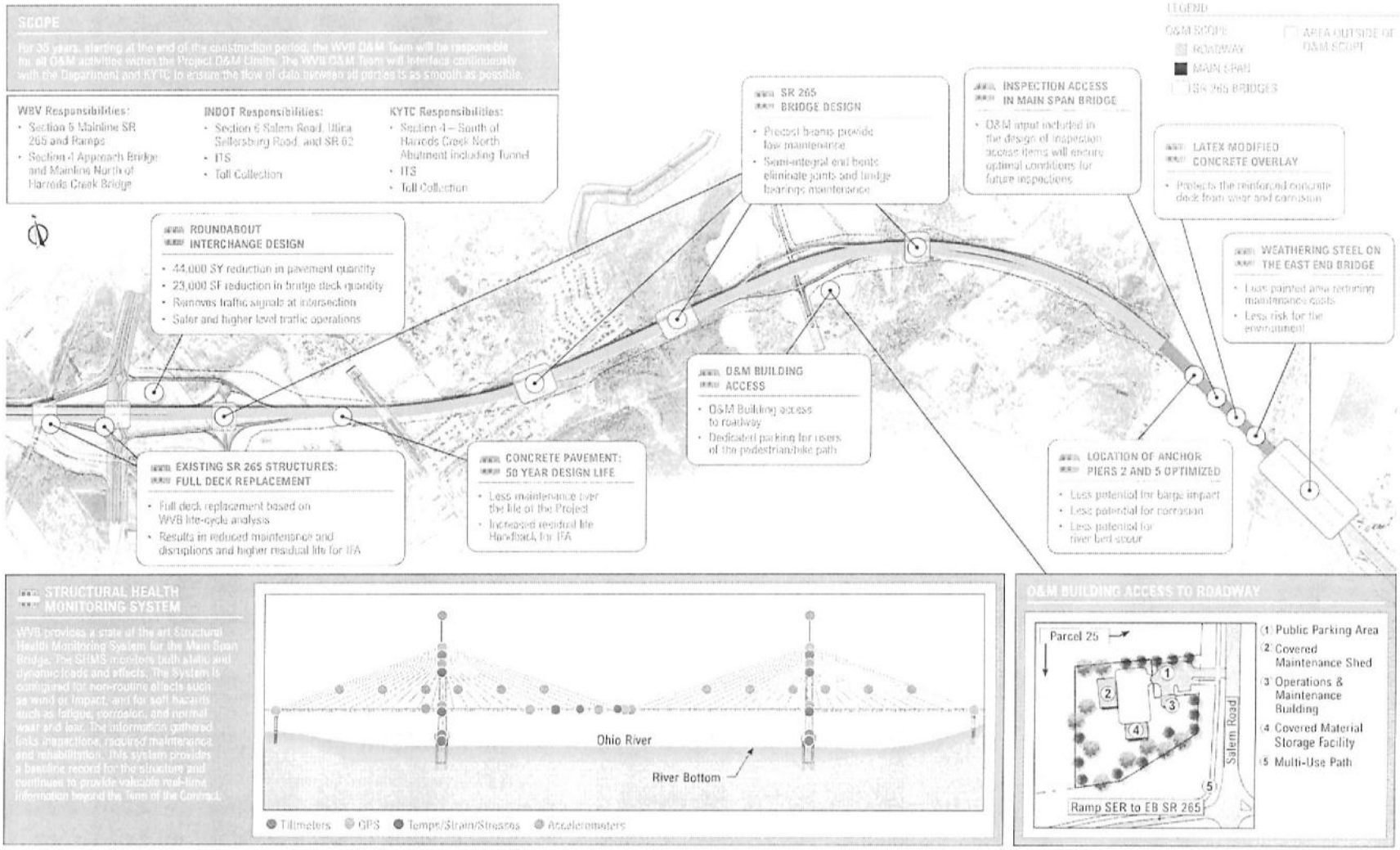
This experience and local knowledge, coupled with our vertical integration, gives WVB an in-depth understanding of the relationship between capital and operational expenditure for such facilities, as well as the importance of maintainability and access. The O&M Team has been involved throughout the bid in design development to ensure technical proposals for the Project include innovative O&M solutions, see **Figure 4.3-1**. Our solutions provide best value for money for IFA by reducing capital and rehabilitation costs, and further reducing costs beyond the Operating Period.

The WVB Team commits to provide excellent customer service for the traveling public throughout the operational life of the Project. WVB's O&M quality management procedure ensures that, by contract termination, we meet, and wherever possible exceed, all IFA Performance and Handback Requirements.

TABLE 4.3-1 SUMMARY OF SIMILAR PROJECTS UNDER WVB SHAREHOLDER OPERATIONS AND MAINTENANCE

DBFOM Projects	Description	Operations since
Cofiroute Network, France	750 miles of highway	1970
SR 91, California, USA	20 lane-miles of managed lanes	1995
ASF Network, France	620 miles of highway	1957
Tagus Bridge, Portugal	7.7 mile crossing with cable-stayed bridge	1998
Severn River Bridge, UK	3.1 mile crossing with cable-stayed bridge	1996
Rion-Antirion Bridge, Greece	1.8 mile crossing with cable-stayed bridge	2004
Confederation Bridge, Canada	8.1 miles with highway and bridge	1997
Kicking Horse Pass, Canada	16 miles with highway and bridge	2007
A1 Motorway, Germany	45.5 miles with highway and bridge	2012
North West Anthony Henday Drive, Canada	13 miles with highway and bridge	2001
Golden Ears Bridge, Canada	8 mile highway with 3,175 foot long cable-stayed bridge	2006

FIGURE 4.3-1 DESIGN TECHNICAL SOLUTIONS PROVIDED BY WVB TO OPTIMIZE FUTURE MAINTENANCE



4.3.1 OPERATIONS AND MAINTENANCE TECHNICAL SOLUTIONS

The WVB O&M Team has innovative, best practice O&M technical solutions to maintain safe, continued use of the Project by the traveling public throughout the Project's operational lifecycle. These include measures to ensure safe, cost effective routine maintenance activities; and well managed scheduling and delivery of necessary rehabilitation works.

Maintenance is managed according to delivery process D6 within the Project Integrated Management system (IMS) as shown in **Figure 4.3-2**. The IMS is described in Section 4.1.1 and provides a consistent approach to delivery, quality management and reporting in all Project stages.

4.3.1.1 ROADWAY AND BRIDGE OPERATIONS

The WVB O&M Team is responsible for Operation Patrolling on the Project, and the Incident and Emergency Response within the O&M Limits. Incident detection and response is fast, efficient and precise to ensure safe use of the roadway and bridge. The WVB O&M Team understands the local context, including interaction and interface with local authorities, public information provision and the anticipation and management of potential hazardous situations.

4.3.1.1.a Policing the Roadway and Bridge

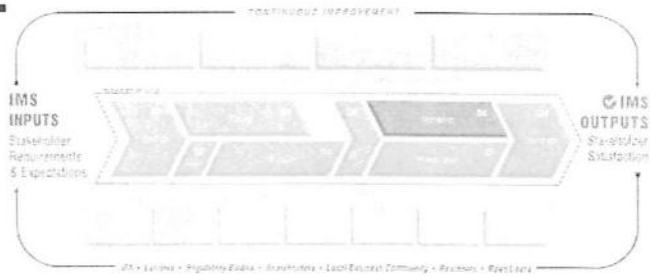
The WVB O&M Team's priority is safe passage for the traveling public and WVB, INDOT and KYTC staff. During the Operating Period, we patrol the roadway and bridge 24 hours a day, seven days a week. The WVB O&M Team uses two customized patrol vehicles dedicated to the Project. The Team has equipment such as movable flashing arrows and crash attenuator trucks for safer traffic management during incidents or maintenance activities.

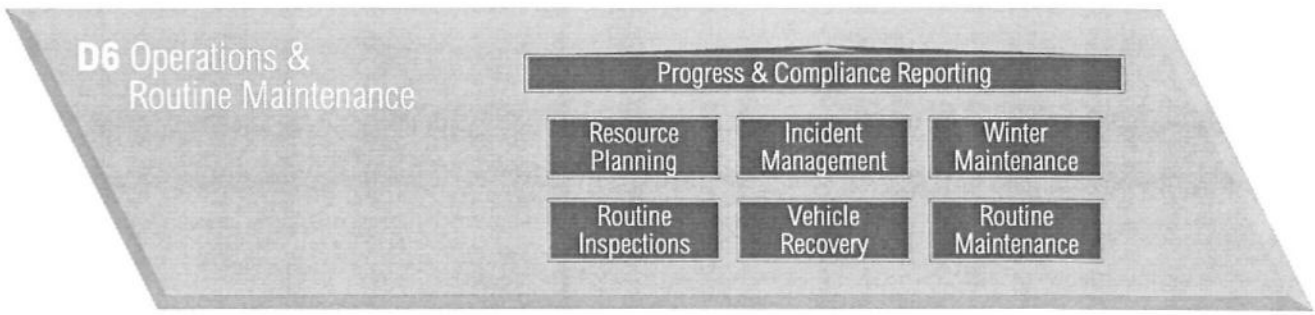
The WVB O&M Team will develop an O&M Plan that details all operation procedures. This aligns closely with our Project Safety Plan, detailed in 4.1.6.b and Section 22.1.7 of the Technical Provisions.

DETECTION OF EMERGENCIES: The WVB O&M Team has access to many sources of information to promptly detect and respond to incidents:

- The bridge structural health monitoring system
- WVB O&M Team roadway and bridge patrols
- Weather forecast monitoring
- The ITS, operated by INDOT and KYTC.

FIGURE 4.3-2 OPERATIONS AND MANAGEMENT PROCESS, D6, WHICH WILL BE MANAGED BY VINCENT MEYER, THE O&M MANAGER





RESPONSE TO EMERGENCIES: The WVB O&M Team follows the incident detection and response plan shown in **Figure 4.3-3**. Upon notice of an event, the WVB O&M Team immediately informs the Department's Traffic Management Center in Indiana and the TRIMARC Traffic Operations Center in Kentucky (collectively known as the TMCs).

After incident detection, WVB's O&M Team proceeds to the site to secure it and provide immediate assistance. With patrollers posted either at the O&M Building or working on the Project, response time is less than an hour. WVB O&M Team managers are on call, if needed to assist in incident management.

WVB O&M Team's focus is to keep the traveling public, adjacent landowners and all project staff safe. Team members use customized traffic control equipment and vehicles to secure the site. Quick installation of proper temporary traffic management measures will reduce impacts of an Incident, including secondary crashes and excessive traffic delays. The O&M Plan will detail the procedure for Incident Traffic Management, with the appropriate layout of the safety devices, according to the Manual on Uniform Traffic Control Devices (MUTCD) and checklist of actions to implement.

All measures necessary to move the Incident off the traveled roadway are carried out as soon as safely possible and at the direction of the emergency responders. The WVB O&M Team will reopen the roadway within 25 minutes of clearing any Incident.

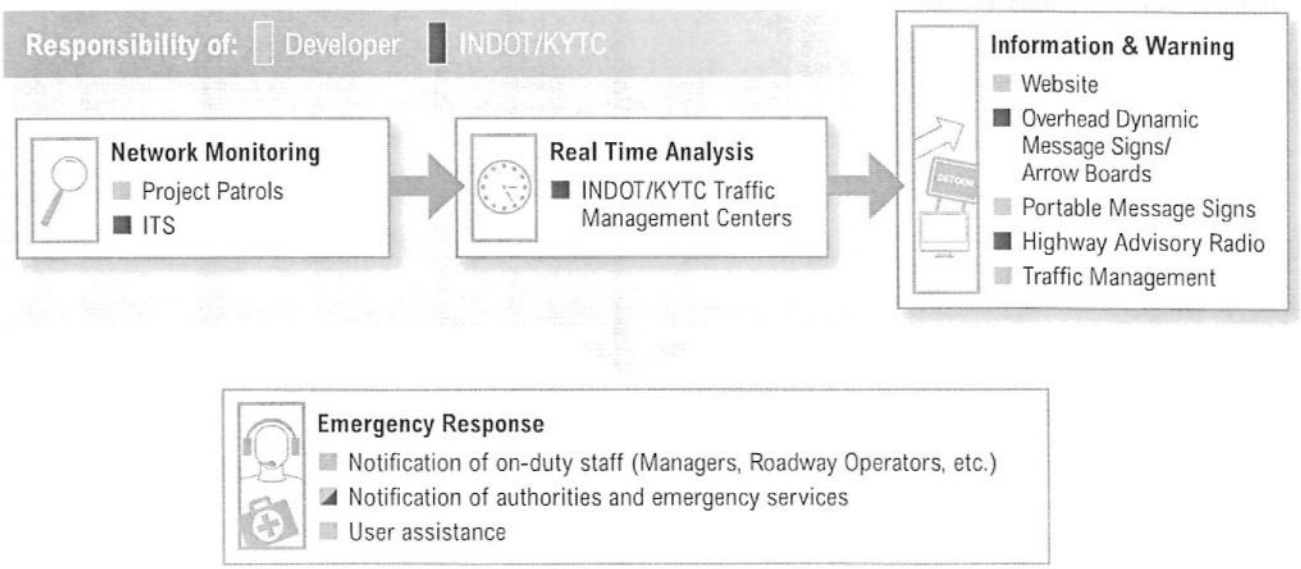
KEEPING THE TMCs AND USERS INFORMED: The WVB O&M Team immediately informs and continuously updates the TMCs of any Incident, its impact on traffic, response actions undertaken, the restoration of traffic and any related information.

Once informed by the WVB O&M Team or the ITS, the two TMCs alert users to the presence of any Incident using Dynamic Message Signs (DMSs), Lane Control Signals and the Highway Advisory Radio. The WVB O&M Team uses the latest technologies and social media, such as Twitter, Facebook and email to inform users. This combined approach helps minimize impacts of Incidents and maintain good public relations.

4.3.1.1.b. Coordination with Emergency Service Providers

Prior to the Operating Period, the WVB O&M Team coordinates with INDOT, KYTC, appropriate emergency service providers, law enforcement agencies and relevant private sector responders (e.g. towing and hazardous materials contractors) to develop a Project Emergency Plan. This plan details WVB O&M Team actions in case of emergency and establishes lines of communication with emergency responders.

FIGURE 4.3-3 WVB O&M TEAM DETECTION AND RESPONSE PROCESS



In an emergency, the WVB O&M Team informs the appropriate authorities and implements the Project Emergency Plan. A WVB O&M Team roadway patroller and crash attenuator truck are dispatched to ensure the safety of the site and the traveling public. Once the emergency responders arrive on site, they take the lead. The WVB O&M Team will continue to provide traffic management at the direction of the emergency responders.

WVB has experience throughout the world working with emergency services, as shown in **Figure 4.3-4**.

FIGURE 4.3-4 COORDINATION WITH EMERGENCY SERVICES ON CALIFORNIA-SR91

The WVB O&M Team participates in quarterly traffic incident management team meetings led by INDOT. The Emergency Plan is updated to account for feedback and lessons learned. After consultation and discussion with INDOT and KYTC, a contract will be established with local towing partners to enable them to intervene on the roadway in line with the performance standards set in the agreement.

4.3.1.1.c. Accident Analysis and Implementation of User Safety Improvements

Accidents are reported daily and monthly, in accordance with requirements defined in the Project O&M Plan. A quarterly Operations Report summarizing the findings of daily and monthly reports is issued to IFA. All accidents are treated as non-conformances within the O&M Quality Plan, see Section 4.3.2.

Three types of events are considered within the WVB O&M Team's review and assessment process:

- **Near misses:** events that in slightly different conditions, would result in an Incident
- **Incidents:** events with low consequences
- **Accidents:** Incidents with significant consequences

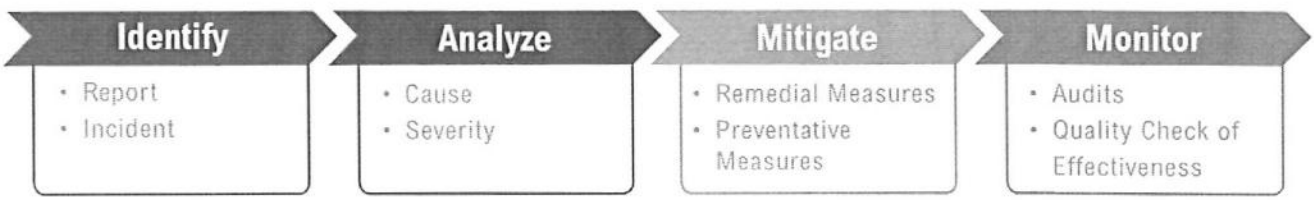
The O&M Plan describes WVB's methodology to:

- Report accidents, incidents and high potential near-misses
- Manage the investigation of accidents, incidents and high potential near-misses
- Determine remedial/preventive measures
- Monitor effective implementation of actions

Data provided is analyzed by the WVB O&M Team to identify root causes of events. The WVB O&M Team considers potential remedial measures (such as installing attenuators, concrete barriers, guardrails or warning signs) that improve user safety; **Figure 4.3-5** summarizes this process.

The WVB O&M Team regularly conducts safety audits to assess effectiveness of Project safety, identify and implement areas for improvement, and review newly developed industry best practice. Any mitigation measures introduced throughout this process will be recorded and monitored to assess their effectiveness.

FIGURE 4.3-5 ACCIDENT ANALYSIS AND IMPLEMENTATION OF IMPROVEMENTS



4.3.1.2 ROUTINE MAINTENANCE

During the bid phase, the WVB O&M Team has been fully involved in the design process with the Walsh-VINCI CJV and WVB Design Team to produce an optimal design.

WVB's routine maintenance strategy is structured around proactive preventive maintenance. Our comprehensive Maintenance Plan, with a frequent inspection program, ensures early identification of maintenance needs and their quick correction to prevent small deteriorations from becoming larger problems.

In developing our proposal, WVB paid close attention to the impact of maintenance activities on availability of Project facilities. The conceptual design of the Project is optimized to minimize lane closures during the Operating Period.

4.3.1.2.a. Life Cycle Cost Analysis over the Duration of the Agreement

The WVB O&M Team remains fully involved throughout design development to assist with maintenance and lifecycle optimization of design and the anticipation of resulting maintenance costs.

To determine expected material durability and useful lifespan, WVB uses benchmark data from its extensive list of projects in operation, combined with up to date best practice guidelines and industry research data. We have taken into account all Performance and Handback Requirements.

For each Element of the Project, the WVB O&M Team analyzed potential technical solutions accounting for variability of cost; increasing labor rate; and impacts of maintenance on roadway availability.

By using an internal discount rate, the WVB O&M Team calculated a Net Present Value (NPV) for each technical solution, allowing us to compare them and determine optimal lifecycle solutions (see **Figure 4.3-6**). This led to significant design improvements that lower the financial costs and limits traffic disruption.

LONG-TERM ASSET

Life Cycle Cost Analysis Example: There are two possible pavement solutions: asphalt and concrete. There is a 5% premium for concrete at construction, however by analyzing maintenance costs, availability costs (fewer road closures for concrete maintenance) and expected price variation (higher for asphalt than concrete), WVB found the total lifecycle costs of concrete is 20% lower over 35 years. At Handback, concrete provides more than 12 years remaining Useful Life, exceeding the PPA requirements.

The WVB O&M Team, coordinating with Walsh-VINCI CJV, feeds into the construction and design quality assurance and control processes to ensure full consideration of material durability during specification, procurement and construction. This ensures selection and appropriate use of the most durable materials to provide the highest quality end product.

FIGURE 4.3-6 LIFE CYCLE COST ANALYSIS PROCESS

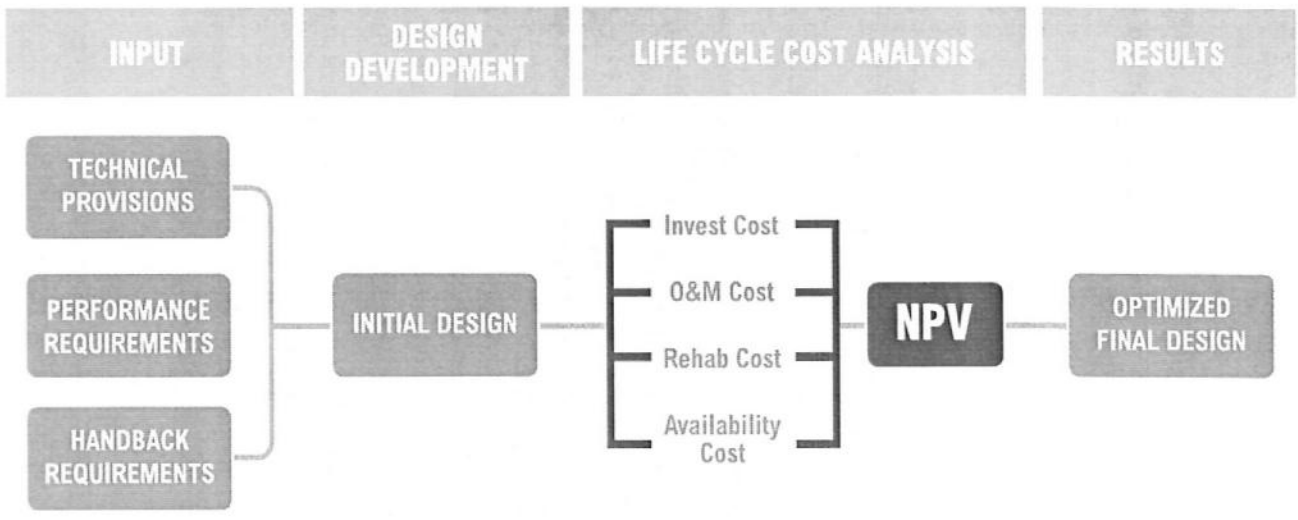
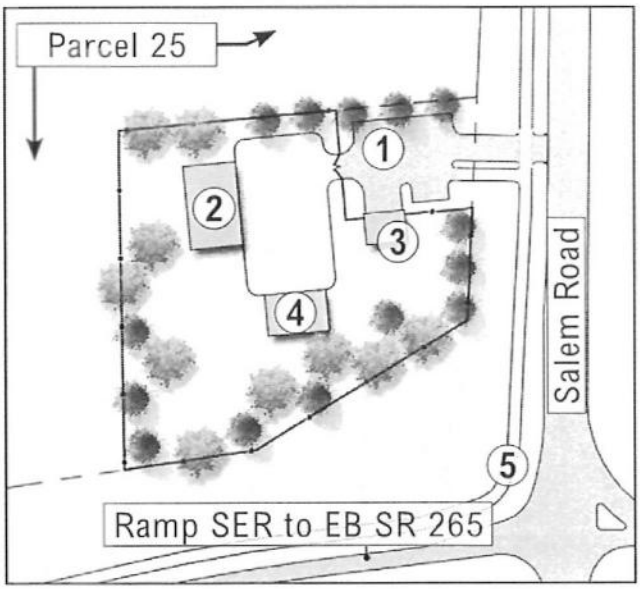


FIGURE 4.3-7 MAINTENANCE YARD AND FACILITIES



The WVB O&M Team is implementing this process on all elements of the Project, confident that we are providing an optimized lifecycle cost and a predictable maintenance strategy beyond the Term of the Contract.

4.3.1.2.b. Details and Locations of Maintenance Yard and Facilities

As described in Section 9 of the Technical Provisions, and shown on **Figure 4.3-7**, WVB builds a maintenance yard and operations facility on parcel 25 of the excess right of way.

These facilities include:

1. Parking lot for staff and visitors
2. Covered vehicle garage
3. Office building with public reception area
4. Sand and salt covered storage facility
5. Dedicated parking for users of the pedestrian/bike path

4.3.1.2.c. Preliminary List of Specialized Maintenance Equipment

The WVB O&M Team specialized maintenance equipment include the following:

Patrolling Equipment

- Two patrol trucks, customized for high visibility and to fit the needs of the WVB O&M Team
- Portable luminous arrow boards
- Portable changeable message signs
- Crash Attenuator truck

Routine Maintenance Equipment

- Boom Truck (subcontractor)
- Small Tools and Workshop Material
- Lawn Mowers and Landscape Equipment
- Traffic Management Safety Items
- Snooper Truck (subcontractor)

Winter Maintenance Equipment

- Winter maintenance trucks
- Blades, mobile spreaders
- Rubber Titled Loader

4.3.1.2.d. Supply and Management of Maintenance Spare Parts

The WVB O&M Team uses dedicated software to manage and monitor the supply and use of spare parts. This ensures an up-to-date inventory of all parts to support expected maintenance requirements plus a reasonable amount for emergencies. Quantity of spare parts used and ordered is reviewed on an ongoing basis to identify and resolve any issues where parts are failing more often than expected.

The most significant requirement for maintenance spare parts are light bulbs and electric equipment to support lighting maintenance; barriers; guardrail and impact attenuator components; and signage elements.

4.3.1.2.e. Routine Maintenance Activities Approach

The WVB O&M Team's approach is to maximize self-performance of the basic routine maintenance activities and work with expert subcontractors where necessary to complete specialized maintenance. This allows access to the latest specialist knowledge, best

practice and research data of our shareholders and specialized partners.

Where feasible, specialized activities such as drainage, pavement, lighting and landscaping maintenance is subcontracted to local firms. The WVB team endeavors to contract with local DBE firms. The frequency and planning of these activities is handled by the WVB O&M Team; strict safety and quality control procedures apply.

Whether self-performing or subcontracting work, the WVB O&M Team focuses on safety. Working on a live roadway is risky for maintenance staff and the traveling public. We complete a detailed risk assessment to identify, prioritize and address all potential hazards.

SWEEPING, CLEANING AND THE REMOVAL OF DEBRIS: The WVB O&M Team staff includes Patrollers working on a 24/7 basis and Roadway Maintenance Operators working on a daily basis. These personnel are fully equipped, qualified and trained to safely complete debris removal, general sweeping and cleaning of the roadway. After each winter season, the WVB O&M Team powerwashes all bridge structures to extend the life of bridge components.

ROADWAY MAINTENANCE

WVB partners bring maintenance experience from over 2,700 miles of highway under operations including VINCI Highways Network

GRAFFITI REMOVAL: The facilities will be inspected daily for graffiti. If identified, the WVB O&M Team will remove it from structures within 24 hours and from gantries and high masts within 72 hours. Anti-graffiti coating is used on exposed surfaces of all walls and bridge abutments.

ICE AND SNOW REMOVAL: WVB O&M Team's goal is to keep the roadway clear and safe at all times. In the winter months this means using our own in-house staff and equipment to plow and deice the roadway. These efforts may be supported, when necessary, by local DBE firm Messier and Associates. In line with IFA requirements, we will target a maximum circuit time of two hours on the roadway. The WVB O&M Team's winter maintenance procedures ensure that, following any winter weather event, bare pavement is restored within two hours.

WVB'S SNOW AND ICE CONTROL PLAN:

- Expected average number of yearly snow events: 20 events, seven hours each.
- Two adjacent plows in the WVB fleet easily provide a two-hour circuit time for the five miles of roadway.
- Subcontractor plow support from DBE subcontractor Messier & Associates if needed.

All winter maintenance measures are described in the Project Snow and Ice Control Plan. This is updated annually to reflect changing project requirements, best practice and lessons learned. One source of lessons learned is the winter patrol diary our patrol teams complete daily during the winter season.

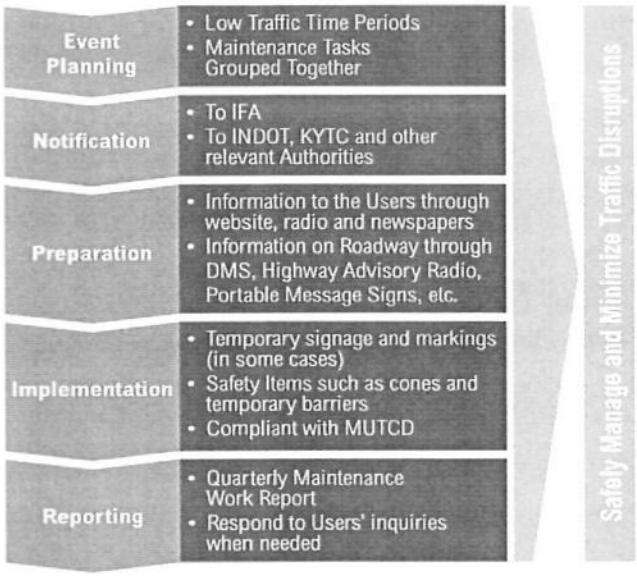
The WVB O&M Team completes an annual winter maintenance exercise at the beginning of each winter season. During this exercise we train our staff and those of our specialized subcontractor partners in all related methods, risks and safety requirements. This exercise will also enable us to check all winter maintenance equipment is operational and ready for the winter season.

4.3.1.2.f. Traffic Management During Maintenance

All lane closures for Planned Maintenance work comply with the IFA Interstate Highways Lane Closure Policy (March 2010). The WVB O&M Team coordinates maintenance activities and associated lane closure requirements with IFA, INDOT and KYTC a minimum of two weeks in advance of planned activities. Where unplanned lane closures are required, the WVB O&M Team coordinates with the Department and KYTC as soon as possible and prior to taking any action to close lanes.

The WVB O&M Team follows a five-step traffic management procedure to implement safe, timely maintenance work, as illustrated in **Figure 4.3-8**. When maintenance is urgently required (e.g. to enable hazard mitigation), the procedure can be accelerated.

FIGURE 4.3-8 TRAFFIC MANAGEMENT PROCEDURE



EVENT PLANNING: The WVB O&M Team is responsible for planning and coordinating all routine and rehabilitation maintenance performed whether by the WVB Team, a subcontractor or by other entities, such as public agencies, toll collection operators or their subcontractors.

NOTIFICATION: Monthly Planned Maintenance and Routine Maintenance schedules are submitted to IFA for approval at least 30 days in advance of the work. Annual Planned Maintenance schedules are submitted for IFA review and approval at least 90 days ahead of the year in question. Schedules describe, for each section of the works, all scheduled maintenance tasks or activities; the dates, times and durations for each activity; the total quantity of Planned Maintenance hours; and total number of Routine Maintenance lane hours.

PREPARATION: For Planned Maintenance that affects the roadway, sidewalk or bridges, or any other event involving temporary traffic control, the WVB O&M Team prepares a Traffic Control Plan. The purpose of this is to ensure safety of staff and the traveling public. We coordinate with the Department and KYTC to ensure DMS and Highway Advisory Radio messages give accurate information to the traveling public about lane closures or other traffic impacts. We support the communication of public information by the Department and KYTC via press releases and other media (e.g. newspapers, radio, television, websites and social networks) where required.

IMPLEMENTATION: The placement, maintenance and removal of traffic control devices and temporary signage meets the approved Traffic Control Plan and the MUTCD. Traffic and safety conditions are monitored, with the assistance of our Patrollers and Roadway Maintenance Operators. In case of congestion caused by the works, the traveling public is notified by the TMCs through the DMSs.

REPORTING: All routine maintenance and minor repair works are recorded by the WVB O&M Team using the Computerized Maintenance Management System (CMMS) provided by the Department. These records are used to develop the quarterly Maintenance Work Reports to be submitted for IFA review. For each month of the quarter in question, the report identifies all maintenance and rehabilitation activities planned, details actual works performed and confirms that completed work complies with approved maintenance procedures. This reporting feeds into the quarterly Operations Report provided to IFA.

4.3.1.2.g. Inspection, Testing and Defect Management

Regular inspections and tests are a crucial part of our proactive, preventive maintenance approach; they enable early identification of maintenance needs. This is important as it allows us to address correctable issues before they can develop into larger problems. It also allows more time to:

- determine deterioration rates
- identify methods to mitigate deterioration
- allow for adequate budgeting for future corrective actions
- mitigate any potential disruption to road users

The WVB O&M Team schedules inspections and tests to be completed by certified personnel. A General Inspection, including a pavement survey, is carried out each year.

SNOOPER TRUCK

Structural components can easily be accessed from ground level using a lift of can be accessed from the bridge deck using a snooper truck. The snooper truck can be placed on the shoulder to enable all lanes of traffic to remain open during the bridge inspection.

Both FHWA and AASHTO recommend routine inspections of new bridges at least once every two years. It is recommended to conduct inspections in both climate extremes. Structures will be inspected in detail and rated as per National Bridge Inspection Standards (NBIS) every two years.

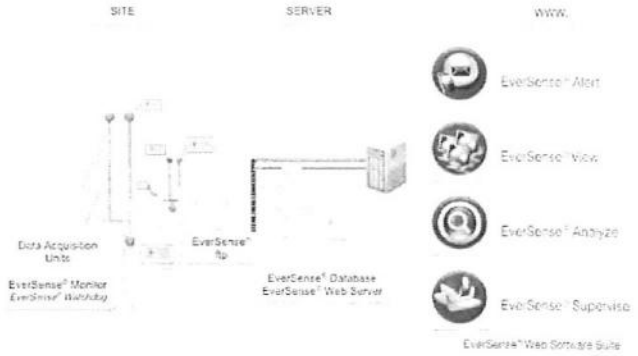
For the Main Bridge of the Project, the WVB O&M Team and the WVB Design Team will produce an inspection manual, including inspection frequencies, before Substantial Completion. This manual will be submitted to INDOT, FHWA and IFA for approval and will include provisions for:

- Routine Inspection every two years
- In-depth Inspection every six years
- Underwater inspections every four years
- Post Extreme Event Inspections as needed.

Results of the inspections are summarized in an inspection and test report, which identify, classify and prioritize any defects found. Our O&M Manager Vincent Meyer, uses this information to implement a maintenance strategy to rectify any noted items.

RIVER CROSSING STRUCTURAL HEALTH MONITORING SYSTEM: The VINCI Group in-house monitoring systems specialist dedicated to the long-term inspection and monitoring of bridges, Advitam, has employed a risk-based analysis of the Main Bridge structure to ensure its continued safe functioning.

FIGURE 4.3-9 STRUCTURAL HEALTH MONITORING SYSTEM



The Structural Health Monitoring System (SHMS) of the Main Bridge is designed to monitor both static (temperature, corrosion, etc.) and dynamic (wind, fatigue) phenomenon, which is important for the high strength, cable-stayed wires and the bridge deck. The system brings a helpful complement to visual inspections for phenomenon that either can not be seen or are not relevant under a two year inspection cycle. Based on the data provided by the WVB Design Team, the system is configured for non-routine effects such as wind or impact, and for soft hazards such as fatigue, corrosion and normal wear and tear, to yield immediate and long-term performance at reasonable costs. The information gathered through the Eversense® software, shown in **Figure 4.3-9**, links inspections, required maintenance and rehabilitation over the 35-year Operating Period according to the decision making process. This system continues to provide valuable real-time information beyond the Term of the Contract. The SHMS is tested during the yearly routine inspection.

LONG-TERM ASSET

Monitoring All American Bridges: Within the framework of a Federal Highway Administration (FHWA) research project, Advitam, has won a contract to monitor the country's almost 600,000 bridges. Advitam has developed a combination of Scanprint®, a software for the management and long-term monitoring of infrastructure, and Eversense®, a program for the acquisition and analysis of instrumentation data. This solution makes it possible, via a single interface, to access inventory data, information concerning visual inspections and non-destructive testing, and real-time instrumentation data, to manage the structures.

4.3.1.2.h. Maintain Accurate As-Built, Inspection and Maintenance Records

As described in 4.1.7, the Walsh-VINCI CJV will create a DyMaDoc database of all as-built drawings and construction records. This is transferred to the WVB O&M Team before Substantial Completion as part of the transition process.

The WVB O&M Team uses the Department's CMMS to record all maintenance activities. Before Substantial Completion, using the Final Design, we create the Project asset database on which the CMMS will be based. The CMMS database includes all of the assets to be maintained throughout the Operating Period and a description of each item and piece of equipment.

The CMMS database includes the preventive maintenance activities required, as well as details of activities performed including dates and repair history. It records detailed information regarding the type of repairs made at any point and any failures experienced as well as all maintenance work performed.

This tool is used to maintain accurate as-built, inspections and maintenance records. The WVB O&M Team uses the CMMS for the quarterly Maintenance Work Reports listing all assets in the O&M program with a summary of all maintenance activities performed each month and the complete history of maintenance for the asset as reported by the CMMS.

4.3.1.3 REHABILITATION WORK

The WVB O&M Team has a proactive, preventive maintenance approach to the Project. Inspections and preventive maintenance will result in early identification of issues. Corrective actions are taken so the problem is solved at a minimum cost and minimum disruption to the traveling public.

Rehabilitation works are managed according to delivery process D7 in the IMS, illustrated in **Figure 4.3-10**. This establishes procedures for the inspection of assets to identify the need for rehabilitation works; the planning and design of any major works required; the construction activity, and ongoing inspection and testing that ensures this work is satisfactorily completed, including certification of all completed works.

Rolling Program of Major Maintenance

The WVB O&M Team forecasts maintenance activities anticipated during O&M. An associated cost estimate of each activity is updated regularly to account for inflation, price of materials and other factors that affect cost.

Based on past project experience and statistical data, we have developed a preliminary rolling program of maintenance to meet the Performance and Handback Requirements. This program is optimized to minimize lane closures and disruption to the traveling public. The

FIGURE 4.3-10 APPROACH TO REHABILITATION WORKS

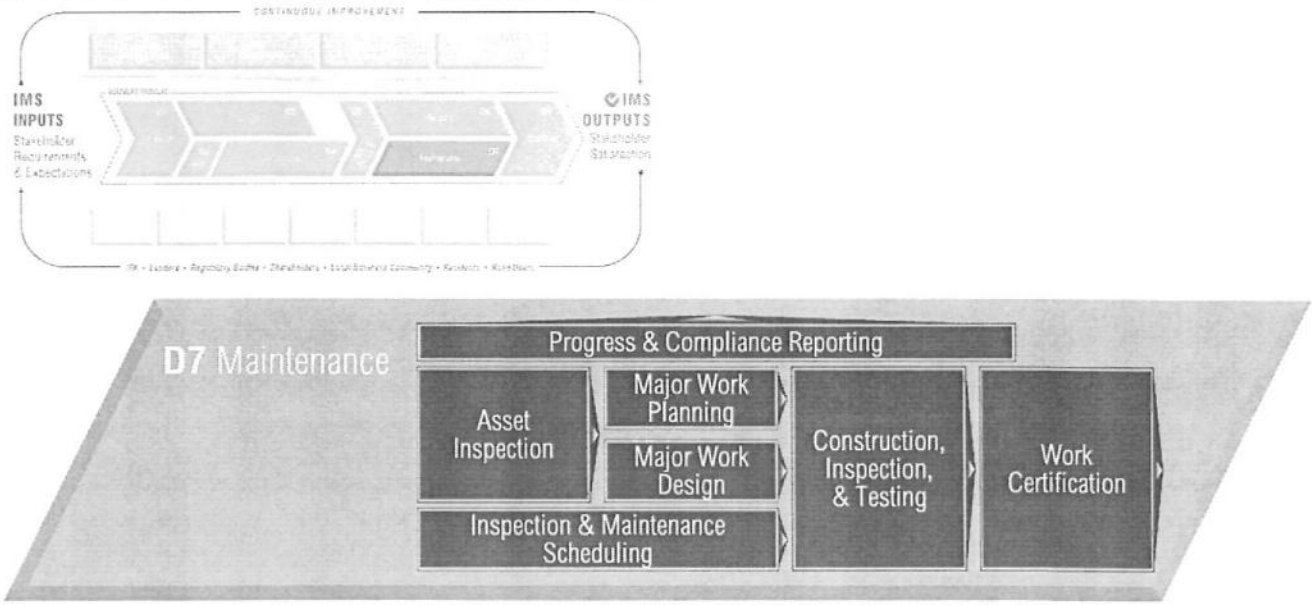
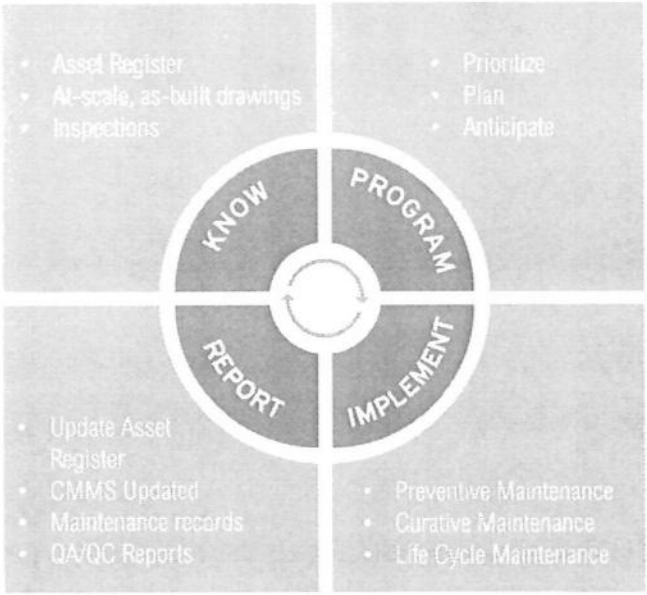


FIGURE 4.3-11 ROLLING PROGRAM PROCESS



WVB O&M Team's Rolling Program of major maintenance will follow the process outlined in **Figure 4.3-11**.

MINIMIZING TRAFFIC DISRUPTIONS: The WVB O&M Team has a preventive maintenance strategy, effectively minimizing full reconstruction and therefore limiting the disruptions for the traveling public, see **Figure 4.3-12**.

The WVB O&M Team will, whenever possible, maintain works during off peak hours (period B) to further minimize the impact to the traveling public. Only major deck repairs and the latex overlay on the main bridge require long-term closures. These activities are tracked on the rehabilitation schedule providing for early notification to IFA, the Department, KYTC and the traveling public.

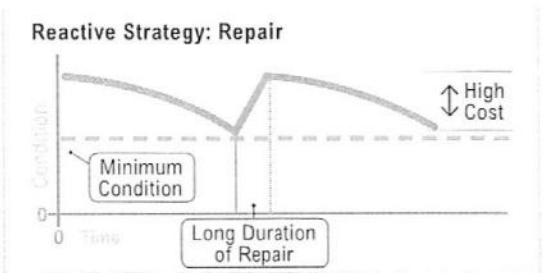
Programming of Works

The rehabilitation schedule, **Figure 4.3-13**, details the WVB O&M Team's anticipated programming of maintenance works. This schedule is based on assumed design life combined with past project experience.

REHABILITATION OF PAVEMENT: The measured condition of the pavement is an important factor in determining the most effective timing of major rehabilitation works. The surface condition dictates the safe operation of the roadway and provides direct interaction with the public in terms of user safety, comfort and general awareness of how well the roadway is being managed. Close consideration is paid to the traffic management to safely undertake the pavement works and minimize the delay and disruption to the user.

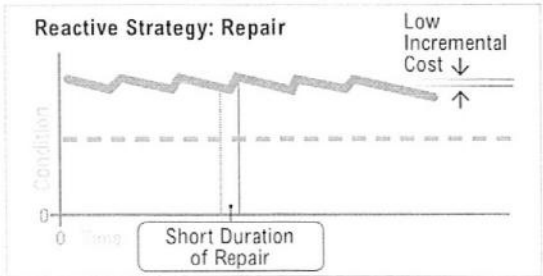
REHABILITATION OF THE MAIN BRIDGE: The WVB O&M Team pays particular attention to the Main Bridge, as this element is critical and complex. Each element of the Main Bridge has been closely discussed between the O&M Team and the Walsh-VINCI CJV to optimize maintenance through bridge design. For example, the bridge inspection catwalk below the deck provides for thorough and safe inspections while maximizing uninhibited flow of the traveling public.

FIGURE 4.3-12 BENEFITS OF A PREVENTIVE MAINTENANCE PROGRAM



Example:

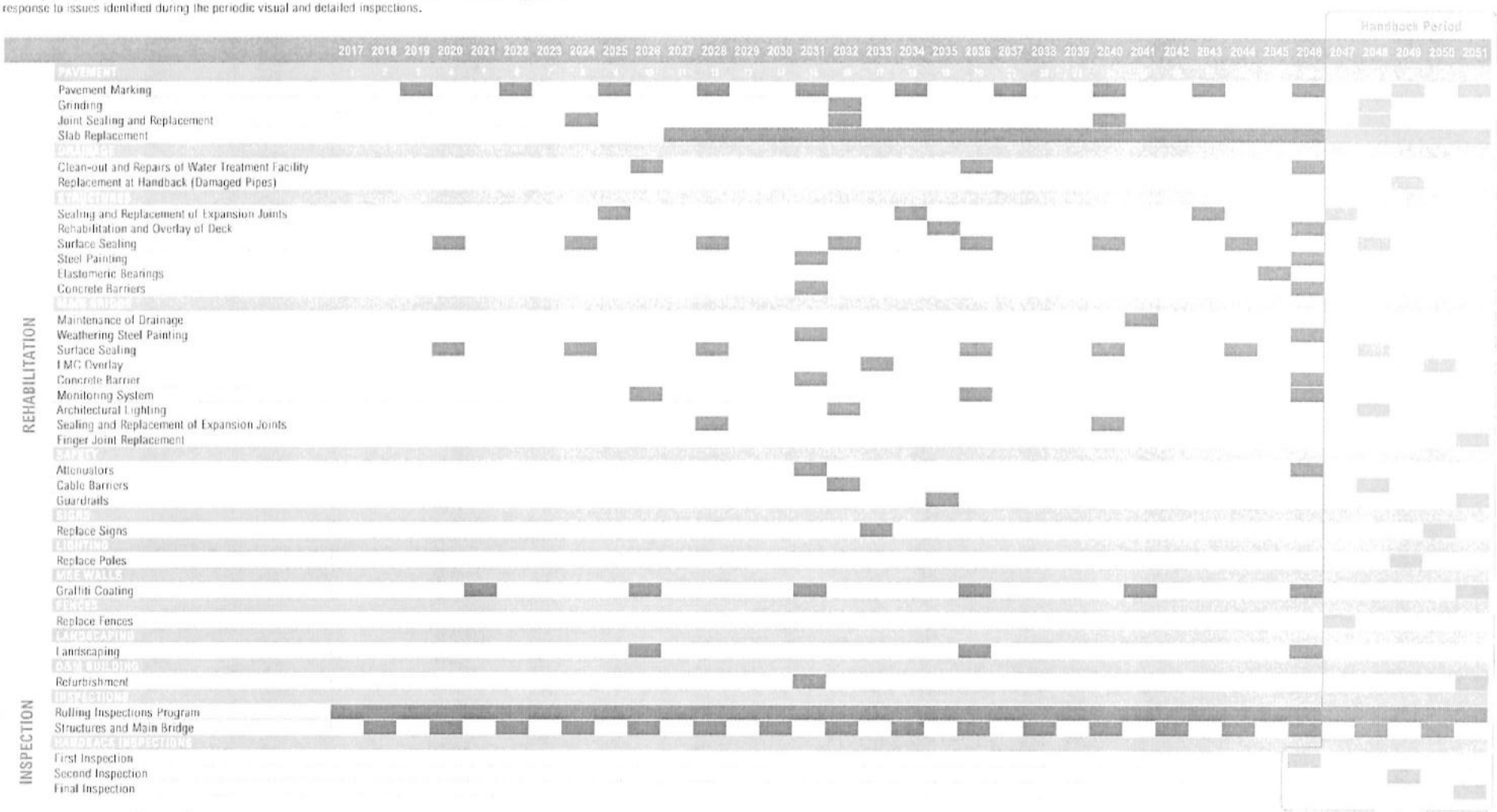
If a small concrete defect on a bridge deck is identified, it can be patched on a limited surface during a night maintenance window.



If the concrete defect on the bridge deck deteriorates more, the reinforced steel will start to corrode and a complete deck replacement, with full lane closures over several days, will be needed.

FIGURE 4.3-13 PRELIMINARY REHABILITATION SCHEDULE

The Rehabilitation Works Schedule is a 35-year schedule showing annual Planned Maintenance. This schedule has been developed based on the specific design of the Project and our experience performing similar services on many past projects. Updated yearly, this schedule allows activities to be planned for the following years in response to issues identified during the periodic visual and detailed inspections.



The WVB O&M Team performs preventive maintenance to extend the life of the bridge components beyond the Term of the Contract.

REHABILITATION OF EXISTING AND NEW STRUCTURES: The Project has ten new bridges and five existing bridges on the roadway. The Maintenance Strategy on these bridges included the following:

- Daily Visual Inspections by the Patrollers and Roadway Maintenance Operators,
- In-Depth Inspections every two years,
- Powerwash all structures at the end of the Winter Maintenance Period to wash away chlorides,
- Surface seal the deck and concrete barriers every four years to protect from chloride aggression,
- Limited rehabilitation and deck overlay are expected at 15-year intervals during the Operating Period.

COSTING: During the Operating Period, the WVB O&M Team has an annual budget that is updated yearly to coincide with the programming of the rehabilitation works. This process is illustrated in **Figure 4.3-14**.

The cost of Rehabilitation works is budgeted according to cost data from similar projects and market prices. Throughout construction the budget is reviewed and adjusted to match the as-built product.

HANDBACK REQUIREMENTS: The WVB O&M Team analyzed the Performance and Handback Requirements of the Project Elements. These requirements influenced the design of some elements, such as bridge deck and pavement, to meet or exceed the targets.

To ensure that Handback Requirements are met, the WVB O&M Team worked backwards from the Residual Life and Useful Life requirements at the Term of the Contract. To meet these targets, the appropriate rehabilitation works have been included in the overall Rehabilitation Schedule.

The WVB O&M Team will develop a Handback Plan six years before the Term of the Contract. This will describe the three Residual Life Inspections to be performed and establish a strategy for any rehabilitation works needed to meet the Handback Requirements.

SCHEDULE: The preliminary rehabilitation schedule is presented in **Figure 4.3-13** and is discussed in Section 4.3.2.2.

STAGED CONSTRUCTION: The WVB O&M Team analyzed the roadway and bridge design to ensure that future rehabilitation works can be accommodated by staged construction. For example, during the LMC overlay on the Main Bridge, we close the shoulders, install temporary barriers and shift the traffic to allow for two lanes of traffic in each direction. All traffic movements are compliant with INDOT and MUTCD standards. By applying the safest traffic management procedures, the WVB O&M Team limits disruption to the traveling public.

MANAGEMENT OF REHABILITATION WORK SIMULTANEOUSLY WITH STANDARD O&M: The WVB O&M Team uses an integrated approach with one team and one manager; Vincent Meyer, handling both routine Operations and Maintenance and Rehabilitation works. This single point of leadership provides a coordinated approach to:

- Activity Planning
- Traffic Management
- Safety
- Quality Control

Wherever feasible, we schedule activities in the same location and time to minimize impacts to the traveling public.

FIGURE 4.3-14 PROGRAMMING AND COSTING

4.3.2 OPERATIONS AND MAINTENANCE MANAGEMENT APPROACH

The WVB O&M Team's approach to the O&M of the facilities is to maximize self-performance by our fully integrated team, led by Vincent Meyer with support of specialist organizations. This approach ensures we maintain the Project understanding gained from our design-build process and combine with our subcontractors' specialized knowledge, equipment and best practice. Our use of local DBEs and SMEs will maximize local economic benefits.

This section outlines the preliminary Operations and Maintenance Management Plan (O&MMP) which is part of the general Project Management Plan (PMP) described in 4.1. The O&MMP complies with all principles described in the PMP.

Plans that apply during the Operating Period, and form part of the O&MMP, include:

PLANS	UPDATED
Operations and Maintenance Plan	Yearly
Maintenance Plan	Yearly
• One-Year Plan	Quarterly
• Five-Year Plan	Yearly
Snow and Ice Control Plan	Yearly
Handback Plan	Six years before the end of Term
Sustainability Management Plan	Every five years

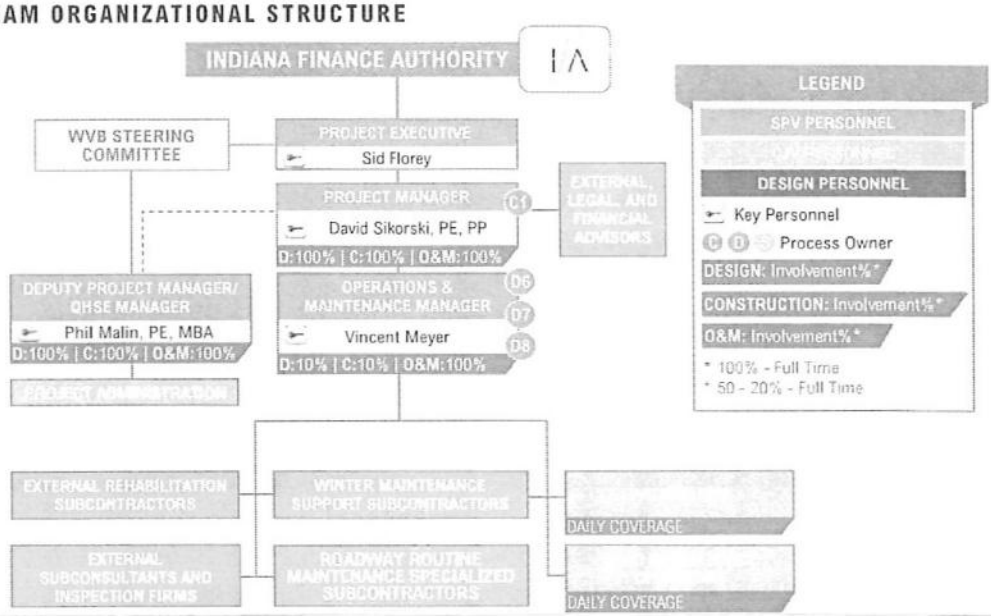
4.3.2.1 ORGANIZATION

WVB's organization reflects industry best practice and our experience operating and maintaining similar facilities. We effectively integrate all disciplines within our team, including specialist subcontractors. Team members are chosen for technical expertise and their collaborative attitude.

4.3.2.1.a. O&M Organization, Participating Firms/Organizations and Individuals

As part of our vertical integration, the WVB O&M Team self-performs O&M through the life of the agreement. We subcontract major maintenance and rehabilitation work, and specialized maintenance. The WVB O&M Team uses contractors who worked in the construction phase as much as possible. This is possible since the lead CJV partner, Walsh Construction, is a local-Indiana firm, who will continue to work in Indiana and Kentucky. Firms such as Milestone and James H. Drew and local DBE firms when appropriate, are consulted during design-build to establish long-term relationships for specialized maintenance activities.

WVB O&M TEAM ORGANIZATIONAL STRUCTURE



4.3.2.1.a-i. Roles and Responsibilities

WVB's O&M Team's proposed organizational structure is shown on the previous page, with the interrelation and lines of communication and reporting between all Project partners indicated. Each key partner's roles and responsibilities are also described in **Table 4.3-2**.

4.3.2.1.a-ii. Key O&M Personnel Function and Responsibility

Vincent Meyer, O&M Manager, is an IFA-specified Key Personnel. He provides input during design-build of the Project to ensure O&M requirements are met. Vincent has more than 16 years of experience in design, construction, operation and maintenance of major transportation road infrastructure. Recently, he served as maintenance manager on the ASF network (624 miles of highway with 2,000 civil works structures) in France from 2008 to 2011. He is currently in charge of VINCI Concessions O&M on several PPP projects in the development phase.

Vincent provides 100% of his time to the Project during the O&M phase.

4.3.2.1.a-iii. Qualification and Experience

To ensure personnel meet and exceed IFA's requirements for safe, high quality O&M delivery, WVB only employs suitably qualified and experienced personnel (SQEP). To achieve this, our project management team follows our SQEP procedure, as explained in Section 4.1. For every position, this establishes the role requirements and responsibilities, experience and qualifications needed, see **Table 4.3-3**. Once hired, candidates are given site specific training as required and periodic performance reviews to ensure professional development.

4.3.2.1.b. Unified Approach to O&M

The WVB O&M Team is committed to working collaboratively as a joint venture and with IFA/INDOT/KYTC at every stage. The common integrated management system applied is set out in our Project Management Plan.

TABLE 4.3-2 RESPONSIBILITIES OF EXPERIENCE STAFF

Staff	Responsibility
David Sikorski Project Manager	• Accountable for the delivery of the PPA contract – project manage and direct the whole team • Act as a single point of contact for the IFA • Coordinate the efficient management of all resources • Define, deploy, review and maintain the business vision, values and strategy for a safe, quality O&M delivery • Report on Project progress and performance to the Client and Lenders • Communicate and contribute to community stakeholders: manage public relations with the Client
Phil Malin Deputy Project Manager/QHSE	• Ensure O&M strategy, quality, safety, and environmental policy align with PPA requirements • Develop, review, and maintain the IMS for effectiveness and performance • Report on performance as required by the PPA • Coordinate quality / process improvement activities, including liaising with the Client and third parties on QHSE management • Asses, monitor and report on compliance against relevant legislation, WVB policies and PPA
Vincent Meyer Operations and Maintenance Manager	• Ensure safety on the Project for the users and the staff of WVB • Preserve the condition of the assets in accordance with the legislation and the Technical Provisions • Ensure quality of the service provided to users • Define and implement the maintenance strategy of WVB • Procure and coordinate with specialized maintenance subcontractors
Administrator	• Coordinate and manage financial accounting and reporting, implementing robust systems and processes • Coordinate and manage statutory accounts preparation, audit clearance, and treasury management
Patroller	• Patrol the project; prevent safety issues; assistance to the traveling public; action in case of incident; participation in routine maintenance; participation in winter maintenance activities
Roadway Maintenance Operator	• Participation in routine maintenance, cleaning, minor repair, etc • Participation in winter maintenance activities • Implementation of Management of Traffic during Maintenance Works • Action in case of Incident if needed

TABLE 4.3-3 O&M PERSONNEL QUALIFICATIONS

Role	Required Qualification	Experience	Additional Site training
Patrollers	Must have a Commercial Driving License	1-3 years in construction or operations	Safety, Emergency Crisis and Winter Maintenance trainings
Roadway Maintenance Operators	Must have a Commercial Driving License and a High School Diploma	1-3 years in construction or operations	Safety, Emergency Crisis and Winter Maintenance trainings
Rehabilitation Subcontractors	Construction Engineers among the staff	10-15 years in construction	WVB QHSE Procedures
Winter Maintenance Subcontractors	Adequate experience and training	5-10 years in winter maintenance	WVB QHSE Procedures
Specialized Routine Maintenance Subcontractors	Adequate experience and training	5-10 years in their speciality	WVB QHSE Procedures
Inspectors	Certified personnel as per INDOT and FHWA Standards	10-15 years	WVB QHSE Procedures

COLLABORATIVE PARTNERING APPROACH: The Project vision, values and objectives agreed at the Project outset are upheld throughout the Operating Period of the work. As our O&M team members join the Project they are asked to review and sign the Partnering Agreement, signaling their commitment to it. Project induction training and regular briefings continually communicate our partnering approach. To support team building, we encourage attendance at regularly scheduled social events.

UNIFIED QUALITY APPROACH: WVB's governance approach and decision making processes established during design and construction remain consistent through the Operating Period. Both decision making and quality assurance are led by Deputy Project Manager, Phil Malin, and supported by our inspection and reporting activities. Active throughout the Operating Period, Phil ensures objective review, approval and channeling of our delivery, to maintain a uniform quality approach.

Common induction training communicates our management approach, individual responsibilities, safety rules and specific quality messages. Focused training is conducted to explain quality standards to maintenance subcontractors.

4.3.2.1.c. Decision-Making Process and Dispute Resolution

Project Manager, David Sikorski, with the support of the WVB Steering Committee, provides clear leadership, including objective setting and decision making.

Through our dispute resolution process, every WVB O&M Team manager is aware of their autonomy to make decisions. This encourages correct and rapid resolution of issues at the lowest possible level. To facilitate decision making we use a matrix of potential issues that could arise. This clarifies the escalation and reporting that applies in each case.

All partners commit to resolve any internal disputes according to the terms of the contract. Our priority in the event of any dispute the efficient continuation of O&M activities.

4.3.2.1.d. Training Program

To ensure continuous improvement and safe O&M, the staff is regularly trained. WVB's O&M Team is trained to understand the importance of the O&M quality management system, including a special focus on the safety of users and workers.

The O&M requirements for a cable-stayed structure are highly technical. In order to ensure the O&M staff is properly trained, experts from VINCI Concessions providing O&M for cable-stayed structures worldwide, will provide annual on-site training. The WVB O&M management team will also travel abroad to visit other VINCI Concessions' projects to foster ideas for improvement.

Patrollers and Roadway Maintenance Operators are trained several times a year. These trainings are carried out either by the Managers of the O&M Team or by external experts from the VINCI Concessions network.

Subcontracted firms are trained as required for major maintenance works. Potential training programs that will be conducted include:

TRAINING PROGRAM	MANAGERS	PATROLLERS
Crisis Exercise	Yearly	Yearly
Winter Maintenance	At start of winter	At start of winter
Safety	Yearly	Daily
Quality Management System	Yearly	N/A
Fire and Hazardous Mitigation	Yearly	Yearly
Human Resources Management	Yearly	N/A
Environmental Compliance	Yearly	Yearly

4.3.2.1.e. Communication and Documentation

Internal lines of communication and reporting during the Operating Period follow the O&M organizational structure discussed in Sections 4.3.2.1.a and 4.3.2.1.a.i. Document sharing requirements are detailed in all O&M management system procedures, including method statements and reporting templates.

INTERNAL COMMUNICATION: Internal communication is facilitated through multiple formal and informal channels to maximize collaboration and trust in the WVB O&M Team (including supply chain) and support continuous performance improvement. Since the WVB O&M Team is small, and located in the O&M Building, internal communication will be naturally facilitated.

MEETINGS: A schedule of meetings will be developed and implemented to enable our O&M management team to meet with each other and with our specialist subcontractor partners to review performance, ensure good governance and project control, support effective communication and facilitate decision making during the O&M stage of the Project. If subcontractor performance is inadequate this is discussed at the regular performance meetings and an improvement plan is created, implemented and monitored.

DOCUMENTATION AND DATA: Project management documentation and data is stored electronically and shared via the common collaboration and document management platform DyMaDoc, used during construction. Asset management and maintenance records are stored in the INDOT-supplied CMMS. Access to both systems is provided to all authorized members of our Team and subcontractors as necessary. The systems will facilitate document sharing and review by allowing information to be issued electronically to select lists of email addresses. Maintaining centralized data sources eliminates the potential use of outdated information.

REPORTING: The WVB O&M Team has clear reporting responsibilities within our organization. Report templates will be agreed with IFA and used to make sure the current data is available, to ensure consistency and facilitate interpretation of results. Senior managers use these reports to support continuous improvement.

4.3.2.1.f. Approach to O&M Prior to and Following Substantial Completion

O&M Manager, Vincent Meyer, is involved during design-build to ensure he is aware of issues that arise and to provide input into any decisions that will affect the Operating Period.

Coordination between Vincent, and the Walsh-VINCI CJV Construction Manager, Brian Hoppel, is particularly important in the six months prior to Substantial Completion. Vincent and his team participate in the preparation and resolution of the punch list with the Walsh VINCI CJV. This process prepares the O&M Team to be fully operational on the day of construction Substantial Completion. This Pre-Operation Period is also a time when the O&M Team is able to focus on handover activities from construction to operation, including asset inventory, commissioning and testing. This ensures the appropriate transfer of knowledge and control from the construction team (Walsh-VINCI CJV) to the operating team (WVB O&M Team).

During the Pre-Operation Period, the O&M Team gradually ramps up to be fully staffed at least one month before Substantial Completion. The time leading up to Substantial Completion is used to train the O&M staff.

Following Substantial Completion, the Walsh-VINCI CJV continues to work on Punch List items. At this time, the WVB O&M Team is fully in charge of organizing the planning, safety and traffic management of the Walsh-VINCI CJV works. David Sikorski, Project Manager during both construction and O&M, will ensure completion of the project delivery.

4.3.2.1.g. Interfaces During O&M

Throughout the Operating Period, establishing open, honest relations with the IFA, the Department and all applicable third parties is vital to smooth, safe operation and maintenance of high quality facilities. The overall approach described in our Project Management Plan (see section 4.1.1.b) still applies. **Table 4.3-4** shows how we interact with key O&M interfaces.

David Sikorski, is the main contact for IFA, INDOT and KYTC. He is supported by our Operation and Maintenance Manager, Vincent Meyer, who coordinates with applicable third parties. The WVB O&M Team regularly reports on performance in relation to Project progress, quality and safety as well as upcoming Planned Maintenance works.

4.3.2.1.h. Public Information and Communications Approach

PUBLIC INFORMATION AND COMMUNICATIONS APPROACH DURING O&M: The WVB O&M Team understands the importance of efficiently providing clear, reliable and prompt information to the public throughout the Operating Period. This will be important to maximize safety and maintain a high quality image of the Project. We provide information for press releases and access to a company spokesperson when needed. The WVB O&M Team provides advance information to IFA for approval prior to distribution to the public.

Public information and communication in all project stages is controlled by the WVB Public Information Plan. This is updated to become the O&M PIP to ensure it reflects the changing requirements for public communications at this stage of delivery.

QUALIFICATIONS AND EXPERIENCE OF PUBLIC INFORMATION AND COMMUNITY OUTREACH STAFF: David Sikorski provides Public Information for the Project during the Operating Period. During design and construction David supports Dan Hartlage of Guthrie/Mayes in the Public Information effort. David will be involved in all facets of the O&M and will bring a complete understanding to the task of providing Public Information. David has over 25 years experience in transportation engineering and operations with particular expertise in Public Private Partnerships. He draws on this experience and his work with Dan during design and construction to effectively manage the PIP.

OPERATING PERIOD PIP: Procedures set out in the O&M PIP ensure the full and regular consultation of all parties. This occurs annually, prior to substantial changes in practice or as part of the planning process for activities with significant potential impacts (e.g. major rehabilitation activities). All relevant information is provided in advance and sufficient notice given to allow all parties concerned to consider potential issues. Notification to the public about upcoming lane closures/lane adjustments and detours will occur after IFA approval. David directly handles communications with local businesses.

TABLE 4.3-4 COMMUNICATION APPROACH

ORGANIZATION	COMMUNICATION APPROACH	FREQUENCY
IFA / INDOT / KYTC (and consutants)	The WVB O&M Team will organize meetings with appropriate representatives to discuss: future lane closures; the previous month's maintenance activities and outcomes; Planned Maintenance activities for the next month and any expected impacts or issues; Incidents / accidents; adjustments to the Availability Payment; assessment of Non-Compliance points, Unavailability Events, and other pertinent information.	Monthly
Traffic Incident Management Team	The WVB O&M Team will attend all meetings to review near miss, Incident and accident data and identify measures to reduce the occurrence of such Incidents. The effectiveness of measures already introduced will also be examined.	Quarterly
Federal, state and local agencies	The WVB O&M Team will organize meetings with appropriate agencies affected by rehabilitation work. The WVB will attend meetings requested by agencies to coordinate with future projects.	As Needed
Utilities	The WVB O&M Team will organize meetings with utilities affected by rehabilitation work. The WVB will attend meetings requested by Utilities to coordinate future utility projects.	As Needed

POSITIVE IMPACT ON THE COMMUNITY

4.3.2.2 BASELINE SCHEDULE

WVB has a detailed Operation and Maintenance Schedule showing all major components. This schedule is summarized in the preliminary baseline schedule as provided in Volume 2 Appendices. The baseline O&M schedule provides an outline of our expectations for all maintenance requirements over this 35-year agreement. This schedule has been developed based on the specific design of the Project and our experience performing similar services on many past projects. This includes understanding of the latest industry best practice, the expected design life of the structures being constructed and manufacturer expectations of the materials to be included.

4.3.2.2.a Schedule – Proposed O&M Schedule Methodology

The O&M schedule remains a live document throughout Project lifecycle and is subject to ongoing review and update. It enables us to manage all O&M activity effectively, allocate resources efficiently and closely monitor performance in all areas to achieve continuous improvement. This includes the activities of all subcontractors.

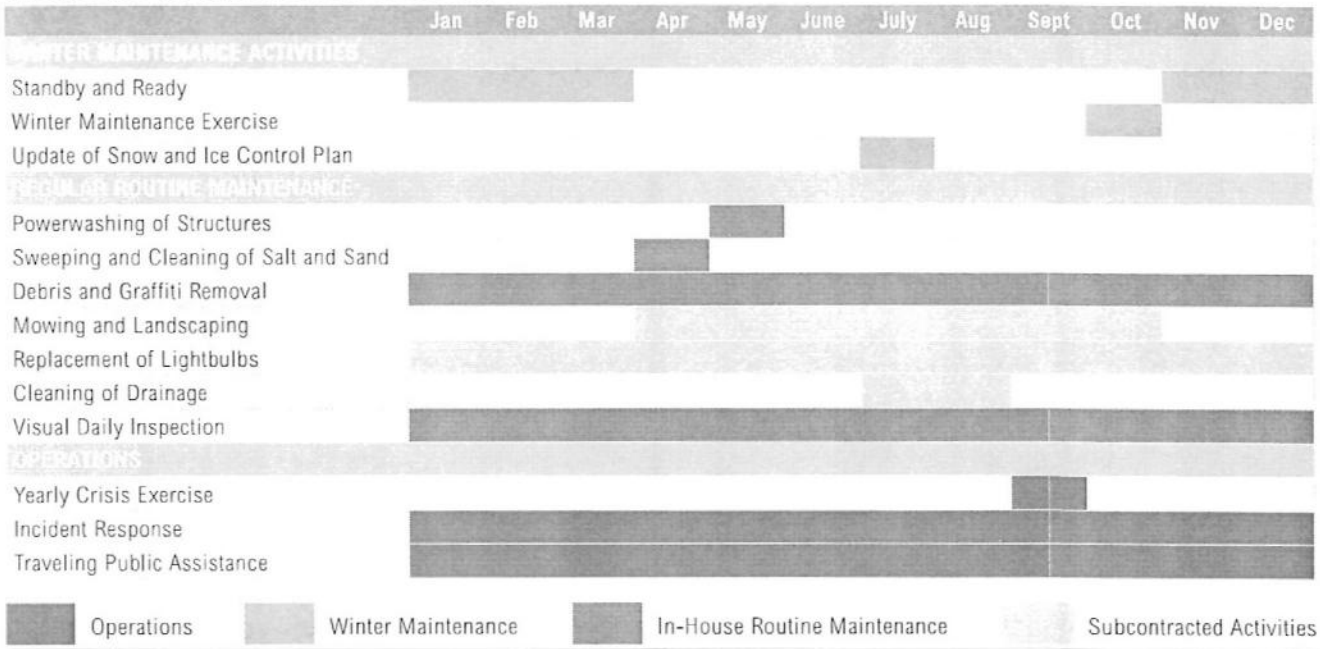
4.3.2.2.a-i. Approach for Project Schedule and Payment Requests

PREPARING, CONTROLLING AND UPDATING THE SCHEDULE: The Planned and Routine Maintenance Schedule is an annual schedule showing all daily, weekly and monthly scheduled maintenance activities, see **Figure 4.3-15**. Vincent Meyer, has the flexibility to plan these activities according to local requirements, in response to the weather, special events or to minimize traffic disruption. This schedule is updated weekly and submitted to IFA monthly. It is reviewed internally to enable refined scheduling on a weekly/daily basis.

The Rehabilitation Works Schedule is a 35-year schedule showing annual Planned Maintenance. This is updated yearly to allow activities to be planned for the following years in response to issues identified during the periodic visual and detailed inspections.

CALCULATING PERFORMANCE MONTHLY: Compliance with the Project requirements is monitored throughout the Operating Period. Any issues, events or defects are recorded as non-conformances.

FIGURE 4.3-15 ANNUAL O&M SCHEDULE



The quarterly Operations Report provided to IFA includes the following O&M records: complete records of any Incidents, inspections, and assessments, details of rehabilitation works, monthly lane closures and supporting information necessary to confirm the occurrence and satisfactory resolution of any non-compliance events, unavailability events or defects. Based on this information, the report includes a high-level summary of Non-Compliance Events, Unavailability events and Non-Compliance Point assessments.

With the CMMS, the WVB O&M Team can access real-time reports on the roadway O&M. Performance compliance data is extracted monthly from this to enable real-time reporting and quick corrective actions to be taken in response to any Non-Compliance Event.

All reports to be provided as per the PPA and Technical Provisions will feed into the performance calculation.

PREPARING QUARTERLY PAYMENT REQUESTS: The WVB O&M Team calculates the quarterly payment request with data (e.g. Lane Closures and Non-Compliance Events) from the CMMS and O&M reports. This calculation is based on three items:

- **Unavailability Adjustment,** based on the Lane Closures Record
- **Non-Compliance Adjustment,** based on the monthly Performance Calculation
- **Other Non-Compliance Adjustment,** calculated quarterly as events arise

The WVB O&M Team also includes the supporting information on which the payment request is based.

4.3.2.2.a-ii. Approach to Integrating Subcontract Activities

The WVB O&M Team subcontracts services to specialists where this expertise benefits IFA. To ensure smooth management of the Project, all subcontract work is integrated seamlessly into our O&M work plan. The subcontractors become part of our 'one team' approach, through their inclusion in joint training activities and our shared project goals. This includes involving them in weekly and monthly schedule review meetings as appropriate to their level of activity on the Project.

Some subcontractor repair activities are emergencies. As such, direct communication and coordination with them at all times is important and therefore contractually assured. We incorporate the performance requirements of the Technical Provisions into all subcontracts, including financial penalties, to ensure our partners are aware of the Project quality, safety and environmental requirements and abide by them. For example, our winter maintenance subcontractor is required to achieve bare pavement within 2 hours of the end of any winter event, as set out in the PPA documents.

TIME & BUDGET

All subcontractors will be required to use the WVB O&M Team scheduling and reporting systems to ensure consistency and easier performance monitoring by IFA.

All WVB O&M subcontractors are required to commit to our management objectives. These are defined in a charter which all project participants (including WVB O&M Team, subcontractors, inspection organizations and main suppliers) are asked to review and sign upon joining the Project team.

4.3.2.2.a-iii. Approach to Achieve the Project Schedule and Recover any Schedule Slippage

MANAGING RESOURCES AND ACTIVITIES: Setting and communicating the expectations for the scheduling of maintenance activities is our primary method of managing resources and activities (both our own and subcontractors) in order to achieve the Project schedule. This will be supported by accurate field updates of progress for incorporation into the schedule, these updates will identify any areas of slippage. Updated schedules will be included in the quarterly Operations Report to IFA.

RECOVERING SCHEDULE SLIPPAGE: Early identification of negative variance from either the maintenance or rehabilitation schedule, through our ongoing review of performance against the schedules, limits the need for any schedule recovery. If any slippage does occur we will identify the causes and accelerate related activities on a critical path to enable schedule recovery. This includes the allocation of additional management resources if required and increased performance measurement until the schedule slippage has been recovered.

4.3.3 OPERATIONS AND MAINTENANCE QUALITY MANAGEMENT

O&M QUALITY MANAGEMENT APPROACH: The WVB O&M Team is committed to achieving exceptional quality performance and meeting all of IFA's quality expectations for the Operating Period of the Project. Our general approach to quality management has been described in Section 4.1.5. Quality management is one of the key processes within our IMS (control process C2), which will apply throughout all Project stages to achieve a consistent approach to quality management, from design and build through O&M.

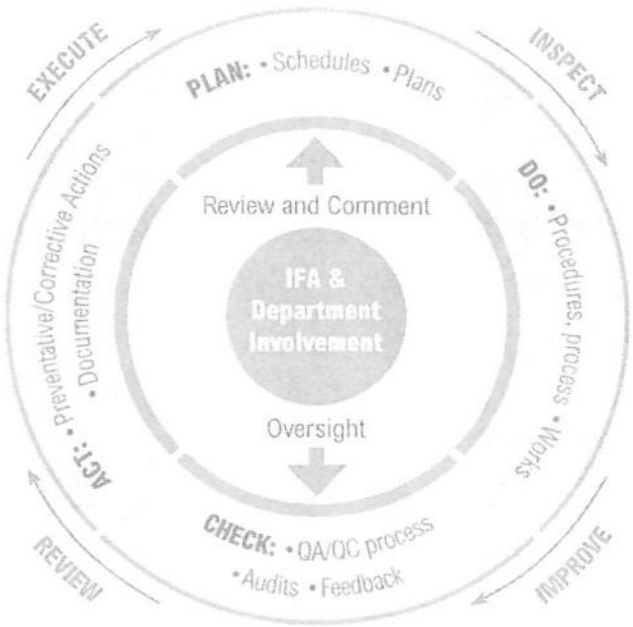
During the O&M phase our quality commitments will be to:

- Achieve the contractual quality, deadline and budget goals set in the PPA in accordance with the applicable legal framework and standards
- Ensure the O&M Team meets all Project operation and maintenance requirements in line with the contractual requirements, public safety standards, WVB's safety standards and environmental standards
- Establish best practices and foster continuous improvement through collected and solicited feedback.
- Communicate with all interested parties, including IFA, users and nearby residents, to promote a positive image of the project and anticipate and address any potential sources of dissatisfaction.

The O&M Quality Plan identifies the means for monitoring and evaluating all aspects of Project delivery against the Performance Requirements specified in the Technical Provisions. All of the supporting data and calculations used will be submitted to IFA in the quarterly Operations Report. Because the final design, equipment selections, and construction quality impacts the requirements of the Plan, the WVB O&M Team considers these requirements further during the design development phase. At that time, our outline Plan will be adapted to ensure it meets the specific requirements of the facilities that we design and build.

As shown on **Figure 4.3-16**, the WVB O&M Team follows the same quality assurance and control principles used in the design and construction stages of the Project detailed in Section 4.1.5. The quality assurance system will include procedures to validate the data, times, dates and logs that are the basis of the Availability Payment and Noncompliance Points Adjustment calculations.

FIGURE 4.3-16 QUALITY MANAGEMENT APPROACH



A DESCRIPTION OF QUALITY ASSURANCE AND QUALITY CONTROL FUNCTIONS: Deputy Project Manager, Phil Malin, will be responsible for quality throughout the Operating Period. The approach and quality plan will be continued from the design-build processes to provide consistency from design, construction and through the Operating Period.

This includes our independent quality assurance team, which will remain separate from the teams actually carrying out the activities being monitored and assessed.

APPROACH TO INVOLVEMENT REPORTING RELATIONSHIPS AND RESPONSIBILITIES FOR IFA AND DEPARTMENT OVERSIGHT: The quarterly Operations Report provided to the IFA form the basis of the IFA and Department's review of our performance and progress. This key report includes all quality system results, including reports on closures, Unavailability Events, Non-Compliance and Incident

log data. It includes all findings from the O&M quality management and assurance system as well as our assessment of O&M subcontractor activities, potential areas for performance improvement and lessons learned where appropriate.

The WVB O&M Team also provides the following reports for IFA's use.

REPORTS	GENERATED
Winter Patrol Diary	Daily during winter
Incident Reports	When arises
Planned Maintenance Schedule	Monthly
Lane Closures Record	Monthly
Non-Compliance Events Report	Monthly
Operations Report	Quarterly
Unavailability Adjustment Report	Quarterly
Unplanned Maintenance Activities Report	Quarterly
Maintenance Work Report	Quarterly
Non-conformance Report	Quarterly
Performance Inspections Results	Yearly
General Inspection Report	Yearly
Performance and Measurement Table	Yearly
Rehabilitation Work Report	Yearly
Pavement OBSI tests Reports	Every 3 years

The O&M Quality Management Plan details how the WVB O&M Team collects and records the information for these reports. Information collected will include (but not be limited to) details of:

- Incidents
- IFA / User satisfaction
- Process performance
- Inspection and audit results
- CMMS data
- Other IMS activities (including meeting minutes, management review findings, etc.)

The analysis of this information is reviewed at dedicated meetings to verify overall compliance to the PPA requirements. These reports are provided for IFA Oversight.

QUALITY

During the O&M Period, IFA has access to:

- Accompany the WVB O&M Team on physical performance inspections, conducting its own performance inspections and assessing and scoring the WVB O&M Team's O&M records
- Monitor and audit the WVB O&M Team's detection, reporting, response times and times to rectify breaches and failures for which non-compliance points or unavailability adjustments may be assessed pursuant to Section 11.3 of the PPA in accordance with Exhibit 10 (Payment Mechanism)

The WVB O&M Team coordinates and cooperates with IFA, its authorized representative and the Department to facilitate IFA's and the Department's oversight activities. IFA has the ability to use and access the CMMS to capture these observations. Observations will be identified either as conforming or non-conforming to related requirements of the PPA documents. The WVB O&M Team responds to all detected instances of non-conforming work using the CMMS.

Phil has quality management authority independent to that of the Project Manager and has direct quality reporting obligations to the Project Steering Committee and to IFA in relation to O&M quality management.

INTERNAL PROCESS FOR PREPARING AND REVIEWING REPORTS:
WVB O&M Team Patrollers and Roadway Maintenance Operators have a daily record of operations that will document all Incidents, Non-Compliance Events, Unavailability Events, lane closures and any issue that might arise on the Project. The O&M Manager reviews and approves the record at the end of each day. These records are reviewed weekly by the Project Manager.

DOCUMENTATION AND CORRECTION OF NON-COMPLIANCE ISSUES: The WVB O&M Team procedure for issuing non-conformance reports is set out in the O&M Quality Plan. These can be issued either by IFA or the WVB O&M Team. All Non-Compliance Events are considered as non-conformances. Non-conformances could arise in relation to:

- Application of the project management system (e.g. company quality, health, safety, environment and sustainable development measures), detected during audits, following complaints or via claims from IFA.
- The operation and maintenance services provided by the WVB O&M Team.
- The project assets, as identified during project inspections.

The Quality Plan explains the methodology for dealing with any actual and potential non-conformances in a timely and efficient manner as well as for triggering corrective and improvement/preventive actions.

The key steps to document and correct a non-conformance event are as shown in **Figure 4.3-17**.

CONTINUOUS IMPROVEMENT THROUGH REMEDIAL AND PREVENTIVE ACTIONS: The WVB O&M Team uses the results of our formal O&M quality performance audits, tests and inspections, together with any team observations, claims or reported failures to comply with contract requirements, and identify continuous improvement opportunities. This will include both remedial actions needed to correct deviations and avoid their recurrence and preventive actions needed to prevent future deviations from occurring at all.

As remedial and preventive actions are identified, they will be recorded in an Actions List. This explains how each action was defined, its approval cycle and related monitoring requirements. For all approved actions the list includes a detailed description, date of issue, deadline for action and identified owner.

Phil Malin will use the Action List to track the progress of remedial and preventive actions implemented. The Action List will be reviewed monthly, as an important part of the ongoing Management Review process. After a suitable period of time (depending on the action), we assess whether actions have been successful. Evidence will be captured to document this. Once we are satisfied the problem is not recurring, the issue is closed and recorded as such on the Actions List. Successful actions are then introduced into our standard maintenance procedures as best practices.

GOLDEN EARS BRIDGE

Phil Malin brings lessons learned and experience from a similar PPP cable-stayed bridge, Golden Ears Bridge in British Columbia.

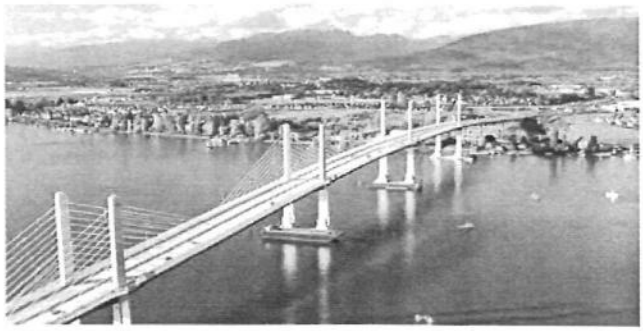


FIGURE 4.3-17 PROCESS TO IDENTIFY, CORRECT AND REPORT NON-CONFORMANCE WORK

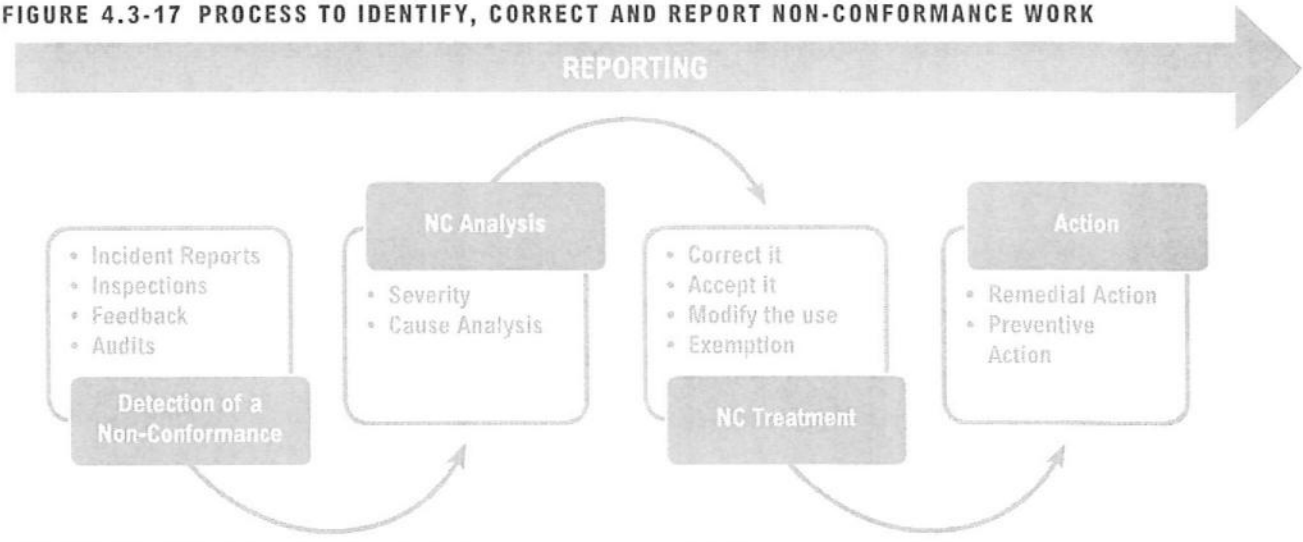


EXHIBIT 2-H

EQUITY MEMBERS, CONTRACTORS AND KEY PERSONNEL COMMITMENTS

Equity Members

Developer represents and warrants that the following are all the Equity Members:

WI East End, LLC; VINCI Concessions Investments USA Inc.; Bilfinger East End Holdings Inc.

Key Contractors

Developer commits to provide, and IFA hereby approves, the following firms and organizations to initially serve as the following Key Contractors:

Names of Key Contractors	Key Contract
Walsh Construction Company / VINCI Construction Grand Projects (joint venture, "Design-Build Contractor"))	Design-Build Contract for the East End Crossing (Louisville-Southern Indiana Ohio River Bridges Project)
Jacobs Engineering Group, Inc.	Agreement for Design Services (Phase I)

Other Contractors

Developer commits to provide, and IFA hereby approves, the following firms and organizations to initially serve as other Contractors:

Names of Contractors	Contract
VINCI Concessions S.A.S.	operations and maintenance services
International Bridge Technologies, Inc.	design subconsultant
Guthrie/Mayes	public relations services
Third Rock Consultants LLC	environmental consultant services
James H. Drew, Corp.	electric, ITS and signs subcontractor
Advitam, Inc.	bridge health monitoring services
C. Lee Construction	sitework services

Messier & Associates, Inc.	trucking services
American Structurepoint, Inc.	design subconsultant
Earth Exploration, Inc.	geotechnical subconsultant
RWDI	wind subconsultant
Stantec	geotechnical subconsultant
Buckland & Taylor	bridge subconsultant
MacDonald Architects-	bridge architect
Carmen & Associates	landscape architect

Key Personnel

Developer commits to provide, and IFA hereby approves, the following individuals to initially serve as the following Key Personnel:

Names of Key Personnel	Key Personnel Positions
Sid Florey	Project Executive (if different from the Project Manager)
David Sikorski	Project Manager
Phil Malin Bruce Williams Greg Ciambrone (part time, 25% only)	Deputy Project Manager(s)
Kristof Van Loon	Financial Director
Dan Hartlage	Public Information Coordinator
Brenda Wolf	DBE Coordinator
Marcos Loizias	Lead Engineer
Dan Tassin	Lead Bridge Engineer (if different from Lead Engineer)
Brij Goyal	Lead Tunnel Engineer (if different from

	Lead Engineer or Lead Bridge Engineer)
Brian Hoppel	Construction Manager
Pierre Morand	Bridge Construction Manager (if different from Construction Manager)
Frederic Sciblo	Tunnel Construction Manager (if different from Construction Manager or Bridge Construction Manager)
Martine Julia-Sanchez	Quality Manager
Mark Hedrick	Utility Manager
Mike Lawler	Safety Manager
Gina Morris	Environmental Compliance Manager
Vincent Meyer	Operations and Maintenance Manager
John Reid	Construction Quality Control Manager
Bruce Peterson	Design Quality Assurance Manager
Courtney Norris	Construction Quality Manager

EXHIBIT 2-I

COST TABLES

[attached]

2-I(1) Summary Cost Table

2-I(2) Capital Cost Table

2-I(3) Operating Period Cost Table

FORM O

SUMMARY COST TABLE FORM

Summary Cost Table Form instructions:

a) In Form O – 1 Capital Cost Table, indicate, in figures, the lump sum labor and non-labor capital cost for each East End Crossing element listed.

b) In Form O – 2 Cumulative Cost Table, provide a cumulative quarterly curve of cost expenditures.

e) In Form O – 3 Operations Phase Cost Table indicate, in figures, the expected annual lump sum costs for each element listed, for the first ten years of operation.

Form O – 1 Design and Construction Capital Cost Table		
Cost Category	Capital Cost	
Project Management	$ 43 000 000	
Design and Construction management and general activities	$ 100 000 000	
Design	$ 56 400 000	
Environmental	$ 4 000 000	
Roadways Construction	$ 99 300 000	
East End Bridge Construction	$ 122 500 000	
Tunnel Construction	$ 84 360 000	
Other Structures Construction	$ 87 376 000	
Utilities	$ 25 264 000	
Contingency and Profit	$ 140 800 000	
	Labor Cost	Non-Labor Cost
Subtotals	$107 932 000	$655 068 000
Totals	$ 763 000 000 (Total Project Capital Costs)	

Form O – 2 Cumulative Design and Construction Capital Cost Table		
Cost Category	**Quarter**	**Capital Cost**
Construction Year 1	Quarter 1	$ 59 095 011
	Quarter 2	$ 111 963 242
	Quarter 3	$ 150 718 772
	Quarter 4	$ 186 104 262
Construction Year 2	Quarter 1	$ 244 707 045
	Quarter 2	$ 326 605 601
	Quarter 3	$ 418 111 066
	Quarter 4	$ 488 366 439
Construction Year 3	Quarter 1	$ 551 544 350
	Quarter 2	$ 618 196 213
	Quarter 3	$ 674 097 760
	Quarter 4	$ 704 251 099
Construction Year 4	Quarter 1	$ 726 122 444
	Quarter 2	$ 750 002 350
	Quarter 3	$ 761 477 618
	Quarter 4	$ 763 000 000
	Totals	$ 763 000 000 (Total Capital Cost for East End Crossing)

Form O – 3 Operating Period Cost Table						
Cost Category	Annual Expenditure Plan (1)					
	Yr 0 (3)	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
Operations (2)	160 957	1 246 692	1 402 723	1 136 537	1 504 271	1 345 931
Insurance	214 467	1 302 889	1 335 462	1 368 848	1 403 069	1 438 146
Roadway and Structure Maintenance	126 548	768 779	789 877	811 588	833 931	856 926
Rehabilitation Work	0	0	21 680	268 711	815 495	80 859
Totals	**501 972**	**3 318 360**	**3 549 741**	**3 585 683**	**4 556 766**	**3 721 862**

Form O – 3 Operating Period Cost Table					
Cost Category	Annual Expenditure Plan (1)				
	Yr 6	Yr 7	Yr 8	Yr 9	Yr 10
Operations (2)	2 067 989	1 322 986	1 573 185	1 771 292	2 353 687
Insurance	1 474 100	1 510 952	1 548 726	1 587 444	1 627 130
Roadway and Structure Maintenance	880 594	904 955	930 032	955 848	982 426
Rehabilitation Work	117 900	288 800	1 497 552	254 639	295 489
Totals	**4 540 583**	**4 027 694**	**5 549 495**	**4 569 223**	**5 258 733**

In USD
(1) Figures in Nominal Numbers
(2) "Operations Cost Category" includes Vehicle and Equipment Renewal costs and Inspection Costs
(3) Yr 0 - 2016 Partial Year

EXHIBIT 2-J

TERMINATION FOR CONVENIENCE CALCULATION METHOD

[attached]

FORM V

TERMINATION FOR CONVENIENCE CALCULATION METHOD

Should IFA terminate the Agreement according to Section 20.1 of the Agreement, the undersigned Proposer hereby chooses to be paid a compensation amount equal to the ***Forward Looking Termination for Convenience Amount***, and irrevocably and unconditionally renounces and waives any right to claim the ***Backward Looking Termination for Convenience Amount.***

Date: 24 October 2012

Proposer: WVB East End Partners

Signature: [signature]

Title: Authorized Representative

EXHIBIT 2-K

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[attached]

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The undersigned certifies on behalf of WVB East End Partners, LLC, that:

[check one of the following boxes]

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☑ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☑ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: Project Executive

Date: 12/27/12

If not Developer, relationship to Developer: N/A

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The undersigned certifies on behalf of WI East End, LLC that:

[check one of the following boxes]

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☑ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☑ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: Gregory A. Gainbrone

Title: Manager

Date: 12/27/12

If not Developer, relationship to Developer: Equity Member

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The undersigned certifies on behalf of VINCI Concessions Investments USA Inc. that:

[check one of the following boxes]

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☑ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☑ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: President

Date: December 27, 2012

If not Developer, relationship to Developer: N/A

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The undersigned certifies on behalf of Bilfinger East End Holdings Inc. that:

[check one of the following boxes]

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☑ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☑ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: PRESIDENT

Date: DECEMBER 27, 2012

If not Developer, relationship to Developer: Equity Member

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of Walsh Construction Company-Vinci CGP Construction Joint Venture, that:

(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

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Signature: _____

Title: Business Group Leader

Date: 12-19-12

If not Developer, relationship to Developer: Design-Build Contractor

[1] as Equity Member, Major Participant are defined in the ITP.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of Walsh Construction Company, that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: President, Walsh Construction Company

Date: 12/19/2012

If not Developer, relationship to Developer: Design-Build Contractor Joint Venture Member

[1] as Equity Member, Major Participant are defined in the ITP.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of Vinci Construction Grands Projets, that:
(Name of entity making certification)

[check one of the following boxes]

☑ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☑ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: Director, North America

Date: 12/19/12

If not Developer, relationship to Developer: Design-Build Contractor Joint Venture Member

[1] as Equity Member, Major Participant are defined in the ITP.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of Jacobs Engineering Group, Inc., that:
(Name of entity making certification)

[check one of the following boxes]

☑ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☑ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: VICE PRESIDENT

Date: December 27, 2012

If not Developer, relationship to Developer: Lead Engineer

[1] as Equity Member, Major Participant are defined in the ITP.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of International Bridge Technologies, Inc., that:
(Name of entity making certification)

[check one of the following boxes]

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☒ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: PRESIDENT

Date: 17 DECEMBER 2012

If not Developer, relationship to Developer: Contractor

[1] as Equity Member, Major Participant are defined in the ITP.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of Guthrie/Mayes, that:
(Name of entity making certification)

[check one of the following boxes]

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☑ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☑ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: Dan Guthrie

Title: PRINCIPAL

Date: 12/17/12

If not Developer, relationship to Developer: Contractor

[1] as Equity Member, Major Participant are defined in the ITP.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of Third Rock Consultants LLC, that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: President

Date: 12-17-12

If not Developer, relationship to Developer: Contractor

[1] as Equity Member, Major Participant are defined in the ITP.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of James H. Drew, Corp., that:
(Name of entity making certification)

[check one of the following boxes]

☑ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☑ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: Gene Lindley

Title: Gene Lindley, C.O.O.

Date: December 17, 2012

If not Developer, relationship to Developer: Contractor

[1] as Equity Member, Major Participant are defined in the ITP.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of Advitam, Inc., that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☒ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: COO

Date: 12/17/2012

If not Developer, relationship to Developer: Contractor

[1] as Equity Member, Major Participant are defined in the ITP.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of C. Lee Construction, that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: President

Date: 12-21-11

If not Developer, relationship to Developer: Contractor

[1] as Equity Member, Major Participant are defined in the ITP.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of Messier & Associates, Inc., that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: CEO

Date: 12/13/12

If not Developer, relationship to Developer: Contractor

[1] as Equity Member, Major Participant are defined in the ITP.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of American Structurepoint, Inc., that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: Carl E. Carlson

Title: Vice President

Date: December 17, 2012

If not Developer, relationship to Developer: Contractor

[1] as Equity Member, Major Participant are defined in the ITP.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of Earth Exploration, Inc., that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: Dena J. Lee

Title: HR/Office Manager

Date: 12/17/12

If not Developer, relationship to Developer: Contractor

[1] as Equity Member, Major Participant are defined in the ITP.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of RWDI, that:
(Name of entity making certification)

[check one of the following boxes]

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☑ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☑ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: Principal / General Manager

Date: December 19, 2012

If not Developer, relationship to Developer: Contractor

[1] as Equity Member, Major Participant are defined in the ITP.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of Stantec Consulting Services Inc., that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: Principal

Date: December 17, 2012

If not Developer, relationship to Developer: Contractor

[1] as Equity Member, Major Participant are defined in the ITP.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of Buckland & Taylor Ltd.____, that:
(Name of entity making certification)

[check one of the following boxes]

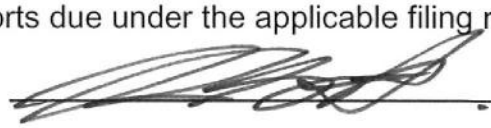
☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☒ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: 

Name: Steve Hunt, M.Eng., P.Eng.

Title: President & CEO

Date: 2012 December 14

If not Developer, relationship to Developer: Contractor

[1] as Equity Member, Major Participant are defined in the ITP.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of MacDonald Architects, that:
(Name of entity making certification)

[check one of the following boxes]

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

X☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

X☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: Donald MacDonald

Title: Principal

Date: December 19, 2012

If not Developer, relationship to Developer: Contractor

[1] as Equity Member, Major Participant are defined in the ITP.

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Developer, Equity Members, Major Participants[1] and proposed Contractors]

The undersigned certifies on behalf of CARMAN, that:
(Name of entity making certification)

[check one of the following boxes]

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☑ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☑ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: President/Sr. Principal

Date: December 15, 2012

If not Developer, relationship to Developer: Contractor

[1] as Equity Member, Major Participant are defined in the ITP.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of W/VB East End Partners, that:
(Name of entity making certification)

[check one of the following boxes]

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☑ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☑ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: S. T. Flaherty

Title: Project Executive / Authorized Representative W/VB East End Partners

Date: 26 October 2012

If not Proposer, relationship to Proposer: _____

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of Walsh Investors, LLC, that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: Manager, Walsh Investors, LLC

Date: 10/17/2012

If not Proposer, relationship to Proposer: Equity Member

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of Vinci Concessions SAS, that:
(Name of entity making certification)

[check one of the following boxes]

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☑ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☑ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: Van Loon Kreslof

Title: PROJECT DIRECTOR NORTH AMERICA

Date: 26 October 2012

If not Proposer, relationship to Proposer: Equity Member

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of **Bilfinger Berger ~~Project Investments~~ International Holding GmbH**, that:

[check one of the following boxes]

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☒ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☒ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Nick Dawson

Managing Director

Dirk Söhngen

Managing Director

Date: 22 OCTOBER, 2012

Bilfinger Berger ~~Project Investments~~ International Holding GmbH, Equity Member

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of Walsh Construction Company-Vinci CGP Construction Joint Venture, that:

(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: Sr. V.P.

Date: 10-19-2012

If not Proposer, relationship to Proposer: Design-Build Contractor

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of Walsh Construction Company, that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: President, Walsh Construction Company

Date: 10/17/2012

If not Proposer, relationship to Proposer: Design-Build Contractor Joint Venture Member

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of Vinci Construction Grands Projets, that:
(Name of entity making certification)

[check one of the following boxes]

☑ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☑ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: Sustainability Director of Bid Manager

Date: October 19th 2012

If not Proposer, relationship to Proposer: Design-Build Contractor Joint Venture Member

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of Jacobs Engineering Group, Inc., that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: Vice President

Date: October 18th, 2012

If not Proposer, relationship to Proposer: Lead Engineer

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of International Bridge Technologies, Inc., that:

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☒ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

☒ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: PRESIDENT

Date: 01 NOVEMBER 2012

If not Proposer, relationship to Proposer: Proposed Contractor

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of ___Guthrie/Mayes & Associates____, that:
(Name of entity making certification)

[check one of the following boxes]

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☒ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☒ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: Dan Hart Lago

Title: PRINCIPAL

Date: 11/1/12

If not Proposer, relationship to Proposer: Public Information Coordinator

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of Third Rock Consultants LLC, that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: [signature]

Title: President

Date: 11-2-12

If not Proposer, relationship to Proposer: Subcontractor

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of James H Drew Corporation, that:
(Name of entity making certification)

[check one of the following boxes]

☑ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☑ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: Gene Lindley

Title: Gene Lindley, C.O.O.

Date: November 1, 2012

If not Proposer, relationship to Proposer: Proposed Contractor

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of Advitam, Inc, that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: COO, Advitam, Inc

Date: 11/1/2012

If not Proposer, relationship to Proposer: _Subcontractor_____

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of C. Lee Construction Services, Inc., that
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: President

Date: 11-2-12

If not Proposer, relationship to Proposer: Proposed Contractor

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of Messier & Associates Inc., that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: C.E.O.

Date: 11/1/12

If not Proposer, relationship to Proposer: Proposed Contractor

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of American Structurepoint, Inc., that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: Carl E. Carlson

Title: Vice President

Date: November 2, 2012

If not Proposer, relationship to Proposer: Subconsultant

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of Earth Exploration, Inc., that:
(Name of entity making certification)

[check one of the following boxes]

☑ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☑ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: Debra J. Lee

Title: EEO Officer

Date: 11-2-2012

If not Proposer, relationship to Proposer: HR / Office Manager
Proposed Contractor

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of __Rowan Williams Davies & Irwin Inc., that:
(Name of entity making certification)

[check one of the following boxes]

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☑ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☑ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: [signature] RWDI

Title: Principal / General Manager

Date: November 2, 2012

If not Proposer, relationship to Proposer: Subcontractor to Walsh / Vinci Jacobs

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of Stantec Consulting Services Inc., that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: Principal

Date: November 2, 2012

If not Proposer, relationship to Proposer: Geotechnical Consultant

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of Buckland & Taylor Ltd., that:
(Name of entity making certification)

[check one of the following boxes]

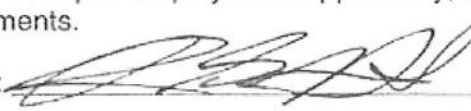
☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☒ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: 

Name: Steve Hunt, M.Eng., P.Eng.

Title: CEO/President

Date: 2012 November 2

If not Proposer, relationship to Proposer: Proposed Contractor

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of MacDonald Architects, that:
(Name of entity making certification)

[check one of the following boxes]

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☒ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☒ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: Donald MacDonald

Title: Principal

Date: November 1, 2012

If not Proposer, relationship to Proposer: Proposed Contractor

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of CARMAN, that:
(Name of entity making certification)

[check one of the following boxes]

☐ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☒ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☒ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☐ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: President

Date: November 02, 2012

If not Proposer, relationship to Proposer: subconsultant

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of Milestone Contractors, L.P., that:
(Name of entity making certification)

[check one of the following boxes]

[X] It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

[ ] It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

[ ] It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

[X] It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: Todd A. Fawver
Todd A. Fawver

Title: Director of Estimating-Columbus

Date: November 2, 2017

If not Proposer, relationship to Proposer: Proposed Contractor

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

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FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of Haydon Bridge Company, Inc., that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: President

Date: 11/2/12

If not Proposer, relationship to Proposer: Subcontractor

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

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FORM Q

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

[To be executed by the Proposer, Equity Members, Major Participants and proposed Contractors]

The undersigned certifies on behalf of Bizzack Construction, LLC, that:
(Name of entity making certification)

[check one of the following boxes]

☒ It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).

☐ It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).

[check one of the following boxes]

☐ It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.

☒ It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: _____

Title: Vice President

Date: November 2, 2012

If not Proposer, relationship to Proposer: Subcontractor

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Equity Members, Major Non-Equity Members or proposed Contractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

EXHIBIT 2-L

DEVELOPER'S PRELIMINARY DBE PERFORMANCE PLAN

[see Section 4.1.2 of Exhibit 2-E]

EXHIBIT 2-M

DBE CERTIFICATION

[attached]

DBE CERTIFICATION

DISADVANTAGED BUSINESS ENTERPRISES REQUIREMENTS

The following goal for participation by Disadvantaged Business Enterprises is established for professional services and construction work on the East End Crossing.

DBE

9%

DBE Certification

Developer certifies that (1) the above DBE goal will be met by obtaining commitments equal to or exceeding the DBE percentage or that the Developer will provide a good faith effort to substantiate the attempt to meet the goal; and (2) Developer will submit a final DBE Performance Plan meeting the requirements set forth in Section 7.10.3 of the Agreement and the DBE Special Provisions attached as Exhibit 7 to the Agreement.

Failure to submit the DBE Performance Plan will be considered a breach of the requirements of the RFP. As a result, the Proposal Bond provided by Developer's affiliated Proposer entity will become property of IFA and Developer (and its affiliated Proposer entity, and its members) will be precluded from participating in any reprocurement of the Agreement for the East End Crossing.

By: _____

Sidney Florey, Project Executive

for WVB East End Partners, LLC

FORM H

DBE CERTIFICATION

DISADVANTAGED BUSINESS ENTERPRISES REQUIREMENTS

The following goal for participation by Disadvantaged Business Enterprises is established for professional services and construction work on the East End Crossing.

DBE
9%

DBE Certification

By signing the Proposal, the Proposer certifies that (1) the above DBE goal will be met by obtaining commitments equal to or exceeding the DBE percentage or that the Proposer will provide a good faith effort to substantiate the attempt to meet the goal; and (2) if awarded the Agreement, the Developer will submit a final DBE Performance Plan meeting the requirements set forth in Section 7.10.3 of the Agreement and the DBE Special Provisions attached as Exhibit 7 to the Agreement.

Failure to submit the DBE Performance Plan will be considered a breach of the requirements of the RFP. As a result, the Proposal Bond provided by the Proposer will become property of IFA and the Proposer will be precluded from participating in any reprocurement of the Agreement for the East End Crossing.

Sidney R. Flores
[name]

Project Executive / Authorized Representative
[title]

EXHIBIT 2-N

DEVELOPER'S PRELIMINARY WORKFORCE DIVERSITY AND SMALL BUSINESS PERFORMANCE PLAN

[see Section 4.1.3 of Exhibit 2-E]

U.S. Department
of Transportation

Federal Transit Administration
Region V
200 West Adams St., Suite 320
Chicago, IL 60606-5253
312-353-2789
312-886-0351 (fax)

Federal Highway Administration
IN Division
575 N. Pennsylvania St., Rm. 254
Indianapolis, IN 46204-1576

SEP 2 2 2005

Earl A. Goode
Commissioner
Indiana Department of Administration
Indiana Government Center South
402 West Washington Street
Room W479
Indianapolis, IN 46204

RE: Buy Indiana Initiative

Dear Mr. Goode:

The United States Department of Transportation received a copy of the Indiana Department of Administration's letter dated June 13, 2005, addressed to Business Owners. The letter explains Indiana Executive Order 05-05 and its goal to ensure that state agencies procure ninety cents of each dollar from Indiana businesses. We understand that Indiana may wish to see a larger percentage of state procurements be awarded to Indiana businesses. Federal law, however, prohibits geographic preferences in third party procurements that use federal funds. If any of the procurements use federal funds, then the state agencies must comply with federal requirements.

The common grant rule for non-state, direct recipients of federal funds, 49 C.F.R. § 18.36(c)(2), prohibits local geographic preferences finding that geographic preferences violate the requirement for full and open competition. Federal law governing contracting in public transit, 49 U.S.C. § 5323(h)(2) states that a grant may not be used to support a procurement that uses an exclusionary or discriminatory specification. In addition, Federal laws governing highway contracting, 23 U.S.C. § 112(b) and 23 C.F.R. § 635.104, require competition for all recipients of federal funds in highway construction contracts to prevent discrimination against contractors. Geographic preferences in third party procurements are exclusionary and anti-competitive. Therefore, if any federal funds are used in state agency contracts, the Indiana Executive Order cannot apply.

In addition, we note that your state implements a non-federal Minority and Women-Owned Business Enterprise Program on its contracts. Please be aware that the Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA) do not permit states to impose state or local affirmative action program requirements such as Indiana's Minority and Women-Owned Business Enterprise Program on contracts utilizing federal funds. Instead, recipients are required to implement the federal disadvantaged business enterprise program requirements as a means of ensuring that minority and women owned businesses have a fair opportunity to participate in US DOT-assisted contracts.

Should you have any questions regarding this matter, please feel free to contact either Nancy-Ellen Zusman at FTA or Lisa MacPhee at FHWA. Ms. Zusman can be reached at 312-353-2789 and Ms. MacPhee can be reached at 202-366-1392.

Sincerely yours,

Donald Gismondi
Acting Regional Administrator
Federal Transit Administration

Robert F. Tally, Jr.
Division Administrator
Federal Highway Administration

STATE OF INDIANA

Mitchell E. Daniels Jr., Governor

DEPARTMENT OF ADMINISTRATION
Commissioner's Office

Indiana Government Center South
402 West Washington Street, Room W469
Indianapolis, IN 46204

Findings Concerning MBE/WBE Goals
on the Ohio River Bridges Project – East End Crossing

WHEREAS, the State of Indiana and the State of Kentucky have been working with the Federal Highway Administration (FHWA) since 1998 to study, select, finance and construct a project to address cross-river mobility issues in the Louisville metropolitan area; and

WHEREAS, in 2003, the FHWA approved a Record of Decision selecting a two-bridge alternative (the Ohio River Bridges Project or "ORBP"), a Supplemental Final Environmental Impact Statement was published on April 20, 2012, and FHWA approved the revised Record of Decision on June 20, 2012; and

WHEREAS, the ORBP consists of two new crossings over the Ohio River, one adjacent to the existing Kennedy Bridge (I-65) in downtown Louisville (the "Downtown Crossing") and one several miles to the east between Utica, Indiana and Prospect, Kentucky (the "East End Crossing"); and

WHEREAS, Governor Mitch Daniels of Indiana and Governor Steve Brashear of Kentucky reached an agreement to fund the ORPB in March 2012 under which Indiana will oversee financing and construction of the East End Crossing; and

WHEREAS, the Indiana Finance Authority (IFA) and the Indiana Department of Transportation (INDOT) are cooperating to construct the East End Crossing between the Lee Hamilton Expressway in Indiana and the Gene Snyder Freeway in Kentucky, completing a loop around the east end of the Louisville metropolitan area; and

WHEREAS, IFA and INDOT plan to use a private sector team for financing, design, construction and long-term maintenance of the East End Crossing, with the exception that portions in Kentucky will not be part of the long-term maintenance, and to that end have chosen four teams to respond to the Request for Proposals (RFP); and

WHEREAS, IFA is proceeding with procurement of the East End Crossing under I.C. 8-15.5, which governs procurement and construction of tolled projects being constructed by IFA as Public Private Partnerships; and

WHEREAS, I.C. 8-15.5-6-3 provides that any contractor or operator building a tolled project under I.C. 8-15.5 is subject to the Minority and Women's Business Enterprise (M/WBE) program (25 I.A.C. 5) concerning equal opportunities for Minority Business Enterprises and Women's Business Enterprises to participate in procurement and contracting processes; and

WHEREAS, federal highway funds have been expended in the design and development of the East End Crossing, and INDOT and IFA anticipate that subject to the conditions of a Public-Private Partnership Agreement governing construction, operation and maintenance of the East End Crossing, additional

federal funds will be used to support construction, maintenance and operation of the East End Crossing in the future; and

WHEREAS, because federal highway funds are being utilized for the East End Crossing, the requirements of the federal Disadvantaged Business Enterprise (DBE) program (49 CFR Part 26) apply to the procurement and construction of the East End Crossing; and

WHEREAS, as explained in the attached letter, the FHWA Indiana Division has determined that the application of M/WBE goals on federal-aid projects is not acceptable and would jeopardize federal funding participation in the project; and

WHEREAS, INDOT has provided and will continue to provide robust outreach and intensive business training to DBEs and potential DBEs throughout the State of Indiana to encourage Indiana companies to participate in the DBE program and to provide these companies with the tools to be successful on the East End Crossing and other INDOT projects; and

WHEREAS, the certification requirements for DBEs under the federal DBE program include the certification requirements for MBEs and WBEs in the State M/WBE program, as well as other federal requirements; therefore, most DBEs certified in Indiana qualify as MBEs or WBEs in accordance with 25 IAC 5; and

WHEREAS, the vast majority (currently seventy-five percent (75%)) of DBEs certified in Indiana are DBEs located in Indiana so IDOA, IFA and INDOT anticipate many Indiana companies will be utilized to meet the DBE goal for the East End Crossing; and

WHEREAS, INDOT and IFA have set a nine percent (9%) DBE goal on the design, development and construction of the East End Crossing and have required the proposer teams on the RFP to submit a detailed DBE Performance Plan and a Workforce Diversity and Small Business Performance Plan with their proposals; and

WHEREAS, in addition to the nine percent (9%) DBE goal set on the East End Crossing, Section 7.12 of the Public-Private Agreement in the Request for Proposals for the East End Crossing encourages the Developer to "make additional efforts to solicit and recruit minority and women-owned businesses and small businesses to participate in the East End Crossing;" and

WHEREAS, because of the additional efforts being made to maximize DBE participation in the East End Crossing and in the ORBP as a whole, IDOA, IFA and INDOT are confident that MBEs, WBEs, DBEs and Indiana companies will find opportunities for participation in the construction of both bridges; and

WHEREAS, under 25 IAC 5-7-3(f), M/WBE participation goals may vary on individual contracts so long as the combined participation on other State contracts meets the annual goal for overall MBE and WBE participation;

NOW, THEREFORE, the Commissioner issues the following findings:

1.) As the Commissioner has recognized on other State highway projects involving federal highway funds, the FHWA has found that State M/WBE goals may not be applied to federally-funded highway projects subject to DBE goals and requirements. (See attached letter.)
2.) To apply an M/WBE goal of more than zero percent (0%) on the East End Crossing would contravene federal regulation and guidance and could jeopardize federal funding participation on the East End Crossing.
3.) IDOA shares INDOT's confidence that the DBE outreach and training efforts undertaken by INDOT will provide ample opportunities for participation of DBEs, MBEs, WBEs, and Indiana companies in the construction of the East End Crossing. IDOA has agreed to work with INDOT to assist certified MBE and WBE firms in their pursuit of DBE certification. Furthermore, INDOT has set the DBE goal for the East End Crossing at nine percent (9%) of the Total Capital Cost for the design and construction portion of the East End Crossing.
4.) For these reasons and to ensure compliance with both State and federal law, the Commissioner finds that the M/WBE goal for the East End Crossing should be set at zero percent (0%).

Entered this 20th day of November, 2012.

Robert D. Wynkoop, Commissioner
Department of Administration

EXHIBIT 2-O

BUY AMERICA CERTIFICATION

[attached]

BUY AMERICA CERTIFICATION

The undersigned Developer hereby certifies on behalf of itself and all contractors (at all tiers) the following with regard to the East End Crossing:

a. Developer shall comply with the Federal Highway Administration ("FHWA") Buy America Requirements of 23 CFR 635.410, which permits FHWA participation in the Agreement only if domestic steel and iron will be used on the East End Crossing. To be considered domestic, all steel and iron used and all products manufactured from steel and iron must be produced in the United States and all manufacturing processes, including application of a coating, for these materials must occur in the United States. Coating includes all processes that protect or enhance the value of the material to which the coating is applied. This requirement does not preclude a minimal use of foreign steel and iron materials, provided the cost of such materials does not exceed 0.1% of the design-build contract price.

b. A false certification is a criminal act in violation of 18 U.S.C. 1001. Should this Agreement be investigated, Developer has the burden of proof to establish that it is in compliance.

c. At Developer's request, IFA may, but is not obligated to, seek a waiver of Buy America requirements if grounds for the waiver exist. However, Developer certifies that it will comply with the applicable Buy America requirements if a waiver of those requirements is not available or not pursued by IFA.

Date: December 27, 2012

Signature: _____

Name: Sidney Florey

Title: Project Executive

Developer's Name: WVB East End Partners, LLC

FORM G

BUY AMERICA CERTIFICATION

(To be signed by authorized signatory(ies) of Proposer)

The undersigned Proposer hereby certifies on behalf of itself and all contractors (at all tiers) the following with regard to the East End Crossing:

a. Proposer shall comply with the Federal Highway Administration ("FHWA") Buy America Requirements of 23 CFR 635.410, which permits FHWA participation in the Agreement only if domestic steel and iron will be used on the East End Crossing. To be considered domestic, all steel and iron used and all products manufactured from steel and iron must be produced in the United States and all manufacturing processes, including application of a coating, for these materials must occur in the United States. Coating includes all processes that protect or enhance the value of the material to which the coating is applied. This requirement does not preclude a minimal use of foreign steel and iron materials, provided the cost of such materials does not exceed 0.1% of the design-build contract price.

b. A false certification is a criminal act in violation of 18 U.S.C. 1001. Should this Agreement be investigated, Proposer has the burden of proof to establish that it is in compliance.

c. At Proposer's request, IFA may, but is not obligated to, seek a waiver of Buy America requirements if grounds for the waiver exist. However, Proposer certifies that it will comply with the applicable Buy America requirements if a waiver of those requirements is not available or not pursued by IFA.

Date: 24 October 2012

Signature: [signature]

Title: Authorized Representative

Proposer's Name: WVB East End Partners

EXHIBIT 2-P

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

[attached]

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Developer certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

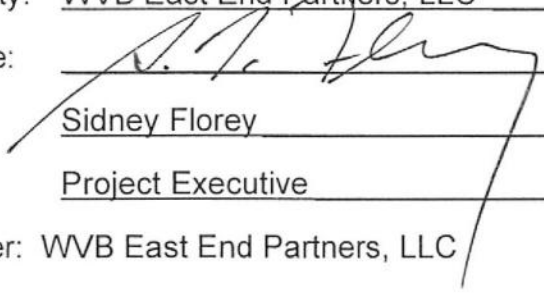
2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: December 27, 2012

Firm/Entity: WVB East End Partners, LLC

Signature: 

Name: Sidney Florey

Title: Project Executive

Developer: WVB East End Partners, LLC

Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Equity Member certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: December 27, 2012

Firm/Entity: WI East End Partners, LLC

Signature: Gregory A. Ciambrone

Name: Gregory A. Ciambrone

Title: Manager

Developer: WVB East End Partners, LLC

Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Equity Member certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: December 27, 2012

Firm/Entity: VINCI Concessions Investments USA Inc.

Signature: _____

Name: Fadi SELWAN

Title: President

Developer: WVB East End Partners, LLC

Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Equity Member certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

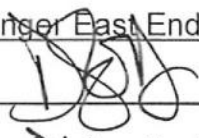
2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: December 27, 2012

Firm/Entity: Bilfinger East End Holdings Inc.

Signature: 

Name: DAMIAN Jay

Title: PRESIDENT

Developer: WVB East End Partners, LLC

Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Developer ____, Equity Member ____, Major Participant _X___, or proposed Contractor ____ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: 12-19-12

Firm/Entity: Walsh Construction-VCGP Construction Joint Venture

Signature: [signature]

Name: Brad Koester

Title: Business Group Leader

Developer: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

[Copy this form and modify as needed for execution by Developer, Equity Members, Major Participants, and all proposed Contractors]

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Developer ____, Equity Member ____, Major Participant _X___, or proposed Contractor ____ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

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3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: 12/19/12

Firm/Entity: Walsh Construction Company

Signature: Daniel J Walsh

Name: Daniel Walsh

Title: President

Developer: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

[Copy this form and modify as needed for execution by Developer, Equity Members, Major Participants, and all proposed Contractors]

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Developer ____, Equity Member ____, Major Participant _X___, or proposed Contractor ____ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: 12/19/12

Firm/Entity: Vinci Construction Grands Projets

Signature: _____

Name: Thierry Portefaix

Title: Director, North America

Developer: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

[Copy this form and modify as needed for execution by Developer, Equity Members, Major Participants, and all proposed Contractors]

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Major Participant (Lead Engineer) certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: December 27, 2012

Firm/Entity: Jacobs Engineering Group, Inc.

Signature: [signature]

Name: PETER D. BRETTELL

Title: VICE PRESIDENT

Developer: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

[Copy this form and modify as needed for execution by Developer, Equity Members, Major Participants, and all proposed Contractors]

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Developer ____, Equity Member ____, Major Participant ____, or proposed Contractor _X___ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: 17 DECEMBER 2012

Firm/Entity: International Bridge Technologies, Inc.

Signature: [signature]

Name: DANIEL TASSIN

Title: PRESIDENT

Developer: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

[Copy this form and modify as needed for execution by Developer, Equity Members, Major Participants, and all proposed Contractors]

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Developer ____, Equity Member ____, Major Participant ____, or proposed Contractor _X___ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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Date: 12/17/12

Firm/Entity: Guthrie/Mayes

Signature: Dan Hartlage

Name: DAN HARTLAGE

Title: PRINCIPAL

Developer: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

[Copy this form and modify as needed for execution by Developer, Equity Members, Major Participants, and all proposed Contractors]

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Developer ____, Equity Member ____, Major Participant ____, or proposed Contractor _X___ certifies on behalf of itself the following:

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   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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Date: 12-17-12

Firm/Entity: Third Rock Consultants LLC

Signature: Molly D

Name: Molly F. Davis

Title: President

Developer: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

[Copy this form and modify as needed for execution by Developer, Equity Members, Major Participants, and all proposed Contractors]

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Developer ____, Equity Member ____, Major Participant ____, or proposed Contractor _X___ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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Date: December 17, 2012

Firm/Entity: James H Drew, Corp.

Signature:

Name: Gene Lindley

Title: C.O.O.

Developer: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

[Copy this form and modify as needed for execution by Developer, Equity Members, Major Participants, and all proposed Contractors]

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Developer ____, Equity Member ____, Major Participant ____, or proposed Contractor _X___ certifies on behalf of itself the following:

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BK

Date: 12/17/2012

Firm/Entity: Advitam, Inc.

Signature: _____

Name: Benoit Kroely

Title: COO

Developer: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

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USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Developer ____, Equity Member ____, Major Participant ____, or proposed Contractor _X___ certifies on behalf of itself the following:

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Date: 12-21-12

Firm/Entity: C. Lee Construction

Signature: _____

Name: Frederick B. Lee

Title: President

Developer: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

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USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

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Date: 12/13/12

Firm/Entity: Messier & Associates, Inc.

Signature: [signature]

Name: Fernanda Messier

Title: CEO

Developer: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

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USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

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Date: December 17, 2012

Firm/Entity: American Structurepoint, Inc.

Signature: Cash E. Canfield

Name: Cash E. Canfield, PE

Title: Vice President

Developer: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

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USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

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1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

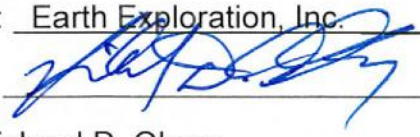
2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: December 17, 2012

Firm/Entity: Earth Exploration, Inc.

Signature: 

Name: Richard D. Olson

Title: Vice President

Developer: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

[Copy this form and modify as needed for execution by Developer, Equity Members, Major Participants, and all proposed Contractors]

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Developer ____, Equity Member ____, Major Participant ____, or proposed Contractor _X___ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

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3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: December 19, 2012

Firm/Entity: RWDI

Signature: Derek Kelly

Name: Derek Kelly

Title: Principal / General Manager

Developer: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

[Copy this form and modify as needed for execution by Developer, Equity Members, Major Participants, and all proposed Contractors]

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Developer ____, Equity Member ____, Major Participant ____, or proposed Contractor _X___ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

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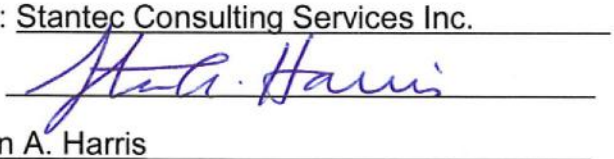
3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: December 17, 2012

Firm/Entity: Stantec Consulting Services Inc.

Signature: 

Name: Stan A. Harris

Title: Principal

Developer: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

[Copy this form and modify as needed for execution by Developer, Equity Members, Major Participants, and all proposed Contractors]

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Developer ____, Equity Member ____, Major Participant ____, or proposed Contractor _X___ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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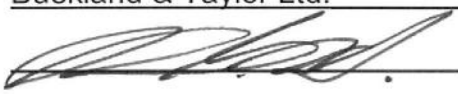
4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: 2012 December 14

Firm/Entity: Buckland & Taylor Ltd.

Signature: 

Name: Steve Hunt, M.Eng., P.Eng

Title: President & CEO

Developer:: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

[Copy this form and modify as needed for execution by Developer, Equity Members, Major Participants, and all proposed Contractors]

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Developer ____, Equity Member ____, Major Participant ____, or proposed Contractor _X___ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: 12/17/2012

Firm/Entity: MacDonald Architects

Signature:

Name: __ Donald MacDonald

Title: Principal

Developer: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

[Copy this form and modify as needed for execution by Developer, Equity Members, Major Participants, and all proposed Contractors]

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Developer ____, Equity Member ____, Major Participant ____, or proposed Contractor _X___ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

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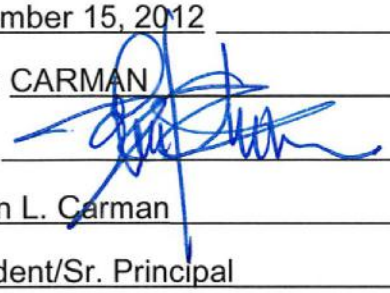
3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: December 15, 2012

Firm/Entity: CARMAN

Signature: 

Name: John L. Carman

Title: President/Sr. Principal

Developer: WVB East End Partners, LLC

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

[Copy this form and modify as needed for execution by Developer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ✓ Equity Member ____ Major Participant ____ proposed Contractor ___certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject

to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: October 19th, 2012

Firm/Entity: WVB East End Partners

Signature: [signature]

Title: Project Executive / Authorized Representative

Proposer: WVB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member _X___ Major Participant ____ proposed Contractor ___certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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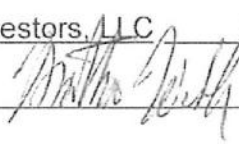
to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: 10/17/12

Firm/Entity: Walsh Investors, LLC

Signature: 

Title: Manager

Proposer: WVB East End Partners

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ✓ Major Participant ____ proposed Contractor ___certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject

to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: 26 October 2012

Firm/Entity: VINCI CONCESSIONS SAS

Signature: Yan Loon Kristof

Title: PROJECT DIRECTOR NORTH AMERICA

Proposer: WVB EAST END PARTNERS

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Equity Member certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: OCTOBER 30th 2012

Nick Dawson

Managing Director

Dirk Söhngen

Managing Director

PI SJ

Bilfinger Berger ~~Project Investments~~ International Holding GmbH

Equity Member of WVB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant _X___ proposed Contractor ___certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: _____

Firm/Entity: Walsh Construction-Vinci CGP Construction Joint Venture

Signature: _____

Title: Sr. V.P.

Proposer: WVB East End Partners

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant _X___ proposed Contractor ___certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject

to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: 10/17/12

Firm/Entity: Walsh Construction Company

Signature: [signature]

Title: President

Proposer: WVB East End Partners

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant __X__ proposed Contractor ___certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

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3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject

to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: October 19th, 2012

Firm/Entity: Vinci Construction Grands Projets

Signature: _____

Title: Sustainability Director & Bid Manager

Proposer: WVB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant _X__ proposed Contractor ___certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

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3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

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to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: October 18th, 2012

Firm/Entity: Jacobs Engineering Group, Inc.

Signature: [signature]

Title: Vice President

Proposer: WVB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant ____ proposed Contractor X_certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

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to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: 01 NOVEMBER 2012

Firm/Entity: International Bridge Technologies

Signature: [signature]

Title: President

Proposer: WVB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant ____ proposed Contractor X certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

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to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: 11/1/12

Firm/Entity: GUTHRIE/MAYES & ASSOCIATES

Signature: [signature]

Title: PRINCIPAL

Proposer: WVB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant ____ proposed Contractor _X_certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: 11-2-12

Firm/Entity: Third Rock Consultants LLC

Signature: Mary Davis

Title: President

Proposer: WVB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant ____ proposed Contractor X certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: November 1, 2012

Firm/Entity: James H Drew Corporation

Signature: Gene Lindley

Title: Gene Lindley, C.O.O.

Proposer: WW3 East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned proposed Contractor ___certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

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to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: 11/1/2012

Firm/Entity: Advitam, Inc

Signature: _____

Title: COO

Proposer: WVB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant ____ proposed Contractor _X_ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: 11-2-12

Firm/Entity: C. Lee Construction Services, Inc.

Signature:

Title: President

Proposed Contractor: C Lee Construction Services, Inc.

Proposer: WVB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant ____ proposed Contractor _X__certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: 11/1/12

Firm/Entity: Messier & Associates Inc.

Signature:

Title: C.E.O.

Proposer: WVB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant ____ proposed Contractor x certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: November 2, 2012

Firm/Entity: American Structurepoint, Inc.

Signature: [signature]

Title: Vice President

Proposer: WVB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant ____ proposed Contractor ✓ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: 11-2-2012

Firm/Entity: Earth Exploration, Inc.

Signature: [signature]

Title: Vice President

Proposer: [illegible]

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant ____ proposed Contractor _X_ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject

to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: November 2, 2012

Firm/Entity: CWD

Signature: [signature]

Title: Project General Manager

Proposer: Walsh / Vinci and Lane
WVB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant ____ proposed Contractor _X_certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

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3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

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to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: November 2, 2012

Firm/Entity: Stantec Consulting Services Inc.

Signature: Kristi Harris

Title: Principal

Proposer: WVB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant ____ proposed Contractor ✓ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

   b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and shall include a copy of said form in its proposal or bid, or submit it with the executed Agreement or Subcontract.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The undersigned shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

4. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

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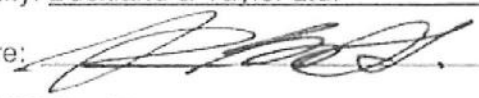
to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: 2012 November 2

Firm/Entity: Buckland & Taylor Ltd.

Signature: 

Title: CEO/President

Proposer: WVB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant ____ proposed Contractor _X_ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: November 1, 2012

Firm/Entity: MacDonald Architects

Signature: Donald MacDonald

Title: Principal

Proposer: WVB Joint Venture

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant ____ proposed Contractor _X_certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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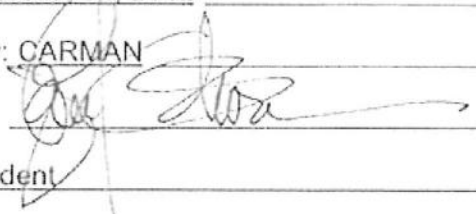
to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: November 02, 2012

Firm/Entity: CARMAN

Signature: 

Title: President

Proposer: WVB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant ____ proposed Contractor _x_ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: November 2, 2012

Firm/Entity: Milestone Contractors, L.P.

Signature: Todd A. Fawver

Title: Director of Estimating - Columbus

Proposer: #VB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant ____ proposed Contractor _X_ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: 11/2/12

Firm/Entity: Haydon Bridge Company, Inc.

Signature: [signature]

Title: President

Proposer: Haydon Bridge Company, Inc.
WVB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

FORM R

USE OF CONTRACT FUNDS FOR LOBBYING CERTIFICATION

The undersigned Proposer ____ Equity Member ____ Major Participant ____ proposed Contractor _X_ certifies on behalf of itself the following:

1. The undersigned certifies, to the best of its knowledge and belief, that:

   a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

Date: November 2, 2012

Firm/Entity: Bizzack Construction, LLC

Signature: [signature]

Title: Vice President

Proposer: WVB East End Partners

[Copy this form and modify as needed for execution by Proposer, Equity Members, Major Participants, and all proposed Contractors]

EXHIBIT 2-Q

DEBARMENT AND SUSPENSION CERTIFICATION

[attached]

DEBARMENT AND SUSPENSION CERTIFICATION

The undersigned Developer certifies on behalf of itself and all Equity Members, Major Participants and Contractors the following:

The undersigned certifies to the best of its knowledge and belief, that it and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

b. Have not within a 3-year period preceding the date hereof been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and

d. Have not within a 3-year period preceding the date hereof had one or more public transactions (federal, state or local) terminated for cause or default.

Where Developer is unable to certify to any of the statements in this certification, it shall attach a certification hereto stating that it is unable to provide the certification and explaining the reasons for such inability.

Date: December 27, 2012

Developer: WVB East End Partners, LLC

Signature: _____

Title: Project Executive

EXHIBIT 2-R

FORM OF DRUG-FREE WORKPLACE CERTIFICATION

Developer hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. Developer will give written notice to IFA within ten (10) days after receiving actual notice that Developer or an employee of Developer has been convicted of a criminal drug violation occurring in Developer's workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of agreed upon payments, termination of the Agreement and/or debarment of contracting opportunities with the State of Indiana for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total agreed upon amount set forth in the Agreement is in excess of $25,000.00, Developer hereby further agrees that the Agreement is expressly subject to the terms, conditions, and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds $25,000.00, shall be valid, unless and until this certification has been fully executed by Developer and made a part of the contract or agreement as part of the contract documents.

Developer certifies and agrees that it will provide a drug-free workplace by:

A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in Developer's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;

B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) Developer's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify Developer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

D. Notifying in writing to IFA and the Indiana Department of Administration within ten (10) days after receiving notice from an employee under subparagraph (C)(2) above, or otherwise receiving actual notice of such conviction;

E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or

(2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

The undersigned affirms, under penalty of perjury that he or she is authorized to execute this certification on behalf of Developer.

dated [_____]

WVB EAST END PARTNERS, LLC

By: _____
Name: _____
Title: _____

EXHIBIT 2-S

FORM OF FINANCIAL CLOSE CERTIFICATE

WVB East End Partners, LLC

[DATE]

Pursuant to Section 18.5 of the Public Private Agreement (the "Agreement"), by and between the Indiana Finance Authority ("IFA") and WVB East End Partners, LLC ("Developer"), Developer hereby represents, certifies and warrants to IFA as at the date of Financial Close (except where a specific date is referred to below, in which case the truth and accuracy of the representation, certification and warranty shall be as at such specific date) as follows:

1. The Financial Model Formulas (a) were prepared by or on behalf of Developer in good faith, (b) are the same financial formulas that Developer utilized and is utilizing in the Financial Model in making disclosures to potential equity investors and Lenders under the Initial Funding Agreements, and (c) as of the effective date of the Initial Funding Agreements are mathematically correct and suitable for making reasonable projections.

2. The Financial Model (a) was prepared by or on behalf of Developer in good faith, (b) was audited and verified by an independent recognized model auditor immediately prior to the Effective Date of the Agreement and such audit was updated within 48 hours after the Effective Date, (c) fully discloses all cost, traffic, revenue and other financial assumptions and projections that Developer has used and is using in making disclosures to equity investors and Lenders under the Initial Funding Agreements and (d) as of the effective date of the Initial Funding Agreements represents the projections that Developer believes in good faith are the most realistic and reasonable for the East End Crossing; provided, however, that such projections (i) are based upon a number of estimates and assumptions, (ii) are subject to significant business, economic and competitive uncertainties and contingencies and (iii) accordingly are not a representation or warranty that any of the assumptions are correct, that such projections will be achieved or that the forward-looking statements expressed in such projections will correspond to actual results.

3. Neither Developer nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into agreements such as the Agreement by any federal agency or by any department, agency or political subdivision of the State. For purposes of this Certificate, the term "principal" means an officer, director, owner, partner, Key Personnel, employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of Developer.

4. Developer has reviewed all applicable Laws relating to Taxes, and has taken into account all requirements imposed by such Laws in preparing the Financial Model.

5. As of the date of this Certificate, based upon its Reasonable Investigation, Developer has evaluated the constraints affecting design and construction of the East End Crossing, including the Project Right of Way limits, the terms and conditions of the NEPA Approval, IFA-Provided Approvals obtained prior to the Setting Date, the surface and

subsurface conditions discoverable through such Reasonable Investigation, and applicable Laws, and Developer has reasonable grounds for believing and does believe that the East End Crossing can be designed and built within such constraints.

6. Developer, in accordance with Good Industry Practice, conducted a Reasonable Investigation, and as a result of such Reasonable Investigation, Developer is familiar with and accepts the physical requirements of the Work, subject to IFA's obligations regarding Hazardous Materials under Section 5.9 of the Agreement and Developer's rights to seek relief under Article 15 of the Agreement.

7. Developer is a limited liability company duly organized and validly existing under the laws of Delaware, has the requisite power and all required licenses to carry on its present and proposed activities, and has full power, right and authority to execute and deliver the Initial Funding Agreements and to perform each and all of the obligations of Developer provided for therein. Developer is duly qualified to do business, and is in good standing, in the State and in the Commonwealth of Kentucky. Developer affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports with the Indiana Secretary of State.

8. The execution, delivery and performance of the Initial Funding Agreements have been duly authorized by all necessary corporate action of Developer; each person executing the Initial Funding Agreements on behalf of Developer has been duly authorized to execute and deliver each such document on behalf of Developer; and the Initial Funding Agreements have been duly executed and delivered by Developer.

9. Neither the execution and delivery by Developer of the Initial Funding Agreements, nor the consummation of the transactions contemplated thereby, is in conflict with or has resulted or will result in a default under or a violation of the governing instruments of Developer or any agreement, judgment or decree to which Developer is a party or is bound, including the Agreement.

10. The execution and delivery by Developer of the Initial Funding Agreements, and the performance by Developer of its obligations thereunder, will not conflict with any Laws applicable to Developer that are valid and in effect on the date of execution and delivery. Developer is not in breach of any applicable Law that would have a material adverse effect on the Work or the performance of any of its obligations under the Initial Funding Agreements.

11. Each of the Initial Funding Agreements constitutes the legal, valid and binding obligation of Developer, enforceable against Developer and, if applicable, each Equity Member of Developer, in accordance with its terms, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and the general principles of equity.

12. There is no action, suit, proceeding, investigation or litigation pending and served on Developer which challenges Developer's authority to execute, deliver or perform, or the validity or enforceability of, the Initial Funding Agreements, the PPA Documents and the Principal Project Documents to which Developer is a party, or which challenges the authority of the Developer official executing the Initial Funding Agreements, the PPA Documents or such Principal Project Documents; and Developer has disclosed to IFA prior to the effective date of

the Initial Funding Agreements any pending and un-served or threatened action, suit, proceeding, investigation or litigation with respect to such matters of which Developer is aware. Developer has no current, pending or outstanding criminal, civil, or enforcement actions initiated by IFA, the State or the Commonwealth of Kentucky, and Developer agrees that it will immediately notify IFA of any such actions.

13. Between the Effective Date and the effective date of the Initial Funding Agreements, Developer has not obtained knowledge of any additional organizational conflict of interest not disclosed as of the Effective Date of the Agreement, and there have been no organizational changes to Developer or its Contractors identified in its Proposal, which have not been approved in writing by IFA. For this purpose, organizational conflict of interest has the meaning set forth in the Request for Proposals.

14. Neither Developer nor its principal(s) is presently in arrears in payment of Taxes, permit fees or other statutory, regulatory or judicially required payments to IFA, the State or the Commonwealth of Kentucky.

15. The individual signing the Agreement on behalf of Developer, subject to the penalties for perjury, that he/she is the properly authorized representative, agent, member or officer of Developer, that he/she has not, nor has any other member, employee, representative, agent or officer of Developer, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of the Agreement other than that which appears upon the face of the Agreement.

Capitalized terms used, but not defined, have the meanings ascribed in the Agreement.

IN WITNESS WHEREOF, the undersigned, the duly elected and qualified [title] of WVB East End Partners, LLC_____], a Delaware limited liability company, has been authorized by all necessary organizational action to make this certification on behalf of Developer (and without personal liability) and further certifies that [he]/[she] has caused this certificate to be executed as of the date first written above.

Signature: _____

Name: _____

Title: _____

State of Indiana §
County of _____ §

This instrument was acknowledged before me on this [_____] day of [_____], 201[___] by [_____]*[name]*, [_____]*[title]* of WVB East End Partners, LLC, a Delaware limited liability company, on behalf of said company.

_____
Notary Public in and for the State of Indiana

[Notary Seal]

_____
Printed Name of Notary Public

My Commission Expires: _____]

EXHIBIT 2-T

FORM OF IFA BRING-DOWN CERTIFICATE

[_____]*[letterhead of IFA outside counsel]*

[DATE]

Pursuant to Section 18.5 of the Public Private Agreement (the "Agreement"), by and between the Indiana Finance Authority ("IFA") and WVB East End Partners, LLC ("Developer"), IFA hereby represents, certifies and warrants to Developer as at the Effective Date of the Agreement as follows:

1. IFA has full power, right and authority to execute, deliver and perform the PPA Documents, the Milestone Agreement, the Use Agreement and the Principal Project Documents to which IFA is (or will be) a party and to perform each and all of the obligations of IFA provided for herein and therein.

2. Each person executing on behalf of IFA the PPA Documents, the Milestone Agreement, the Use Agreement and the Principal Project Documents to which IFA is (or will be) a party has been (or at the time of execution will be) duly authorized to execute and deliver each such document on behalf of IFA; and the PPA Documents, the Milestone Agreement, the Use Agreement and such Principal Project Documents have been (or will be) duly executed and delivered by IFA.

3. The PPA Documents, the Milestone Agreement, the Use Agreement and the Principal Project Documents to which IFA is (or will be) a party have each been duly authorized by IFA, and each constitutes (or at the time of execution and delivery will constitute) a legal, valid and binding obligation of IFA enforceable against IFA in accordance with its terms.

4. There is no action, suit, proceeding, investigation or litigation pending and served on IFA which challenges IFA's authority to execute, deliver or perform, or the validity or enforceability of, the PPA Documents, the Milestone Agreement, the Use Agreement and the Principal Project Documents to which IFA is a party or which challenges the authority of the IFA official executing the PPA Documents, the Milestone Agreement, the Use Agreement and such Principal Project Documents; and IFA has disclosed to Developer prior to the Effective Date any pending and un-served or threatened action, suit, proceeding, investigation or litigation with respect to such matters of which IFA is aware.

5. Neither the execution and delivery by IFA of the PPA Documents, the Milestone Agreement or the Use Agreement, nor the consummation of the transactions contemplated thereby, is (or at the time of execution will be) in conflict with or has resulted or will result in a default under or a violation of the enabling legislation of IFA or any agreement, judgment or decree to which IFA is a party or is bound.

6. The execution and delivery by IFA of the PPA Documents, the Milestone Agreement or the Use Agreement and the performance by IFA of its obligations thereunder, will not conflict with any Laws applicable to IFA that are valid and in effect on the date of execution and delivery. IFA is not in breach of any applicable Law that would have a material adverse

effect on the performance of any of its obligations under the PPA Documents, the Milestone Agreement or the Use Agreement.

7. No consent of any party and no Governmental Approval is required to be made in connection with the execution, delivery and performance of the Agreement, which as not already been obtained.

Capitalized terms used, but not defined, have the meanings ascribed in the Agreement.

IN WITNESS WHEREOF, the undersigned, the duly elected and qualified [title] of the Indiana Finance Authority, a body corporate and politic, not a state agency but an instrumentality exercising essential public functions, of the State of Indiana, has been authorized by all necessary organizational action to make this certification on behalf of IFA (and without personal liability) and further certifies that [he]/[she] has caused this certificate to be executed as of the date first written above.

Signature: _____

Name: _____

Title: _____

State of Indiana §
County of _____ §

This instrument was acknowledged before me on this [_____] day of [_____], 201[___] by [_____]*[name]*, [_____]*[title]* of the Indiana Finance Authority, on its behalf.

_____
Notary Public in and for the State of Indiana

[Notary Seal]

_____
Printed Name of Notary Public

My Commission Expires: _____]

EXHIBIT 3

[reserved]

EXHIBIT 4

MILESTONE PAYMENT AMOUNTS

Milestone	Description	Amount (in millions)
1	Complete Main Span Pier Foundations	$25
2	Complete Tunnel Excavation and Initial Liner	$80
3	Complete Main Span Towers	$45
4	Complete Indiana East End Roadway from Old Salem Road Northwest to and Including the SR 62/Port Road/SR 265 Interchange	$45
5	Complete KY 841 construction between I-71 and US 42	$50
6	Complete Final Tunnel Liner	$26
7	Complete Main Span Superstructure Erection	$26
8	Substantial Completion	$95
Total Milestone Payments		$392

EXHIBIT 5

HAZARDOUS MATERIALS RISK ALLOCATION TERMS

All risks associated with the discovery of Hazardous Materials in, on, under or within (i) from the Effective Date until the Substantial Completion Date, the Project Right of Way and (ii) during the Operating Period, the O&M Limits, in each case including costs and expenses and schedule delays arising out of any Hazardous Materials in, on or under (i) from the Effective Date until the Substantial Completion, the Project Right of Way and (ii) during the Operating Period, the O&M Limits, in each case will be borne by Developer, except as follows.

1. If there occurs any Relief Event under clause (m) or (n) of the definition of Relief Event, and if Developer timely satisfies the terms and conditions for asserting a Relief Event set forth in Section 15.1 of the Agreement, then IFA will pay the applicable Extra Work Costs and Delay Costs directly attributable to the handling, containment, transport, removal, remediation and disposal of such Hazardous Materials, subject to the following:

(a) Such Extra Work Costs and Delay Costs shall be limited as set forth in Section 3 below;

(b) If the Hazardous Materials are contained in soils or other solid materials or objects that may be returned to trenches or other areas of excavation within or adjacent to (i) from the Effective Date until the Substantial Completion, the Project Right of Way and (ii) during the Operating Period, the O&M Limits, in each case pursuant to regulations, policies or approvals of applicable Governmental Entities, and if the excavation of such contaminated soils or other solid materials or objects is undertaken for any purpose or reason other than the fact of contamination, then the Extra Work Costs shall be limited to the reasonable out-of-pocket costs of handling such contaminated soils, materials and objects in excess of the out-of-pocket costs Developer would incur to handle the same if they were not contaminated;

(c) If the Hazardous Materials are contained in soils or other solid materials or objects that are removed from the Site for any purpose or reason other than the fact of contamination, then the Extra Work Costs for which IFA is liable shall be limited to the incremental increase in out-of-pocket cost to excavate, handle, haul and dispose of the soils or other solid materials or objects over the out-of-pocket cost to excavate, handle, haul and dispose of them if they did not contain Hazardous Materials;

(d) If avoidance or remediation of such Hazardous Materials is capable of being accomplished under applicable Laws and Governmental Approvals through measures less costly than excavation, removal and off-site disposal of contaminated soil and groundwater, or less costly than return to trenches and other areas of excavation, which measures may include (i) design modifications and construction techniques to avoid such Hazardous Materials or reduce the quantities to be excavated, removed and disposed of off-site, and (ii) on-site containment and institutional controls, then IFA shall only be liable for the least costly alternative, provided, that if Developer believes that excavation, removal and off-site disposal is overall the best method for handling such Hazardous Materials, considering all factors, including cost and schedule impacts to both IFA and Developer, then Developer shall first obtain IFA's concurrence in such judgment, which concurrence shall not be unreasonably withheld, conditioned or delayed, and Developer shall respond to all reasonable requests by IFA for

supporting information in respect of such judgment, whereupon Developer shall be entitled only to the actual, documented and reasonable out-of-pocket cost to undertake such excavation, removal and off-site disposal; and

(e) The Extra Work Costs and Delay Costs available under this Section 1 are subject to the Claim Deductible as provided in Section 15.6.2 of the Agreement and shall be payable first out of the Relief Events Allowance as provided in Section 15.6 of the Agreement until exhausted, and second by IFA.

2. IFA Release(s) of Hazardous Materials, other than Known or Suspected Hazardous Materials, is a Relief Event (under clause (m) of the definition of Relief Event), subject to the applicable limitations set forth in Section 3 below.

3. None of the following liabilities, costs, expenses and Losses shall be chargeable against or reimbursable by IFA:

(a) Liabilities, costs, expenses and Losses to the extent attributable to Developer Releases of Hazardous Materials;

(b) Extra Work Costs and Delay Costs arising out of Releases of Hazardous Materials from vehicles operating within (i) from the Effective Date until the Substantial Completion Date, the Project Right of Way, and (ii) during the Operating Period, the O&M Limits, in each case, unless operated by IFA;

(c) Liabilities, costs, expenses and Losses that could be avoided by the exercise of Good Industry Practice to mitigate and reduce cost, including exercise of Developer's duties to avoid and mitigate set forth in Section 5.9.2 of the Agreement;

(d) Costs and expenses to investigate and characterize Hazardous Materials (including Phase 1 ESAs and preliminary site investigations (i.e. phase 2 investigations)) of unexpected and minimal quantities, except with respect to Hazardous Materials of an unexpected and extraordinary quantity or toxicity, whereupon IFA and Developer shall negotiate in good faith an amount for such costs and expenses for which IFA shall be liable to pay;

(e) Developer Releases of Hazardous Materials;

(f) Liabilities, costs, expenses and Losses incurred if IFA is not afforded the opportunity to inspect sites containing Hazardous Materials or IFA Releases of Hazardous Materials before Developer takes any action which would inhibit IFA's ability to ascertain, based on a site inspection, the nature and extent of the materials, except for Developer's Emergency actions necessary to stabilize and contain a sudden release or otherwise required by Law to immediately address the Emergency;

(g) Liabilities, costs, expenses and Losses with respect to Hazardous Materials in, on or under locations Developer is required to avoid pursuant to the Technical Provisions; or

(h) Liabilities, costs, expenses and Losses covered by insurance available to Developer, or deemed to be self-insured by Developer under Section 17.1.4.4 of the Agreement.

4. Extra Work Costs for off-site disposal of soils contaminated with Hazardous Materials for which IFA is liable under this Exhibit 5 shall be determined by applying the same unit price (per ton or cubic yard) that applies to Developer under the Design-Build Contract with respect to off-site disposal for which Developer is not compensated by IFA. If no such unit price is stated in the Design-Build Contract, then the unit price shall not exceed the unit price IFA could obtain through competitive low bid from a qualified contractor for such work.

5. As between IFA and Developer, IFA will retain generator and arranger status for Hazardous Materials to the extent set forth in Sections 5.9.6 and 5.9.7 of the Agreement.

6. Developer may be entitled to schedule, performance and other relief due to a Relief Event under clause (m) or (n) of the definition of Relief Event to the extent provided in Sections 15.11 and 15.12 of the Agreement; provided that no time extension shall be allowed with respect to immaterial quantities of Hazardous Materials in any particular location.

EXHIBIT 6

HANDBACK REQUIREMENTS RESERVE ELEMENTS AND RESERVE FUNDING MECHANISM

1. Developer shall make deposits to the Handback Requirements Reserve Account by the last day of each Quarter, commencing with the first Quarter of the fifth full calendar year before the end of the Term, and continuing thereafter.

2. Developer shall make quarterly deposits into the Handback Requirements Reserve Account so that by the *beginning* of each of the last four years during the Term the Handback Requirements Reserve will contain an amount equal to:

   (a) The summation across all Elements that have a number of years stated in the "Useful Life" column in Table 23-1 (Residual Life Requirements at Handback) of the Technical Provisions of the following factors, as set forth in the most recent Rehabilitation Work Schedule (as it may be revised pursuant to the Handback Requirements): the estimated cost to perform the Rehabilitation Work on such Element at the end of its Useful Life multiplied by the lesser of (i) one or (ii) a fraction the numerator of which is the average Age each such Element will have as of the end of the current calendar year and the denominator of which is the total average Useful Life thereof, plus

   (b) The summation across all other Elements (i.e. those Elements that have a number of years stated in the "Residual Life at Handback" column in Table 23-1 (Residual Life Requirements at Handback) of the Technical Provisions) of the estimated cost to perform the Rehabilitation Work on each other Element that is to be performed prior to expiration of the Term in accordance with the Handback Requirements multiplied by a fraction the numerator of which is four minus the number of full calendar years until the year in which the Rehabilitation Work is scheduled to be performed pursuant to the Rehabilitation Work Schedule (as it may be revised pursuant to the Handback Requirements) and the denominator of which is four; plus

   (c) 10% of the amounts under clauses (a) and (b) above as a contingency.

3. Developer's quarterly deposits in a year shall equal one-fourth of the amount required to be deposited in such year as described in Section 2 above, provided that if Developer's aggregate actual draws during the current calendar year exceed the planned draws by more than 10% (including draws to fund Safety Compliance work allowed under Section 9.2 of the Agreement), Developer shall increase its quarterly deposits for the remainder of the calendar year in order to make up the excess draws.

4. In determining the amount of Developer's deposits to be made in the current calendar year, the Parties shall take into account the total amount in the Handback Requirements Reserve Account at the end of the immediately preceding calendar year and Developer's planned draws from the Handback Requirements Reserve Account during the current calendar year.

5. If at any time during the course of Rehabilitation Work on an Element the actual incurred costs thereof are such that the balance in the Handback Requirements Reserve Account for such Element is less than the total amount required to be funded to the Handback Requirements Reserve Account for such Element, Developer shall promptly make an additional deposit in order to fully make up the difference.

6. If after completion of and payment in full for Rehabilitation Work on an Element there remains an unused balance in the Handback Requirements Reserve Account for such Element during the Term, the unused balance shall be retained in full and reallocated and credited toward required balances in the Handback Requirements Reserve Account for other Elements.

EXHIBIT 7

IFA'S DISADVANTAGED BUSINESS ENTERPRISE (DBE) SPECIAL PROVISIONS

Section 103.01 of the Department's "2012 Standard Specifications," as modified by the Department's "Recurring Special Provision" 100-C-151B "Disadvantaged Business enterprise Procedure and Good Faith Efforts (Revised 05-23-11)" comprises the Disadvantaged Business Enterprise (DBE) Special Provisions, and are hereby incorporated in their entirety, as if fully set forth herein, *mutatis mutandis*.

EXHIBIT 8

EQUAL EMPLOYMENT OPPORTUNITY TRAINEES SPECIAL PROVISIONS

Section 107.06 of the Department's "2012 Standard Specifications" comprises the Equal Employment Opportunity Trainees Special Provisions, and is hereby incorporated in its entirety, as if fully set forth herein, *mutatis mutandis*.

EXHIBIT 9

ANNUAL MAP LIMITS

Period Start	Period End	Availability Payment
7/1/2013	6/30/2014	-
7/1/2014	6/30/2015	-
7/1/2015	6/30/2016	-
7/1/2016	6/30/2017	27,763,289
7/1/2017	6/30/2018	42,950,822
7/1/2018	6/30/2019	44,024,592
7/1/2019	6/30/2020	45,187,360
7/1/2020	6/30/2021	46,189,630
7/1/2021	6/30/2022	47,409,671
7/1/2022	6/30/2023	48,594,912
7/1/2023	6/30/2024	49,878,391
7/1/2024	6/30/2025	50,984,709
7/1/2025	6/30/2026	52,331,406
7/1/2026	6/30/2027	53,639,691
7/1/2027	6/30/2028	55,056,411
7/1/2028	6/30/2029	56,277,579
7/1/2029	6/30/2030	57,764,080
7/1/2030	6/30/2031	59,208,182
7/1/2031	6/30/2032	60,771,976
7/1/2032	6/30/2033	62,119,918
7/1/2033	6/30/2034	63,760,736
7/1/2034	6/30/2035	65,354,755
7/1/2035	6/30/2036	67,080,890
7/1/2036	6/30/2037	68,568,766
7/1/2037	6/30/2038	70,379,923
7/1/2038	6/30/2039	72,139,421
7/1/2039	6/30/2040	74,044,751
7/1/2040	6/30/2041	75,687,088
7/1/2041	6/30/2042	77,686,266
7/1/2042	6/30/2043	79,628,422
7/1/2043	6/30/2044	81,731,551
7/1/2044	6/30/2045	83,544,383
7/1/2045	6/30/2046	85,751,102
7/1/2046	6/30/2047	87,894,879
7/1/2047	6/30/2048	90,216,340

7/1/2048	6/30/2049	92,217,367
7/1/2049	6/30/2050	94,653,171
7/1/2050	6/30/2051	97,019,501
7/1/2051	6/30/2052	33,511,599
7/1/2052	6/30/2053	-

EXHIBIT 10

PAYMENT MECHANISM

SECTION 1 – DEFINITIONS

Capitalized terms used in this Exhibit 10 shall have the respective meanings given to them in Exhibit 1 of the PPA.

SECTION 2 – AVAILABILITY PAYMENT

2.1 Availability Payments

The Maximum Availability Payment for Fiscal Year y (MAP_y) is payable in Quarterly Payments as provided in Section 2.3 below and subject to adjustments, positive and negative, as provided in Section 3 below.

Monthly Disbursements will be made by the IFA as partial payments of each Quarterly Payment as provided in Section 10.2.3 of the PPA.

2.2 Annual MAP CPI Adjustment

The Base Maximum Availability Payment (Base MAP) will be adjusted in each Fiscal Year according to changes in the CPI in accordance with Eq. 2.2. The adjustment to the Base MAP will occur on the Substantial Completion Date and at the beginning of each Fiscal Year thereafter.

Eq. 2.2:

$$MAP_y = ((MAP_{Base})x(80\%)x(1+2.5\%)^n + ((MAP_{Base})x(20\%)x\left(\frac{CPI_y}{CPI_{2012}}\right)$$

Where:

MAP_y = the Maximum Availability Payment for Fiscal Year y,

MAP_{Base} = the Base Maximum Availability Payment in 2012 dollars set forth in Attachment 1 to this Exhibit 10,

CPI_y = the CPI as of July 1 of Fiscal Year y,

CPI_{2012} = 231.317 (the value of CPI as of October 26, 2012), and

n = the number of Fiscal Years from October 26, 2012, including the partial fiscal year to June 30, 2013. For the avoidance of doubt, the partial fiscal year to June 30, 2013 shall be equal to 0.75.

The CPI to be used is the latest value available as of July 1, regardless of whether that CPI is seasonally adjusted.

2.3 Quarterly Payment

The Quarterly Payment with respect to the qth Quarter for the period after the Substantial Completion Date will be calculated in accordance with Eq. 2.3, subject to Section 10.2.7 of the PPA:

Eq. 2.3:

$$QAP_{q,y} = \left(\frac{d_{q,y}}{d_y} \right) \times MAP_y - QPA_{q,y}$$

Where:

$QAP_{q,y}$ = the Quarterly Payment for the qth Quarter in Fiscal Year *y*

$d_{q,y}$ = the number of days in the qth Quarter in Fiscal Year *y*:

from the later of the start of the qth Quarter and the Substantial Completion Date; and

to the earlier of the end of the qth Quarter and the Termination Date.

d_y = the number of days in Fiscal Year *y*

MAP_y = the Maximum Availability Payment for Fiscal Year y

$QPA_{q,y}$ = the Quarterly Payment Adjustment for the qth Quarter in Fiscal Year *y* as calculated in accordance with Eq. 3.1 as defined in Section 3 of this Exhibit 10.

SECTION 3 – CALCULATION OF PAYMENT ADJUSTMENTS

3.1 Quarterly Payment Adjustment

The Quarterly Payment Adjustment ($QPA_{q,y}$) for the qth Quarter in Fiscal Year y for the period after the Substantial Completion Date will be calculated in accordance with Eq. 3.1 as follows:

Eq. 3.1:

$$QPA_{q,y} = QUA_{q,y} + QNA_{q,y} + QOA_{q,y}$$

Where:

$QPA_{q,y}$ = Quarterly Payment Adjustment for the qth Quarter in Fiscal Year *y*

$QUA_{q,y}$ = Quarterly Unavailability Adjustment for the qth Quarter in Fiscal Year *y (as calculated in accordance with Eq. 3.4)*

$QNA_{q,y}$ = Quarterly Noncompliance Adjustment for the qth Quarter in Fiscal Year *y(as calculated in accordance with Eq. 3.7)*

$QOA_{q,y}$ = Quarterly Other Payment Adjustments for the qth Quarter in Fiscal Year y (as defined in Section 3.8 of this Exhibit 10)

3.2 RESERVED

3.3 RESERVED

3.4 Quarterly Unavailability Adjustment

Subject to the limitations in Section 3.6 below, the Quarterly Unavailability Adjustment ($QUA_{q,y}$) for each Unavailability Event, except for those addressed in the PPA Section 15.11, in the qth Quarter in Fiscal Year y for the period after the Substantial Completion Date will be calculated in accordance with Eq. 3.4 as follows:

Eq. 3.4:

$$QUA_{q,y} = \sum_{e=1}^{n} UA_e$$

Where:

$QUA_{q,y}$ = Quarterly Unavailability Adjustment for the qth Quarter in Fiscal Year *y*

UA_e = the Unavailability Adjustment for a single Unavailability Event that occurs during the qth Quarter in Fiscal Year y as calculated in accordance with Section 3.5 of this Exhibit 10.

e = a single Unavailability Event in the qth Quarter of Fiscal Year *y*

n = the number of Unavailability Events in the qth Quarter of Fiscal Year *y*

3.5 Unavailability Adjustment for a Single Unavailability Event

The Unavailability Adjustment for a single Unavailability Event (UA_e) is the product of the MAP factors defined by the Crossing Section, the Type of Day, the Availability Period and the Level of Lane Availability. Specifically:

- the Project has been divided into three Crossing Sections
- the year has been divided into three Types of Day
- each day has been divided into four Availability Periods
- Level of Lane Availability is based on six layouts of running lanes available, with and without shoulders

The Unavailability Adjustment for a single Unavailability Event (UA_e) will be calculated in accordance with Eq. 3.5 as follows:

Eq. 3.5:

$$UA_e = MAP_y \times S \times D \times P \times Tx\ (t/H)$$

Where:

S = The Crossing Section factor from Table 1 for the section of the Crossing that was affected by the Unavailability Event. In the case of an event that affects more than one section, S will equal the sum of the factors in Table 1 for the Crossing Sections affected.

D = The Type of Day Factor from Table 2 for the type of day on which the Unavailability Event occurred. Events that affect more than one calendar day will be considered separate events.

P = The Unavailability Period Factor from Table 3 for the time period in which the Unavailability Event occurred. In the case of an event that affects more than one time period on a given calendar day, P will equal the sum of the factors in Table 3 for the time periods affected.

T = Adjustment factor for the number of lanes or shoulders affected by the Unavailability Event.

t = Length of time over which the Unavailability Event occurred, measured in 30 minute increments, rounding to the next 30 minute increment. An Unavailability Event of 5 minutes for example would be measured as 30 minutes. A 31 minute Unavailability Event would be measured as 60 minutes.

H = Length of time the Unavailability Period during which the Unavailability Event occurred, measured in minutes.]

3.5.1 Crossing Section Factor (S)

The Crossing is divided into three Sections weighted as follows:

Table 1.

Section	Description	Crossing Section Factor (S)
A	River Road (KY) to Old Salem Road (IN)	45%
B	Old Salem Road to SR62/Port Rd/SR265 Interchange	45%
C	SR62/Port Rd/SR 265 Interchange to North Project Limit	10%

3.5.2 Type of Day Factor (D)

Each day of the year is classified and weighted as follows:

Table 2.

Type of Day	Number of Days per Year (A)	Relative Weight (B)	Type of Day Factor (D) (B/A)
Standard Weekday	253	80%	0.3162%
Saturday	52	12%	0.2308%
Sunday or Holiday	60	8%	0.1333%
Total	365*	100%	NA

* No adjustments for leap year.

3.5.3 Unavailability Period Factor (P)

Each day is divided into five Unavailability Periods weighted as follows:

Table 3.

Time of Day	Unavailability Period	Description	Time Period (Eastern time)	Unavailability Period Factor (P)
Standard Weekday	A	Morning	06.00 – 11.00	30%
	B	Midday	11.00 – 15.00	20%
	A	Afternoon	15.00 – 19.00	30%
	B	Evening	19.00 – 22.00	15%
	B	Night	22.00 – 06:00	5%
Total				100%
Saturday	B	Morning	06.00 – 11.00	25%
	B	Midday	11.00 – 15.00	20%
	B	Afternoon	15.00 – 19.00	25%
	B	Evening	19.00 – 22.00	20%

	B	Night	22.00 – 06:00	10%
Total				100%
Sunday and Holidays	B	Morning	06.00 – 12.00	20%
	B	Midday	12.00 – 16.00	25%
	B	Afternoon	16.00 – 19.00	25%
	B	Evening	19.00 – 22.00	20%
	B	Night	22.00 – 06:00	10%
Total				100%

3.5.4 Unavailability Type Factor (T)

The Unavailability Adjustment for any particular type of Unavailability Event is calculated as a percentage of the MAP, based on the number of lanes available relative to the number of open roadway lanes and shoulders on the Crossing section affected in accordance with the following table showing the percentage deduction to the MAP:

Table 4.

Four-Lane Bridge or Roadway	**Layout of Running Lanes Available**					
(2 Lanes in Each Direction)	**2+2**	**2+1**	**1+1**	**2+0**	**1+0**	**0+0**
Shoulder(s) are open						
Unavailability Type Factor (T)	0%	35%	65%	75%	85%	100%
Shoulder(s) are closed						
Unavailability Type Factor (T)	5%	40%	70%	80%	90%	100%

In addition:

- If one or more contra-flow lanes are used, the Unavailability Type Factor (T) in Table 4 will be increased by the addition of 10% to factors noted.

- If any part of a ramp or interchange is unavailable, the Unavailability Type Factor (T) in Table 4 will be increased by the addition of 10% to the factors noted.

In any event, the Percentage of MAP Payable will never be less than 0.

Where more than one type of Unavailability Event occurs during the same Availability Period, the Unavailability Adjustment associated with each event will be calculated and only the largest adjustment will be applied.

In relation to Emergency Closures, a maximum period of 1-hour of additional closure time, commencing at the time when the lane is handed back into the control of Developer by the Emergency Services and Developer has completed any required repairs, will be allowed before an Unavailability Event is triggered; however, the additional closure time shall only be used as necessitated by the Emergency Closure and not for any other purpose.

3.6 Unavailability Adjustments for Planned Maintenance

Developer will be assessed Unavailability Adjustments for all Unavailability Events during Unavailability Period A, including Closures due to Planned Maintenance, but excluding any other Permitted Closures as per Section 3.7 below of this Exhibit 10. Developer will not be assessed Unavailability Adjustments for Unavailability Events during Unavailability Period B for any Permitted Closure including Planned Maintenance, provided that Planned Maintenance does not exceed 120 calendar days per year, as per Section 22.4.1.1 of the Technical Provisions.

3.7 Limitations on Quarterly Unavailability Adjustment

Notwithstanding Section 3.6 above, the total Quarterly Unavailability Adjustment with respect to the qth Quarter will be the lesser of:

$QUA_{q,y}$ as calculated in Eq. 3.4, and $MAP_y \times \left(\frac{d_{q,y}}{d_y} \right)$

For clarity, no Unavailability Adjustment will be applied with respect to any Permitted Closure, except for Unavailability Events for Planned Maintenance during Unavailability Period A, in accordance with Section 3.6 above of this Exhibit 10. No Unavailability Adjustment will be applied to Unavailability Events respecting an affected East End Crossing portion first occurring during a period of step-in by IFA, as provided in Section 11.7.1.5 of the Agreement.

3.8 Quarterly Noncompliance Adjustment

A single O&M Period Noncompliance Point shall equal $5,000 per point.

The Quarterly Noncompliance Adjustment, $QNA_{q,y}$, with respect to each Noncompliance Event whose Noncompliance Point Adjustment is applied in or occurs during the qth Quarter of Fiscal Year *y* after the Substantial Completion Date, will be determined in accordance with Eq. 3.8 as follows:

Eq. 3.8:

$$QNA_{q,y} = \sum_{x=1}^{n} NCA_x \times (\$5{,}000 \times \frac{CPI_y}{CPI_{2012}})$$

Where:

$QNA_{q,y}$ = Quarterly Noncompliance Adjustment for the qth Quarter of Fiscal Year *y*

NCA_x = the number of Noncompliance Points related to the Noncompliance Event *x* whose adjustment is applied in or occurs during the qth Quarter in Fiscal Year *y* during the Operating Term as determined by reference to Attachment 1 of Exhibit 12 to the PPA.

n = the total number of Noncompliance Events occurring in or whose Noncompliance Adjustments are applied in the qth Quarter of Fiscal Year *y*

x = a Noncompliance Event as defined in Attachment 1 of Exhibit 12 to the Agreement

The assessment of Noncompliance Points with respect to each Noncompliance Event shall be undertaken in accordance with Article 11 of the Agreement.

3.9 Quarterly Other Payment Adjustment

Quarterly Other Payment Adjustments are positive or negative adjustments according to Sections 10.2.3.2 (d), 15.5, 16.1.6, 16.2.5, 17.1.8, 17.1.9.10, 19.2.5.5 and 19.2.5.6 of the Agreement.

SECTION 4 – MILESTONE PAYMENT

4.1 Milestone Payment

Milestone Payments will be as shown in Exhibit 4 of the Agreement.

The Substantial Completion Milestone Payment Amount will be adjusted in accordance with Section 4.2 below.

4.2 Substantial Completion Milestone Payment Adjustment

A single Construction Noncompliance Point shall equal $5,000 per point.

Substantial completion Milestone Payment Amount = SCMP – Lesser of (SCMPAC) or (SCMPA)

Where:

SCMP = Substantial Completion Milestone Payment shown in Exhibit 4 of the Agreement

SCMPAC = the amount of the Substantial Completion Milestone Payment Adjustment Cap which shall be $10,000,000.

The Substantial Completion Milestone Payment Adjustment (SCMPA) will be determined in accordance with Eq. 4.2 as follows:

Eq. 4.2:

$$SCMPA = \sum_{x=1}^{n} CNCA_x \times (\$5{,}000 \times \frac{CPI_y}{CPI_{2012}})$$

Where:

CNCAx = is the Construction Noncompliance Adjustment related to the Construction Noncompliance Event x that occurs during the construction period between NTP2 and the Substantial Completion Date and which is subject to Construction Noncompliance Adjustments, as determined by reference to Attachment 1 of Exhibit 12 to the PPA.

n = the total number of Construction Noncompliance Events occurring during the construction period between NTP2 and the Substantial Completion Date

x = a Noncompliance Event as defined in Attachment 1 of Exhibit 12 to the Agreement

4.3. Limitations on Milestone Payments

When milestone payments are earned, payments will be made up to the lowest limiting amount that is in effect at that time, with additional monthly payments being due, subject to the actual limiting amount each month until all milestone payments that have been earned are paid.

1. Milestone payments will be limited to the maximum aggregate milestone payment schedule as follows:

    a. Thr ough June 30, 2013 $44,000,000

    b. Thr ough June 30, 2014 $73,000,000

    c. Through June 30, 2015 $122,000,000

    d. Thr ough June 30, 2016 $176,000,000

    e. Thr ough June 30, 2017 $392,000,000

    f. Through June 30, 2018 $392,000,000

2. Milestone payments will be limited to actual earned value of work completed as determined by Developer's monthly schedule status report as approved by IFA.

Attachment 1 to Exhibit 10

MAP_{Base} = thirty-two million, nine hundred nineteen thousand, nine hundred fifty-three dollars ($32,919,953)

The Parties acknowledge that the foregoing MAP_{Base} shall be updated from the Financial Model at Financial Close by amendment to this Agreement.

EXHIBIT 11

[reserved]

EXHIBIT 12

NONCOMPLIANCE POINTS SYSTEM AND PERSISTENT DEVELOPER DEFAULT

1. Noncompliance Points System

The table attached as Attachment 1 to this Exhibit 12 identifies Developer failures and breaches that may result in the assessment of Noncompliance Points, the number of Noncompliance Points that may be assessed for each such failure or breach, and the cure period available to Developer for each such failure or breach, other than for Developer's failure to submit a deliverable by its due date.

2. Trigger Points for Persistent Developer Default and Uncured Noncompliance Points

2.1 A Persistent Developer Default under clause (a) of the definition thereof shall exist entitling IFA to require submittal of Developer's remedial plan under Section 19.2.6 of the Agreement, on any date (whether before or after the Substantial Completion Date) that:

(a) The cumulative number of Noncompliance Points assessed during any consecutive 365-day period (excluding any Noncompliance Points assessed for cured Noncompliance Events during the period prior to the Substantial Completion Date) equals or exceeds the following:

(i) For any consecutive 365-day period ending prior to the Substantial Completion Date, 140;

(ii) For any consecutive 365-day period a portion of which includes any days prior to the Substantial Completion Date, 140; and

(iii) For any other consecutive 365-day period, 100.

(b) The cumulative number of Noncompliance Points, cured or uncured, assessed during any consecutive 1095-day period (excluding any Noncompliance Points assessed for cured Noncompliance Events during the period prior to the Substantial Completion Date) equals or exceeds the following:

(i) For any consecutive 1095-day period ending prior to the Substantial Completion Date, 270;

(ii) For any consecutive 1095-day period a portion of which includes any days prior to the Substantial Completion Date, but includes not more than 365 days outside such period, 270; and

(iii) For any consecutive 1095-day period a portion of which includes any days prior to the Substantial Completion Date, but includes more than 365 and not more than 730 days outside such period, 250; and

(iv) For any consecutive 1095-day period a portion of which includes any days prior to the Substantial Completion Date, but includes more than 730 and not more than 1094 days outside such periods, 225; and

(v) For any other consecutive 1095-day period, 200.

2.2 A Persistent Developer Default under clause (b) of the definition thereof shall exist entitling IFA to require submittal of Developer's remedial plan under Section 19.2.6 of the Agreement, on any date (whether before or after the Operating Period commences) that the cumulative number of breaches or failures to perform within clause (b) of the definition of Persistent Developer Default during any consecutive 365-day period equals or exceeds the following:

(a) For any consecutive 365-day period ending prior to the Substantial Completion Date, 90;

(b) For any consecutive 365-day period a portion of which includes any days prior to the Substantial Completion Date, 90; and

(c) For any other consecutive 365-day period, 60.

2.3 The number of cured Noncompliance Points that would otherwise then be counted under this Section 2 is subject to reduction in accordance with Section 19.2.6.3 of the Agreement.

ATTACHMENT 1 TO EXHIBIT 12

ASSESSMENT CATEGORIES

Category	Cure Periods	Assessment of Noncompliance Points
A	Cure period shall be deemed to start upon the date and time Developer first obtained knowledge of, or reason to know of, the Noncompliance Event. For this purpose Developer shall be deemed to first obtain knowledge of the Noncompliance Event not later than the date of delivery of the Notice of Determination to Developer, as described in Section 11.2.3.2 of the PPA.	If a category "A" Noncompliance Event is not fully and completely cured within the cure period, Noncompliance Points shall first be assessed at the end of the first cure period, and shall be assessed again at the end of each subsequent cure period (of duration equal to the prior cure period), as described in Sections 11.3.5 and 11.3.6 of the PPA.
B	Cure period shall be deemed to start upon the date and time on which the Noncompliance Event occurred, regardless of whether IFA delivered a Notice of Determination to Developer, as described in Section 11.2.3.3 of the PPA.	If a category "B" Noncompliance Event is not fully and completely cured within the cure period, Noncompliance Points shall first be assessed at the end of the first cure period, and shall be assessed again at the end of each subsequent cure period (of duration equal to the prior cure period), as described in Sections 11.3.5 and 11.3.6 of the PPA.
C	No cure period applicable.	Noncompliance Points shall first be assessed on the date of the initial Notice under Section 19.2 of the PPA, as described in Section 11.3.8 of the PPA.

NONCOMPLIANCE POINTS SYSTEM

PRE-SUBSTANTIAL COMPLETION NONCOMPLIANCE POINTS SYSTEM

Ref	Main Heading	Subheading	Failure to:	Assess-ment Category	Cure Period	Number of Points	Construction Noncompliance Event
1	Design and Construction	Access to Adjacent Properties	Maintain ingress and egress to adjacent properties as required under Section 12 of the Technical Provisions.	B	4 Hours	5	Yes
2	Environmental Compliance	Noise	Comply with Section 7.7 of the Technical Provisions with respect to noise.	B	1 Hour	2	Yes
3	Environmental Compliance	Contravention of Environmental Approvals	Follow the Environmental Approvals required in Section 7 of the Technical Provisions.	A	1 Day	2	Yes
4	Project Management	Inspection	Comply with a requirement of any Section of the Technical Provision or of the PPA with regard to inspection, except where provided elsewhere in this Attachment 1.	B	2 Days	2	Yes
5	Design and Construction	Traffic Management	Conform to the restrictions of Sections 12.4.3 and 12.4.7 of the Technical Provisions.	B	20 Minutes	1	Yes
6	Project Management	Safety	Observe the requirements of the safety plan; or to carry out any construction, operation or maintenance activity; in contravention of (or in absence of) the safety plan or in a manner that represents a hazard to project workers or the general public in accordance with Section 6.5.5 of the Technical Provisions.	A	1 Day	1	Yes

7	Project Management	Quality Management	Establish, maintain updated and comply with the requirements of a Quality Management Plan in accordance with Section 2 of the Technical Provisions.	B	7 Days	1	Yes
8	Contracting and Labor Practices	Compliance with DBE plan	Comply with the requirements of Section 7.10 of the PPA in connection with the Disadvantaged Business Enterprise (DBE) Program.	B	30 Days	1	Yes
9	Contracting and Labor Practices	Compliance with Workforce Diversity and Small Business Performance Plan	Comply with the requirements of Section 7.11 of the PPA in connection with the Workforce Diversity and Small Business Performance Plan	B	30 Days	1	Yes
10	General	IFA access	Comply with any of the provisions of Section 3.4 (Oversight, Inspection and Testing), Section 7.1 (Disclosure of Contracts and Contractors), Section 12.1 (Financial Model Updates), and Article 23 (Records and Audits; Intellectual Property) of the PPA, with respect to access for IFA's Authorized Representative(s) to the Project, Developer's Project offices and operations buildings, and Developer's data.	C	None	2	No
11	General	Notification of breach	Notify IFA of the occurrence of any Noncompliance Event specified in this Attachment 1 in accordance with Sections 11.2.1 and 19.1.1.12 of the PPA.	A	1 Day	2	No
12	Insurance	Verification of coverage	Comply with the requirements of Article 17 of the PPA.	B	15 Days	1	No

13	Project Management	Deliverables	Prepare, implement, maintain, update or submit a plan, a report, a deliverable or a submittal required by, or compliant with, any Section of the Technical Provisions or of the PPA, except where provided elsewhere in this Attachment 1.	B	7 Days	1	No
14	Reserved						
15	General	Governmental Approval	Deliver to IFA any executed copy of a Governmental Approval prior to beginning construction activities as required by Section 5.6 and Section 4.3 of the PPA.	B	7 Days	1	No
16	General	Governmental Approval	Submit any application for a Governmental Approval to IFA for approval or review and comment prior to submitting to any Governmental Entity as required by Section 4.3.3 of the PPA.	B	7 Days	1	No
17	Environmental Compliance	Notification	Promptly notify IFA of Hazardous Materials as set forth in Section 5.9.3 of the PPA.	B	1 Day	2	No
18	Environmental Compliance	Mitigation	Take reasonable steps to mitigate the effects of Hazardous Materials as set forth in Sections 5.9 and 15.15 of the PPA.	B	2 Days	5	No
19	Utility Adjustments	Maintain Service	Use Good Industry Practice to prevent damage to or interruption of a utility service in accordance with Section 18.1.4 of the Technical Provisions.	C	None	3	No
20	Design and Construction	Construction Warranties	Ensure extension of third parties warranties to IFA or failure to correct any defective Work that would void any such warranty as required by Section 5.11.2 and of the PPA.	A	30 Days	1	No
21	Design and	Implementation of Directive	Proceed with Directive Letters in	A	5 Days	3	No

	Construction	Letters	accordance with Section 16.3 of the PPA.				
22	Design and Construction	Traffic Management	Comply with the requirements of the Traffic Management Plan.	B	4 Hours	2	No

O&M PERIOD NONCOMPLIANCE POINTS SYSTEM

Ref	Main Heading	Subheading	Failure to:	Assess-ment Category	Cure Period	Number of Points
1	General	IFA access	Comply with any of the provisions of Section 3.4 (Oversight, Inspection and Testing), Section 7.1 (Disclosure of Contracts and Contractors), Section 12.1 (Financial Model Updates), and Article 23 (Records and Audits; Intellectual Property) of the PPA, with respect to access for IFA's Authorized Representative(s) to the Project, Developer's Project offices and operations buildings, and Developer's data.	C	None	2
2	General	Final Acceptance	Achieve Final Acceptance by the Final Acceptance Deadline as described in Section 5.8.5 of the PPA.	B	1 Day	5
3	General	Notification of breach	Notify IFA of the occurrence of any Noncompliance Event specified in this Attachment 1 in accordance with Sections 11.2.1 and 19.1.1.12 of the PPA.	A	1 Day	2
4	Insurance	Verification of coverage	Comply with the requirements of Article 17 of the PPA.	B	15 Days	1
5	Contracting and Labor Practices	Affiliates	Submit a copy of the proposed contract with an Affiliate in accordance with Section 7.6.2 of the PPA.	B	7 Days	1
6	Contracting and Labor Practices	Disclosure of Contracts and Contractors	Provide IFA with a list of all Contracts, Contractors, guarantees of Key Contracts and the guarantors with each monthly report required under this PPA or the Technical Provisions in accordance with Section 7.1.1 of the PPA.	B	7 Days	1
7	Contracting and Labor	Notification of Contractors	Comply with the requirements of Section 7.7 of the PPA.	B	14 Days	1

Ref	Main Heading	Subheading	Failure to:	Assess-ment Category	Cure Period	Number of Points
	Practices					
8	Reserved					
9	Project Management	Audit	Carry out internal audits of the Project Management Plan at the times prescribed in the Project Management Plan in accordance with Section 3.2.7 of the PPA.	B	7 Days	1
10	Project Management	Deliverables	Prepare, implement, maintain, update or submit a plan, a report, a deliverable or a submittal required by, or compliant with, any Section of the Technical Provisions or of the PPA, except where provided elsewhere in this Attachment 1.	B	7 Days	1
11	Project Management	Document Management	Manage documents in accordance with Section 1.5.2.6 and 22.6 of the Technical Provisions.	A	7 Days	1
12	Project Management	Inspection	Comply with a requirement of any Section of the Technical Provisions or of the PPA with regard to inspection, except where provided elsewhere in this Attachment 1.	B	2 Days	2
13	Reserved					
14	Project Management	Key Personnel	Comply with a requirement with regard to Key Personnel of any Section of the Technical Provisions or of the PPA, except where provided elsewhere in this Attachment 1.	A	30 Days	2
15	Project Management	Maintenance and inspection of Records	Keep, maintain and make available to IFA all books, records and documents in accordance with Sections 23.1 and 23.2 of the PPA.	A	7 Days	1

Ref	Main Heading	Subheading	Failure to:	Assess-ment Category	Cure Period	Number of Points
16	Project Management	Quality Management	Establish, maintain updated and comply with the requirements of the Quality Management Plan in accordance with Section 2 of the Technical Provisions.	A	7 Days	2
17	Project Management	Safety	Observe the requirements of the safety plan; or to carry out any construction, operation or maintenance activity; in contravention of (or in absence of) the safety plan or in a manner that represents a hazard to project workers or the general public in accordance with Section 6.5.5 of the Technical Provisions.	A	1 Day	3
18	Project Management	Submission	Develop and submit a part of, or change, addition or revision to, the PMP at the time required in accordance with Sections 3.2.2 or 3.2.4 of the PPA.	B	14 Days	1
19	Environmental Compliance	Notification	Notify IFA of Hazardous Materials or a Recognized Environmental Condition as set forth in Section 5.9.3 of the PPA.	A	1 Day	1
20	O&M	Category 1 Defect	Mitigate a hazard for a Category 1 defect within the time period shown in the Performance and Measurement Table.	A	See Performance and Measurement Table	3
21	O&M	Category 1 Defect	Implement a permanent remedy for a Category 1 defect within the time period shown in the Performance and Measurement Table.	A	See Performance and Measurement Table	2
22	O&M	Category 2 Defect	Implement a permanent repair for a Category 2 defect within the time period shown in the	A	See Performance	1

Ref	Main Heading	Subheading	Failure to:	Assess-ment Category	Cure Period	Number of Points
			Performance and Measurement Table.		and Measurement Table	
23	O&M	Reporting Records Accuracy	Report Defects or Noncompliance points in the Operations Reports as required per Section 22.6 of the Technical Provisions.	A	7 Days	5
24	O&M	Traffic Operations Restrictions	Comply with a traffic operations restrictions set forth in Article 6 of the PPA (each instance).	B	1 Day	1
25	O&M	Availability Payment Documentation	Provide supporting documentation with the draft Availability Payment invoice.	B	7 Days	5
26	O&M	O&M Plan	Comply with the requirements of Operations and Maintenance Plan not specifically identified elsewhere in this Attachment 1.	B	14 Days	1
27	O&M	O&M Work Files	Maintain current and accurate files, and make them available for inspection and audit, related to the O&M Work per requirements of Sections 22.1.10 and 22.7.2 of the Technical Provisions.	B	15 Days	3
28	O&M	Operations Report	Submit Operations Report per requirements of Section 22.2.2 of the Technical Provisions.	B	7 Days	5
29	O&M	Maintenance Work Report	Submit Maintenance Work Report per requirements of Section 22.4.1.3 of the Technical Provisions.	B	7 Days	5
30	O&M	Maintenance Plan	Submit an annual Maintenance Plan per requirements of Section 22.4.1 of the Technical Provisions.	B	14 Days	3
31	O&M	Notification Regarding Planned Roadway	Notify and/or coordinate with public agencies (INDOT, KYTC, Louisville Metro, etc.) regarding planned Segment Closures per the requirements of	C	None	3

Ref	Main Heading	Subheading	Failure to:	Assess-ment Category	Cure Period	Number of Points
		Closures	Section 22.2.3 of the Technical Provisions.			
32	Reserved					
33	O&M	Operations Staffing Levels	Maintain the operations staffing levels in accordance with the requirements of Section 22 of the Technical Provisions and the PMP.	A	30 Days	4
34	O&M	Hazardous Materials Management Plan	Implement a Hazardous Materials policy in accordance with the requirements of Section 7.9 of the Technical Provisions.	B	14 Days	4
35	O&M	Inspection Obligations	Perform Developer's inspection obligations per the requirements of Section 22 of the Technical Provisions.	A	1 Day	1
36	O&M	Snow and Ice Control Plan	Submit an annual Snow and Ice Control Plan per the requirements of Section 22.3.1.12.2 of the Technical Provisions.	B	14 Days	3
37	O&M	Winter Patrol Diary	Make available the Winter Patrol Diary per the requirements of Section 22.3.1.12.4 of the Technical Provisions.	B	1 day	4

EXHIBIT 13

LIST OF INITIAL FUNDING AGREEMENTS

AND INITIAL SECURITY DOCUMENTS

[TO BE PROVIDED AT FINANCIAL CLOSE]

Funding Agreements

Security Documents

EXHIBIT 14

CALCULATION AND PAYMENT OF REFINANCING GAIN

Section 1. Data and Projections Required for the Calculation of the Refinancing Gain

Developer must notify IFA as soon as practicable of its interest in proceeding with a Refinancing and the proposed schedule for documenting and closing the proposed Refinancing other than an Exempt Refinancing.

Developer shall provide the following information at least 35 days in advance of the scheduled Refinancing date:

(a) The Financial Model with the original projections duly adjusted for any changes in the East End Crossing structure (e.g. IFA Changes);

(b) Details of the actual timing and amounts of Committed Investment from the Effective Date to the scheduled Refinancing date;

(c) Details of the actual timing and amounts of Distributions to Equity Members or any of their Affiliates from the Effective Date to the scheduled Refinancing date;

(d) Information on the actual cash flow of Developer from the Effective Date to the scheduled Refinancing date, set out under the same headings as the Financial Model;

(e) Term sheet and other relevant information on the terms of the Refinancing;

(f) A pre-Refinancing Financial Model, which does not take into account the effects of the Refinancing, as updated by Developer (i) for any changes in the East End Crossing and based on the actual performance of the East End Crossing to the date of calculation and other macroeconomic assumptions and (ii) with projections for the cash flow of Developer from the estimated Refinancing date to the end of the Term, including projected Distributions ("**Pre-Refinancing Financial Model**");

(g) A post-Refinancing Financial Model which fully takes into account the effects of the Refinancing as projected on the basis of the term sheet and new Funding Agreements, as updated by Developer (i) for any changes in the East End Crossing and based on the actual performance of the East End Crossing to the date of calculation and other macroeconomic assumptions and (ii) with projections for the cash flow of Developer from the scheduled Refinancing date to the end of the Term, including projected Distributions and all costs incurred in connection with the Refinancing ("**Post-Refinancing Financial Model**");

(h) A calculation of the Refinancing Gain based on the above and the provisions described below; and

(i) Information on the assumptions for the projections in the Pre-Refinancing Model and Post-Refinancing Financial Model.

For the purposes of this Exhibit, "Pre-Refinancing Equity IRR" means the Equity IRR calculated

in the Pre-Refinancing Financial Model and "Post-Refinancing Equity IRR" means the Equity IRR calculated in the Post-Refinancing Financial Model.

The Pre-Refinancing Equity IRR and Post-Refinancing Equity IRR shall be calculated for the entire Term taking into account:

(a) Timing and amounts of the investment by Equity Members;

(b) Distributions received by Equity Members up to the estimated Refinancing date; and

(c) Projected Distributions as shown in the Financial Model immediately prior to the Refinancing or immediately after the Refinancing, as applicable.

Section 2 Calculation of the Refinancing Gain

The Refinancing Gain for any Refinancing other than an Exempt Refinancing will be equal to the greater of zero and [(A-B)-C] where:

A = the Net Present Value of the Distributions to be made from the estimated Refinancing date to the end of the Term as projected in the Post-Refinancing Financial Model, discounted using the Pre-Refinancing Equity IRR;

B = the Net Present Value of the Distributions to be made from the estimated Refinancing date to the end of the Term as projected in the Pre-Refinancing Financial Model, discounted using the Pre-Refinancing Equity IRR; and

C = any adjustment required to raise the Pre-Refinancing Equity IRR to the Original Equity IRR as described in Section 3 below.

For purposes of this Exhibit, "Net Present Value" means the aggregate of the discounted values, calculated as of the estimated date of the Refinancing, of each of the relevant projected Distributions, in each case discounted using the Original Equity IRR.

For the avoidance of doubt, "Refinancing Gain" excludes the portion of gain, if any, (calculated as provided above) from the first Refinancing that is less than or equal to that shown in the Financial Model and incorporated into the Financial Model. Any gain from the first Refinancing (calculated as provided above) in excess of the gain therefrom as shown in the Financial Model shall constitute Refinancing Gain.

Section 3 Adjustment to Raise the Pre-Financing Equity IRR to the Equity IRR

If the Pre-Refinancing Equity IRR is lower than the Original Equity IRR, a calculation will be done to determine the amount of Distributions which, if received by Equity Members at the estimated Refinancing date, would increase the Pre-Refinancing Equity IRR to the Original Equity IRR (while the MAP is maintained and the minimum prevailing debt covenants established in the Funding Agreements are not violated). The determination of this amount of Distributions needed to achieve the Original Equity IRR shall be treated as Project Debt, rather than Committed Investment, any initial Committed Investment in excess of the maximum permitted initial Committed Investment under Section 13.7.9 of the Agreement. This amount of Distributions will be deducted as factor C in Section 2 above and IFA will only be entitled to receive 60% of the remaining balance as the Refinancing Gain.

Section 4 Payment of Department's Portion of Refinancing Gain

IFA will receive payment of its portion of the Refinancing Gain as a reduction in the Availability Payments over all or a portion of the Term, subject to the following provisions:

(a) IFA will not receive its portion of the Refinancing Gain faster than the Equity Members of Developer; and

(b) If the Refinancing involves raising new debt or otherwise increasing the amount of outstanding Project Debt anticipated in any Fiscal Year of the Financial Model, IFA may elect to receive its portion as a lump sum payment concurrently with the close of the Refinancing.

Section 5 Final Calculation and Payment

Developer shall perform a final calculation of the Refinancing Gain and deliver the results to IFA within 15 days after the close of the Refinancing.

EXHIBIT 15

SUMMARY OF TERMS FOR CUSTODY AGREEMENT

1. Revenues Covered. The Custody Agreement will encompass all Toll Revenues, including payments by cash or check, or electronic funds transfer.

2. Custodial Accounts. The Custody Agreement will provide for the establishment and maintenance of the following separate custodial securities accounts (or separate custodial trust accounts) (collectively "Custodial Accounts"):

(a) An account for all collected Toll Revenues from all sources ("Toll Revenue Collections Account");

(b) An account to hold all funds prepaid by Transponder customers ("Prepaid Customers Account");

(c) Indiana Revenue Share Account;

(d) Kentucky Revenue Share Account.

3. Lockbox Account. The Custody Agreement will provide for establishment and maintenance of a separate lockbox account for incoming Toll Revenue receipts and receipts relating to prepaid accounts of Transponder customers ("Lockbox Account").

4. Withdrawal, Transfer and Replenishment Mechanics. The Custody Agreement will include provisions providing for the mechanics of withdrawals from or transfers among the accounts as well as deposits to the Prepaid Customers Account from account customer replenishments, to occur on a daily basis on all days the Custodian is open for business, including the following:

(a) For daily processing of deposits to the Lockbox Account and daily transfer of cleared deposits to the appropriate Custodial Accounts;

(b) For daily withdrawal of funds in the Prepaid Customers Account and transfer thereof into the appropriate account or to designated customers owed refunds or credits, including upon closure of customer accounts, in accordance with instructions from the Toll Operator;

(c) For daily deposits to the Prepaid Customers Account from payments made by Transponder account customers upon opening or replenishment of their customer accounts; and

(d) IFA's obligation to direct, or cause the Toll Operator to direct, such movement of funds, and the rights of IFA to enforce such obligation, including the right to step-in and direct such movement of funds upon any failure to properly do so.

(e) For daily withdrawal of (i) the Indiana Revenue Share from the Toll Collections Account to the Indiana Revenue Share Account held under the Custody Agreement for transfer from such account to the Project Trustee for deposit in the Toll Revenue Fund held

under the Project Trust Agreement and (ii) the Kentucky Revenue Share from the Toll Collections Account to the Kentucky Revenue Share Account for transfer from such account directly to the trustee on behalf of the holders of the bond issued by KPTIA or such other account as directed in writing by KPTIA.

5. Custodian Obligations. The Custody Agreement will include the Custodian's agreement to withdraw, transfer and deposit funds in accordance with the provisions set forth in the Custody Agreement.

6. Designated Beneficiaries. IFA with respect to the Indiana Revenue Share held in the Custodial Accounts and the Lockbox Account will be the sole designated beneficiaries of such amounts. KPTIA and the trustee acting on behalf of the holders of bonds issued by KPTIA with respect to the Kentucky Revenue Share KPTIA held in the Custodial Accounts and the Lockbox Account will be the sole designated beneficiaries of such amounts. With respect to such beneficiary interests, the Custody Agreement shall:

(a) Include the Custodian's acknowledgement of the beneficial rights of IFA and KPTIA to pledge their rights as a designated beneficiary to any of their creditors;

(b) Expressly state the intention of the parties that the Custody Agreement and arrangements described therein are intended to keep collected Toll Revenues out of the possession of KPTIA, KPTIA's bond trustee, Developer and IFA, and to isolate them with the Custodian until appropriate allocation pursuant to the Custody Agreement, the Project Trust Agreement with respect to the Indiana Revenue Share and the trust indenture relating to KPTIA's bonds with respect to the Kentucky Revenue Share;

7. Toll Revenue Ownership. The Custody Agreement will include express confirmation by IFA, KPTIA and the Custodian that all Toll Revenues collected by the Toll Operator belong to and are the property of IFA and KPTIA, and are not the property or assets of Developer or the Custodian, and that in performing its collection services the Toll Operator is acting as an intermediary and agent for IFA and KPTIA in respect of all Toll Revenues.

8. Monitoring. The Custody Agreement will include specific provisions designed to enable the beneficiaries to monitor the operation of the Custodial Accounts and Lockbox Account and the Toll Operator's performance of its anticipated functions thereunder, including calculation of Indiana Revenue Share and Kentucky Revenue Share, notice provisions regarding certain events (such as the Toll Operator not providing any required notice, certificate or filing as contemplated by the Custody Agreement).

9. Miscellaneous. The Custody Agreement will include miscellaneous provisions providing for appropriate distribution and treatment of accounting records concerning the accounts, tax treatment, limitation on eligible investments, qualifications of the Custodian and any successor Custodian (including minimum capital, other than borrowed capital, and surplus), waiver of custodial security interests, and rights of the Custodian.

EXHIBIT 16

FORM OF PROJECT TRUST AGREEMENT

[attached]

PROJECT TRUST AGREEMENT

BETWEEN

INDIANA FINANCE AUTHORITY

AND

U.S. BANK NATIONAL ASSOCIATION,
As Trustee

Indiana Finance Authority
East End Crossing of the
Ohio River Bridges Project

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PROJECT TRUST AGREEMENT

This PROJECT TRUST AGREEMENT, dated as of the Effective Date of the PPA (as those terms are hereinafter defined), is entered into between the INDIANA FINANCE AUTHORITY, a body corporate and politic, not a state agency but an instrumentality exercising essential public functions, of the State of Indiana ("IFA") and U.S. Bank National Association, a national banking association, duly organized and existing under and by virtue of the laws of the United States of America (the "Trustee") and witnesseth as follows:

RECITALS

WHEREAS, IFA and WVB East End Partners, LLC (the "Developer") have entered into that certain Public Private Agreement dated December 27, 2012, as it may be amended from time to time in accordance with its terms, with an "Effective Date" as set forth therein (the "PPA") for the purpose of facilitating the design, financing, construction and, to the extent described in the PPA, the operation and maintenance of the East End Crossing of the Ohio River Bridges Project, as those terms are defined below;

WHEREAS, this Project Trust Agreement is being executed by the parties hereto in order to provide for the establishment of the various Funds hereinafter described, the deposit to the Funds of various moneys which may be remitted to the Trustee in respect to the East End Crossing, and the administration, investment, and distribution of moneys in the various Funds as provided herein;

WHEREAS, under the PPA, the Developer is obligated to design, finance, build and, to the extent described therein, operate and maintain the East End Crossing so that it is available for use of IFA, and IFA is obligated to make certain periodic payments to Developer in the form of Milestone Payments and Availability Payments, as those terms are hereinafter defined, together with Termination Compensation and Compensation Amounts, as those terms are hereinafter defined, and is further obligated to pay certain ongoing costs and expenses of the East End Crossing as are more fully described herein;

WHEREAS, IFA has executed a Memorandum of Understanding with INDOT, as hereinafter defined, with respect to the East End Crossing, further delineating the relationship and relative responsibilities of IFA and INDOT with respect to the East End Crossing;

WHEREAS, IFA has entered into a Milestone Payment Agreement with INDOT pursuant to which INDOT will periodically contribute moneys to IFA for the purpose of defraying the costs of the East End Crossing in order to reduce the amount of Availability Payments required to be paid to the Developer, which moneys will be used to make Milestone Payments to the Developer under the PPA for the purpose of paying costs of the East End Crossing;

WHEREAS, IFA has entered into a Master Use Agreement, as hereinafter defined, with INDOT, pursuant to which INDOT will make periodic rental payments to IFA for the use of the East End Crossing after the Substantial Completion Date, as set forth in the Master Use Agreement, which moneys will be used to the extent hereinafter described, to make Availability Payments to the Developer and otherwise as provided in Article III herein;

WHEREAS, IFA is granting a security interest in the Developer Trust Estate, as defined herein, under this Project Trust Agreement.

GRANTING CLAUSES

NOW, THEREFORE, in consideration of the foregoing premises and of the mutual agreements and covenants set forth herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledge by both parties, and in order to secure the payments from the IFA to the Developer due and payable under the PPA, and the performance and observance of all the covenants and conditions of the IFA under the PPA, the IFA does hereby pledge unto the Trustee, for the benefit of the Developer, and grant a security interest in and lien on the moneys, investments, investment property, securities, securities entitlements, financial assets and other property held from time to time in the following Funds --

- AP Payment Fund,
- AP Relief Event and Termination Compensation Fund,
- AP Disputed Amounts Fund,
- MP Payment Fund,
- MP Relief Event and Termination Compensation Fund, and
- MP Disputed Amounts Fund;

(the "Developer Trust Estate") PROVIDED THAT, the Developer shall have no interest in or claim upon any of the other Funds, which shall be held by the Trustee for the benefit of, and as fiduciary for, the IFA. Further, the IFA and the Trustee, for themselves and their respective successors, do hereby covenant and agree (for so long as the PPA shall be in effect, subject to continuing rights and obligations set forth in Section 12.12) as follows:

ARTICLE I.

DEFINITIONS

Unless the context otherwise requires, the terms defined in this Section 1.01 shall for all purposes hereof and of any amendment hereof or supplement hereto and of any certificate, opinion, request or other document mentioned herein or therein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein. All capitalized terms used herein but not defined herein shall have the respective meanings ascribed thereto in the PPA.

"AP Appropriations Fund" means the fund described in Section 2.03 hereof.

"AP Disputed Amounts Fund" means the fund described in Section 2.09 hereof.

"AP Payment Fund" means the fund described in Section 2.07 hereof.

"AP Relief Event and Termination Compensation Fund" means the fund described in Section 2.08 hereof.

"Authorized Representative of the IFA" means the Public Finance Director of the State of Indiana and those persons designated in writing by the Public Finance Director from time to time to the Trustee.

"Availability Payments" means the payments by that name to be made by the IFA to the Developer under the PPA.

"Business Day" has the meaning specified in the PPA.

"Certificate of Developer" means an instrument in writing signed by an officer of Developer duly authorized by the governing body of Developer for that purpose.

"Certificate of IFA" means an instrument in writing signed by the Chairman of IFA or the Public Finance Director or such other officer, member or director of IFA that duly authorized by a resolution of IFA or State law for that purpose from time to time.

"Compensation Amount" means an amount, if any, owed by IFA to the Developer under Article 15 of the PPA on occurrence of a Relief Event (as used therein), and payable from either the MP Relief Event and Termination Compensation Fund or the AP Relief Event and Termination Compensation Fund hereunder.

"Custodian" means the bank or trust company serving as Custodian under the Custody Agreement.

"Custody Agreement" means the agreement to be entered between and among IFA, KPTIA, the Tolling Body, if appropriate, the Toll Operator and the Custodian as described in Subsection 11.7.1 of the Development Agreement.

"Department Milestone Payments" shall have the meaning set forth in the Milestone Payment Agreement.

"Department Relief Events Reserve Payments" shall have the meaning set forth in the Milestone Payment Agreement.

"Developer" means the private entity selected by IFA to develop the East End Crossing as described in Subsection 10.3.2 of the Development Agreement.

"Developer Trust Estate" means has the meaning set forth in the Granting Clauses hereto.

"Development Agreement" means the Bi-State Development Agreement among KPTIA, KYTC, IFA, INDOT and the Louisville and Southern Indiana Bridges Authority pursuant to which the Ohio River Bridges Project will be jointly undertaken by the State of Indiana and the Commonwealth of Kentucky.

"Disputed Amounts" means any amounts in dispute as described in Section 10.3 of the PPA.

"Downtown Crossing" means a tolled bridge facility involving reconstruction and operational improvements to the Kennedy Interchange where I 64, I 65 and I 71 converge on the south side of the Kennedy Bridge in downtown Louisville (Section 1), renovation of the Kennedy Bridge along with construction of a new Downtown Bridge just east of the Kennedy Bridge (I 65) (Section 2), and reconstruction of the I 65 approach in Indiana, including modernization to improve ingress and egress, realignment and widening of the approaches (Section 3), all as more fully described in the Development Agreement.

"East End Crossing" means a tolled bridge facility involving construction of a new East End Bridge (Section 5) located about eight miles from downtown Louisville connecting the Gene Snyder Freeway (KY 841) to the Lee Hamilton Highway (Section 6), all as more fully described in the Development Agreement.

"Effective Date" has the meaning specified in the PPA.

"Eligible Investments" means any one or more of the following investments, if and to the extent the same are then legal investments under the applicable laws of the State for moneys proposed to be invested therein:

(i) obligations fully and unconditionally guaranteed as to timely payment of principal and interest by any agency or instrumentality of the United States of American when such obligations are backed by the full faith and credit of the United States of America;

(ii) Federal Housing Administration debentures;

(iii) Federal Home Loan Mortgage Corporation participation certificates and senior debt obligations (excluded are stripped mortgage securities that are purchased at prices exceeding their principal amounts);

(iv) Farm Credit Bank consolidated system-wide banks and notes;

(v) Federal Home Loan Banks consolidated debt obligations;

(vi) Federal National Mortgage Association senior debt obligations and mortgage-backed securities (excluded are stripped mortgage securities that are purchased at prices exceeding their principal amounts);

(vii) unsecured certificates of deposit, time deposits and bankers' acceptances of any bank the short-term obligations of which are rated "A-l" or better by S&P having an original maturity of not more than 360 days;

(viii) commercial paper (having original maturities of not more than 270 days) rated "A-l" by S&P and "Prime-1" by Moody's;

(ix) evidence of ownership of proportionate interests in future interest and principal payments on obligations described above held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying government obligations are not available to any person claiming through the custodian or to whom the custodian may be obligated;

(x) deposits the aggregate amount of which are fully insured by the Federal Deposit Insurance Corporation, in banks which have capital and surplus of at least $5 million; and

(xi) money market funds rated "Aam" or "Aam-G" by S&P, which funds may be funds of the Trustee or its affiliates.

"Event of Default" has the meaning set forth in Section 8.01 hereof.

"Financial Close" has the meaning specified in the PPA.

"First Priority Costs" means the following costs payable from the IFA First Priority Costs Fund:

(a) The fees and costs of the Custodian properly incurred under, and in accordance with, the Custody Agreement; and

(b) The fees and costs of the Trustee properly incurred under, and in accordance with, the Project Trust Agreement.

"Fund" means any of the funds created in Section 2.01 hereof.

"General Reserve Fund" means the fund described in Section 2.06 hereof.

"IFA" means the Indiana Finance Authority; a body politic and corporate created by Indiana pursuant to IC 4-4-14-4, which provides that the exercise of its powers constitutes an essential governmental, public, and corporate function; the procuring entity for East End Crossing.

"IFA Costs" means for any month or any Fiscal Year, as applicable, fees, costs and expenses of all kinds incurred by IFA relating to the East End Crossing after the Effective Date, including:

(a) salaries, wages and benefits of employees, rent, office costs, advisor and consultant costs, including costs of traffic and revenue studies and updates thereto, and attorneys' fees;

(b) costs to acquire property, easements, rights of entry, rights of access and other interests necessary for construction, operation or maintenance of the East End Crossing; and

(c) all other organizational, administrative, operating and overhead fees, costs and expenses of IFA;

provided that "IFA Costs" excludes IFA's Recoverable Costs, and other amounts due from Developer under the Agreement.

"IFA First Priority Costs Fund" means the fund described in Section 2.06 hereof.

"INDOT" or "Department" means Indiana Department of Transportation, an agency of Indiana.

"Indiana Revenue Share" means 50% of all Toll Revenues, subject to any adjustment described in Subsection 8.1.9 of the Development Agreement.

"Indiana UCC" means the Uniform Commercial Code in effect from time to time in the State of Indiana.

"Interlocal Agreement(s)" means any agreement or agreements to be entered by and between the IFA, INDOT, KPTIA and KYTC (or any of them representing each state) for the joint undertaking of facilitating the accomplishment of the Ohio River Bridges Project, under the interlocal governing statutes of each state.

"KPTIA" means Kentucky Public Transportation Infrastructure Authority, the developing authority and issuing authority for the Downtown Crossing.

"KYTC" means Kentucky Transportation Cabinet, the procuring agency on the Downtown Crossing.

"MP Appropriations Fund" means the fund described in Section 2.04 hereof.

"MP Disputed Amounts Fund" means the fund described in Section 2.15 hereof.

"MP Payment Fund" means the fund described in Section 2.13 hereof.

"MP Relief Event and Termination Compensation Fund" means the fund described in Section 2.14 hereof.

"Master Use Agreement" means the agreement by that name regarding the East End Crossing between IFA and INDOT and the supplements or amendments thereto.

"Milestone Payment Agreement" means the agreement by that name dated as of the Effective Date regarding the East End Crossing between IFA and INDOT and the supplements or amendments thereto.

"Milestone Payments" means payments by that name due from the IFA to the Developer under the PPA.

"Monthly Disbursement" means the amount, if any, paid by IFA to Developer in accordance with Section 10.2.3 of the PPA, and equal to (a) 95% of the MAP (for the subject year) divided by 12 minus (b) the interest owed by Developer to IFA, if any, under the PPA.

"Ohio River Bridges Project" means the Downtown Crossing and East End Crossing.

"Other IFA Costs Fund" means the fund by that name described in Section 2.10 hereof.

"PPA" or "Public Private Agreement" means the agreement or agreements to be entered between IFA and Developer for development of the East End Crossing.

"Post Termination Fund" means the fund by that name described in Section 2.12 hereof.

"Project Trust Agreement" means this Project Trust Agreement as amended and supplemented from time to time.

"Quarterly Payment" means the amount of the portion of Availability Payment payable by IFA to Developer for a given calendar quarter, calculated as provided in Exhibit 10 (Payment Mechanism) to the PPA.

"Relief Event" has the meaning set forth in the PPA.

"Relief Events Allowance Account Appropriations Fund" means the fund described in Section 2.15 hereof.

"Requisition" means a request for disbursement funds from a Fund in the forms attached to this agreement as Exhibits A through E.

"Substantial Completion Date" means the date that Substantial Completion has been achieved for the East End Crossing as defined in the PPA.

"Termination Compensation" means each measure of compensation, if any, owing from IFA to Developer upon termination of the PPA prior to the stated expiration date of the Term as set forth in the PPA.

"Toll Operations Agreement" means an agreement to be entered into among a Toll Operator and either (i) the States' Parties (or certain of them representing each State) or (ii) the Tolling Body, which will identify the duties and responsibilities of the Toll Operator with respect to the comprehensive electronic tolling system and the deposit of Toll Revenues pursuant to the

Custody Agreement. The initial Toll Operations Agreement may be contained within the Toll System Integrator Agreement.

"Toll Revenue Fund" means the fund by that name described in Section 2.01 hereof.

"Toll Revenues" means all revenues actually received by the Custodian in connection with the Project or the tolling thereof, including:

(a) Gross user fees and tolling toll revenues;

(b) Administrative fees;

(c) Violation charges;

(d) Other revenues from the Project or the Users thereof the disposition of which is not specifically addressed by an agreement regarding Business Opportunities;

(e) Proceeds of business interruption or other insurance against loss of revenues from operation of the Project;

(f) Payments from any Governmental Entity in replacement of or substitution for toll revenues;

(g) Amounts received pursuant to any collection or enforcement action, judgment or settlement with respect to any of the foregoing revenues;

(h) Amounts received as liquidated or other damages under contracts to which IFA is a party with respect to any of the foregoing revenues; and

(i) Interest earned on any of the foregoing amounts.

Toll Revenues exclude insurance proceeds, judgments and awards, to the extent they do not replace, reimburse, compensate or substitute for any of the foregoing revenues.

"Toll System Collection Expense Fund" means the fund by that name described in Section 2.05 hereof.

"Toll System Collection Expenses" means amounts payable by IFA to the Toll Operator for the Indiana portion of tolling operations and maintenance expenses under the Toll Operations Agreement.

"Trustee" means U.S. Bank National Association, as Project Trustee under this Project Trust Agreement, its successors and assigns.

"Use Payment" shall have the meaning set forth in the Master Use Agreement.

(End of Article I)

ARTICLE II.

FUNDS, CREATION AND DEPOSITS

Section 2.01. Establishment of Funds.

(a) There is hereby created and the Trustee hereby establishes the following funds under this Project Trust Agreement, to be known collectively as the Funds and individually as a Fund:

1. Toll Revenue Fund
2. AP Appropriations Fund
3. MP Appropriations Fund
4. Toll System Collection Expense Fund
5. IFA First Priority Costs Fund
6. AP Payment Fund
7. AP Relief Event and Termination Compensation Fund
8. AP Disputed Amounts Fund
9. MP Payment Fund
10. MP Relief Event and Termination Compensation Fund
11. MP Disputed Amounts Fund
12. IFA Appropriations Fund
13. Other IFA Costs Fund
14. Relief Event Allowance Account Appropriations Fund
15. General Reserve Fund
16. Post Termination Fund

(b) The Trustee covenants and agrees that all moneys, when and as received by Trustee and designated or otherwise directed for deposit into any of the Funds, whether pursuant to a transfer from IFA, the Developer, the Custodian or any other Person, will be received and held by the Trustee in trust hereunder and will be deposited by the Trustee into the appropriate Fund and held in trust in such Fund.

(c) All moneys delivered to the Trustee for deposit into any of the Funds shall be (i) deposited into the appropriate Fund as provided further in this Article II, (ii) held by the Trustee in trust for the benefit of either the Developer or IFA or both, as more fully designated for each Fund hereinafter in accordance with the terms of this Project Trust Agreement, (ii) disbursed, allocated and applied by the Trustee solely to the uses and purposes set forth herein, and (iv) accounted for separately and apart from all other moneys, funds, accounts or other resources of the Trustee.

(d) Trustee shall have no beneficial interest in any of the Funds, but is serving as fiduciary and trust holder for the same for the benefit of Developer and IFA, as their respective interests may appear.

Section 2.02. Toll Revenue Fund.

(a) The IFA shall execute and deliver the Custody Agreement and cause the Custodian thereunder to collect Toll Revenues, and to transfer the Indiana Revenue Share to the Trustee in accordance with the terms thereof.

(b) The Trustee shall immediately deposit the Indiana Revenue Share, as received from the Custodian, the IFA or any other Person, into the Toll Revenue Fund.

(c) The Trustee shall administer the Toll Revenue Fund as provided in Article III hereof.

Section 2.03. AP Appropriations Fund.

(a) The IFA and INDOT have executed and delivered the Master Use Agreement, which requires INDOT to seek appropriations for and make Use Payments to IFA, and shall execute and deliver biennial supplements thereto from time to time pursuant to its terms.

(b) The IFA shall immediately transfer all Use Payments to the Trustee (or cause INDOT to transfer such payments directly to the Trustee). In the event the IFA receives appropriations in lieu of any deficiencies in Use Payments made by INDOT (in whole or in part) it will immediately transfer such amounts to the Trustee. The Trustee shall immediately deposit all such moneys in the AP Appropriations Fund.

(c) The Trustee shall administer the AP Appropriations Fund in the manner set forth in Article IV hereof.

Section 2.04. MP Appropriations Fund.

(a) The IFA and INDOT have executed and delivered the Milestone Payment Agreement, which requires INDOT to seek appropriations for and make Department Milestone Payments to IFA, and shall execute and deliver any biennial supplements thereto, pursuant to its terms.

(b) The IFA shall immediately transfer such Department Milestone Payments to the Trustee (or cause INDOT to transfer such payments directly to the Trustee). In the event the IFA receives appropriations in lieu of any deficiencies in Department Milestone Payments made by INDOT (in whole or in part) it will immediately transfer such amounts to the Trustee. The Trustee shall immediately deposit all such moneys in the MP Appropriations Fund.

(c) The Trustee shall administer the MP Appropriations Fund in the manner set forth in Article V hereof.

Section 2.05. Toll System Collection Expense Fund.

(a) Moneys shall be deposited in the Toll System Collection Expense Fund as provided in Section 3.02(a) and Section 4.02(a) hereof.

(b) Moneys in the Toll System Collection Expense Fund shall be expended to pay Toll System Collection Expenses as provided in Section 7.01 hereof.

Section 2.06. IFA First Priority Costs Fund.

(a) Moneys shall be deposited in the IFA First Priority Costs Fund as provided in Section 3.02(b) and Section 4.02(b) hereof.

(b) Moneys in the IFA First Priority Costs Fund shall be used to pay the IFA First Priority Costs at the times and in the manner prescribed in Section 7.02 hereof.

Section 2.07. AP Payment Fund.

(a) Moneys shall be deposited in the AP Payment Fund as provided in Section 3.02(c) and Section 4.02(c) hereof.

(b) Moneys in the AP Payment Fund shall be used to pay the Availability Payments to the Developer at the times and in the manner prescribed in Section 7.03 hereof.

Section 2.08. AP Relief Event and Termination Compensation Fund.

(a) Moneys shall be deposited in the AP Relief Event and Termination Compensation Fund as provided in Section 3.02(d)(ii) and Section 4.02(d)(ii) hereof.

(b) Moneys in the AP Relief Event and Termination Compensation Fund shall be used to pay the Compensation Amounts and Termination Compensation to the Developer after Substantial Completion at the times and in the manner prescribed in Section 7.07 hereof.

Section 2.09. AP Disputed Amounts Fund.

(a) Moneys shall be deposited in the AP Disputed Amounts Fund as provided in Section 3.02(d)(i) and Section 4.02(d)(i) hereof.

(b) Moneys in the AP Disputed Amounts Fund shall be used to pay Disputed Amounts after the Substantial Completion Date to the Developer at the times and in the manner prescribed in Section 7.06 hereof.

Section 2.10. MP Payment Fund.

(a) Moneys shall be deposited in the MP Payment Fund as provided in Section 5.02(a) hereof.

(b) Moneys in the MP Payment Fund shall be used to pay the Milestone Payments to the Developer at the times and in the manner prescribed in Section 7.04 hereof.

Section 2.11. MP Relief Event and Termination Compensation Fund.

(a) Moneys shall be deposited in the MP Relief Event and Termination Compensation Fund as provided in Section 5.02(b) hereof.

(b) Moneys in the MP Relief Event and Termination Compensation Fund shall be used to pay the Compensation Amounts and Termination Compensation to the Developer prior to Substantial Completion at the times and in the manner prescribed in Section 7.08 hereof.

Section 2.12. MP Disputed Amounts Fund.

(a) Moneys shall be deposited in the MP Disputed Amounts Fund as provided in Section 5.02(c) hereof.

(b) Moneys in the MP Disputed Amounts Fund shall be used to pay Disputed Amounts prior to the Substantial Completion Date to the Developer at the times and in the manner prescribed in Section 7.09 hereof.

Section 2.13. IFA Appropriations Fund.

(a) Moneys shall be deposited in the IFA Appropriations Fund as provided in Article VII hereof.

(b) Moneys in the IFA Appropriations Fund may be transferred to various Funds as required for the purposes described in Article VII and in Section 7.10 hereof.

Section 2.14. Other IFA Costs Fund.

(a) Moneys shall be deposited in the Other IFA Costs Fund as provided in Section 3.02(d) (iii) and Section 4.02(d)(iii) hereof.

(b) Moneys in the Other IFA Costs Fund shall be used to pay other IFA Costs at the times and in the manner prescribed in Section 7.05 hereof.

Section 2.15. Relief Events Allowance Account Appropriations Fund.

(a) The IFA and INDOT have executed and delivered the Milestone Payment Agreement, which requires INDOT to seek appropriations for and make Department Relief Events Reserve Payments to IFA, and shall execute and deliver any biennial supplements thereto, pursuant to its terms.

(b) The IFA shall immediately transfer such Department Relief Events Reserve Payments to the Trustee (or cause INDOT to transfer such payments directly to the Trustee). The Trustee shall immediately deposit such moneys in the Relief Events Allowance Account Appropriations Fund.

(c) Moneys in the Relief Events Allowance Account Appropriations Fund shall be used for such purposes at such times and in the names provided in Section 7.04 hereof.

Section 2.16. General Reserve Fund.

(a) Moneys shall be deposited in the General Reserve Fund as provided in Section 3.02(d) (iv) and Section 4.02(d)(iv) hereof.

(b) Moneys in the General Reserve Fund shall be used for such purposes, at such times and in the manner prescribed in Section 7.11 hereof.

Section 2.17. Post Termination Fund.

(a) Moneys shall be deposited in the Post Termination Fund as provided in Sections 3.02(d)(v), 4.02(d)(v), 5.02(b) and 6.02(g) hereof.

(b) Moneys in the Post Termination Fund shall be used for such purposes, at such times and in the manner prescribed in Section 7.11 hereof.

(End of Article II)

ARTICLE III.

TOLL REVENUE FUND; DISBURSEMENTS

Section 3.01. Deposits. The Indiana Revenue Share shall be deposited by the Trustee into the Toll Revenue Fund as provided in Section 2.02(a).

Section 3.02. Disbursements. The Trustee shall disburse moneys in the Toll Revenue Fund in the following manner, for the following purposes, in the following amounts and in the following order of priority:

(a) On the first Business Day of each calendar month, transfer to the Toll System Collection Expense Fund an amount sufficient to pay the Indiana Tolling System Collection Expenses allocable to the preceding month, or such lesser amount as is currently on deposit in the Toll Revenue Fund,

(b) On the first Business Day of each calendar month, transfer to the IFA First Priority Cost Fund an amount sufficient to pay IFA First Priority Costs allocable to the preceding month, or such lesser amount as is remaining on deposit in the Toll Revenue Fund after the transfer in (a) above,

(c) On the first Business Day of each calendar month, transfer to the AP Payment Fund the balance remaining in the Toll Revenue Fund after the transfers described in (a) and (b) above; provided, however, that such transfer shall not be in an amount greater than the next Quarterly Payment under the PPA,

(d) If the remaining balance in the Toll Revenue Fund to be transferred to the AP Payment Fund in (c) above is greater than the amounts required to make the next Quarterly Payment described therein, then, after making the transfers described in paragraphs (a) – (c) above, any amounts in excess thereof shall be transferred, in the following order of priority as directed by the IFA:

(i) to the AP Disputed Amounts Fund, if amounts are required to be deposited therein under Article VI hereof,

(ii) to the AP Relief Event and Termination Compensation Fund, if amounts are required to be deposited therein under Article VI hereof,

(iii) to the Other IFA Costs Fund,

(iv) to the General Reserve Fund, and

(v) to the Post Termination Fund.

(e) Five Business Days prior to the Early Termination Date, the IFA, in its discretion, may direct the Trustee to transfer any or all amounts held in the Toll Revenue Fund to the AP Relief Event and Termination Compensation Fund.

Section 3.03. Investments. The Trustee may invest moneys on deposit in the Toll Revenue Fund as provided in Section 11.06 hereof, and earnings on such investments shall be retained in the Toll Revenue Fund.

(End of Article III)

ARTICLE IV.

AP APPROPRIATIONS FUND; DISBURSEMENTS

Section 4.01. Deposits. The Trustee shall deposit moneys into the AP Appropriations Fund as provided in Section 2.03 hereof.

Section 4.02. Disbursements. The Trustee shall disburse moneys in the AP Appropriations Fund in the following manner, for the following purposes, in the following amounts and in the following order of priority:

(a) On the first Business Day of each calendar month, transfer to the Toll System Collection Expense Fund an amount equal to any deficiency in such Fund after the transfer described in Section 3.02(a) above,

(b) On the first Business Day of each calendar month, transfer to the IFA First Priority Costs Fund an amount equal to any deficiency in such Fund after the transfer described in Section 3.02(b) above,

(c) On the first Business Day of each month, transfer to the AP Payment Fund in an amount sufficient after deposits described in 3.02(c) above to fund the current Monthly Disbursement or Quarterly Payment, as the case may be, due to the Developer under the PPA, and

(d) If the remaining balance in the AP Appropriations Fund to be transferred to the AP Payment Fund in (c) above is greater than the amounts required to make the current Monthly Disbursement or the next Quarterly Payment, as the case may be, described therein, then, after making the transfers described in paragraphs (a) – (c) above, any amounts in excess thereof shall be transferred , in the following order of priority as directed by the IFA:

(i) to the AP Disputed Amounts Fund, if amounts are required to be deposited therein under Article VI hereof,

(ii) to the AP Relief Event and Termination Compensation Fund, if amounts are required to be deposited therein under Article VI hereof,

(iii) to the Other IFA Costs Fund,

(iv) to the General Reserve Fund, and

(v) to the Post Termination Fund.

(e) Five Business Days prior to the Early Termination Date, the IFA, in its discretion, may direct the Trustee to transfer any or all amounts held in the AP Appropriations Fund to the AP Relief Event and Termination Compensation Fund.

Section 4.03. Investments. The Trustee may invest moneys on deposit in the AP Appropriations Fund as provided in Section 11.06 hereof, and earnings on such investments shall be retained in the AP Appropriations Fund.

(End of Article IV)

ARTICLE V.

MP APPROPRIATIONS FUND; DISBURSEMENTS

Section 5.01. Deposits. The Trustee shall deposit moneys into the MP Appropriations Fund as provided in Section 2.04 hereof.

Section 5.02. Disbursements. The Trustee shall disburse moneys in the MP Appropriations Fund in the following manner, for the following purposes, in the following amounts and in the following order of priority:

(a) Upon receipt of an invoice from IFA, the Trustee shall transfer an amount equal to the amount set forth in such invoice relating to the Milestone Payment then due and payable from the MP Appropriations Fund into the MP Payment Fund.

(b) Five (5) Business Days prior to the Substantial Completion Date, the IFA, in its discretion, may direct the Trustee to transfer all or a portion of the balances in the MP Appropriations Fund to the Post Termination Fund.

(c) On the Substantial Completion Date the Trustee shall transfer any remaining balances in the MP Appropriations Fund after the transfer described in (a) above into the MP Relief Event and Termination Compensation Fund.

(d) At the conclusion of the Milestone Payment Agreement and after all Milestone Payment obligations to the Developer under the PPA have been satisfied, the Trustee shall transfer any remaining balances in the MP Appropriations Fund, the MP Payment Fund and the MP Relief Event and Termination Compensation Fund to the General Reserve Fund.

(e) Five Business Days prior to the Early Termination Date, the IFA, in its discretion, may direct the Trustee to transfer any or all amounts held in the MP Appropriations Fund to the MP Relief Event and Termination Compensation Fund.

Section 5.03. Investments. The Trustee may invest moneys on deposit in the MP Appropriations Fund as provided in Section 11.06 hereof, and earnings on such investments shall be retained in the MP Appropriations Fund.

(End of Article V)

ARTICLE VI.

IFA APPROPRIATIONS FUND AND RELIEF EVENT ALLOWANCE ACCOUNT APPROPRIATIONS FUND

Section 6.01. Deposits to IFA Appropriations Fund. IFA has covenanted in the PPA to seek appropriations, when necessary, from the Indiana General Assembly in amounts necessary to pay AP Disputed Amounts, Compensation Amounts and Termination Compensation. IFA shall deposit any amounts it receives for these purposes into the IFA Appropriations Fund. The IFA may, but is not obligated to, deposit other available amounts into the IFA Appropriations Fund from time to time. Compensation Amounts are also payable from the Relief Events Allowance Account as described in the PPA.

Section 6.02. Disbursements from IFA Appropriations Fund. The Trustee shall transfer moneys in the IFA Appropriations Fund as follows upon written direction of the IFA:

(a) To the MP Disputed Amounts Fund, to the extent needed, after taking into account amounts on deposit therein after transfers described in Article V hereof, to pay Disputed Amounts which have accrued prior to the Substantial Completion Date;

(b) To the AP Disputed Amounts Fund, to the extent needed, after taking into account amounts on deposit therein after transfers described in Article IV hereof, to pay Disputed Amounts which have accrued after the Substantial Completion Date;

(c) To the MP Relief Event and Termination Compensation Fund, to the extent needed, after taking into account amounts on deposit therein after transfers described in Article V hereof, to pay Compensation Amounts for Relief Events occurring before the Substantial Completion Date;

(d) To the MP Relief Event and Termination Compensation Fund, to the extent needed, after taking into account amounts on deposit therein after transfers described in Article V hereof, to pay Termination Compensation accruing before the Substantial Completion Date;

(e) To the AP Relief Event and Termination Compensation Fund, to the extent needed, after taking into account amounts on deposit therein after transfers described in Articles III, IV and V hereof, to pay Compensation Amounts for Relief Events occurring after the Substantial Completion Date;

(f) To the AP Relief Event and Termination Compensation Fund, to the extent needed, after taking into account amounts on deposit therein after transfers described in Articles III, IV and V hereof, to pay Termination Compensation accruing after the Substantial Completion Date; and

(g) To the Post Termination Fund.

Section 6.03. Deposits to Relief Events Allowance Account Appropriations Fund. The Trustee shall make deposits to the Relief Events Allowance Account Appropriations Fund as required by Section 2.04. In addition, IFA may, but is not obligated to, make deposits to the Relief Events Allowance Account Appropriations Fund from time to time.

Section 6.04. Disbursements from Relief Events Allowance Account Appropriations Fund. The Trustee shall transfer moneys in the Relief Events Allowance Account Appropriations Fund for deposit in the Relief Events Allowance Account created under the PPA, upon written direction of the IFA.

Section 6.05. Investments. The Trustee may invest moneys on deposit in the IFA Appropriations Fund and the Relief Events Allowance Account Appropriations Fund, as provided in Section 11.06 hereof, and earnings on such investments shall be retained in such Fund.

(End of Article VI)

ARTICLE VII.

OTHER FUNDS; DISBURSEMENTS; INVESTMENTS

Section 7.01. Toll System Collection Expense Fund. The Trustee shall use moneys in the Toll System Collection Expense Fund, upon requisition by IFA in substantially the form of Exhibit A hereto, to pay Toll System Collection Expenses allocable to Indiana and the Project on the dates and in the amounts required under the Toll Operations Agreement.

Section 7.02. IFA First Priority Costs Fund. The Trustee shall use moneys in the First Priority Costs Fund, upon requisition by IFA in substantially the form of Exhibit A hereto, to pay IFA First Priority Costs.

Section 7.03. AP Payment Fund. The Trustee shall use moneys in the AP Payment Fund, upon requisition by IFA in substantially the form of Exhibit B hereto, to pay Availability Payments to the Developer under the PPA, including Monthly Disbursements and Quarterly Payments.

Section 7.04. MP Payment Fund. The Trustee shall use moneys in the MP Payment Fund, upon requisition by IFA in substantially the form of Exhibit B hereto, to pay Milestone Payments to the Developer under the PPA.

Section 7.05. Other IFA Costs Fund. The Trustee shall use moneys in the Other IFA Costs Fund, upon requisition by IFA in substantially the form of Exhibit A hereto, to pay other IFA Costs.

Section 7.06. AP Disputed Amounts Fund. The Trustee shall use moneys in the AP Disputed Amounts Fund, upon requisition by IFA in substantially the form of Exhibit C hereto, to pay Disputed Amounts to the Developer under the PPA relating to dispute arising after the Substantial Completion Date.

Section 7.07. AP Relief Event and Termination Compensation Fund. The Trustee shall use moneys in the AP Relief Event and Termination Compensation Fund, upon requisition by IFA in substantially the form of Exhibit C hereto, to pay Compensation Amounts for an AP Relief Event or Termination Compensation to the Developer under the PPA after the Substantial Completion Date.

Section 7.08. MP Relief Event and Termination Compensation Fund. The Trustee shall use moneys in the MP Relief Event and Termination Compensation Fund, upon requisition by IFA in substantially the form of Exhibit D hereto, to pay Compensation Amounts for an MP Relief Event or a Special Relief Event or Termination Compensation to the Developer under the PPA prior to the Substantial Completion Date.

Section 7.09. MP Disputed Amounts Fund. The Trustee shall use moneys in the MP Disputed Amounts Fund, upon requisition by IFA in substantially the form of Exhibit D hereto, to pay Disputed Amounts to the Developer under the PPA relating to dispute arising prior to the Substantial Completion Date.

Section 7.10. IFA Appropriations Fund. The Trustee shall use moneys in the IFA Appropriations Fund, upon written direction of the IFA as provided in Article VII, to transfer moneys to any of the following Funds:

(a) AP Disputed Amounts Fund,

(b) MP Disputed Amounts Fund,

(c) AP Relief Event and Termination Compensation Fund, and

(d) MP Relief Event and Termination Compensation Fund.

Section 7.11. General Reserve Fund. The Trustee shall use moneys in the General Reserve Fund to remedy any deficiencies in the following funds and in the following order:

(a) Toll System Collection Expense Fund,

(b) MP Payment Fund if prior to Substantial Completion Date,

(c) AP Payment Fund if after Substantial Completion Date,

(d) IFA First Priority Costs Fund,

(e) Other IFA Costs Fund,

(f) AP Relief Event and Termination Compensation Fund if after the Substantial Completion Date, and

(g) MP Relief Event and Termination Compensation Fund if prior to the Substantial Completion Date.

Section 7.12. Relief Events Allowance Account Appropriations Fund. The Trustee shall use moneys in the Relief Events Allowance Account Appropriations Fund, upon written direction of the IFA as provided in Article VII, to transfer moneys to the Relief Events Allowance Account.

Section 7.13. Post Termination Fund. The IFA may use moneys in the Post Termination Fund after the Termination of the PPA for any valid cost of the Ohio River Bridges Project, including without limitation, operation, maintenance, improvements and life cycle costs, and remaining payments due to the Developer pursuant to the PPA.

Section 7.14. Investments. The Trustee shall invest moneys in each of the Funds described in this Article VI as provided in Section 11.06 hereof, and earnings from such investment shall be retained in such Fund.

(End of Article VII)

ARTICLE VIII.

TRUSTEE COVENANTS

Section 8.01. Accounting Records and Statements. The Trustee will keep proper accounting records in which complete and correct entries shall be made of all transactions made by it relating to the receipt, deposit and disbursement of funds into the Fund, and any other funds received by Trustee hereunder and such accounting records shall be available for inspection by IFA and Developer or their respective agents duly authorized in writing on any Business Day upon reasonable notice at reasonable hours and under reasonable conditions prescribed by the Trustee. Not later than the 15th day of each month commencing with the 15th day of the month following execution of this Project Trust Agreement, the Trustee will furnish to IFA and Developer a statement covering all receipts of the Trustee for deposit into the Funds and all transfers from and into the various Funds and disbursements from the various Funds for the preceding month.

Section 8.02. Report of Certain Available Funds. Not later than the fifth Business Day of each September, commencing on the first September following execution of the PPA, the Trustee shall provide a written report to IFA and Developer of the total amount, as of September 1 of that year, available in the Toll Revenue Fund, AP Appropriations Fund, MP Appropriations Fund, IFA Appropriations Fund and Relief Events Allowance Account Appropriations Fund. The report shall separately state the amount of undisbursed earnings on the funds in the AP Appropriations Fund and MP Appropriations Fund since inception and since the prior September 1.

(End of Article VIII)

ARTICLE IX.

DEFAULTS AND LIMITATIONS OF LIABILITY; NO DEBT

Section 9.01. Events of Default. Each of the following events by IFA shall constitute Events of Default for purposes of this Project Trust Agreement:

(a) IFA delivers a false or incorrect notice or certificate to the Trustee; or

(b) IFA defaults in the performance of any of the other agreements or covenants contained in this Project Trust Agreement required to be performed by it, and such default shall have continued for a period of 30 days after IFA shall have been given notice in writing of such default by IFA, Developer or the Trustee.

Section 9.02. Remedies. The Trustee shall promptly give notice setting forth the nature of the Event of Default to the Developer. The Trustee may, or upon the request of Developer shall, file suit against the IFA for specific performance, mandatory injunction, appointment of a receiver or for the enforcement of any other legal or equitable right as the Trustee, being advised by counsel, shall determine.

Section 9.03. Non-Waiver. A waiver of any default or breach of duty or contract by the Trustee or IFA shall not affect any subsequent default or breach of duty or contract or impair any rights or remedies on any such subsequent default or breach of duty or contract. No delay or omission by the Trustee or IFA to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Trustee or IFA by law or by this article may be enforced and exercised from time to time and as often as shall be deemed expedient by the Trustee or IFA. If any action, proceeding or suit to enforce any right or to exercise any remedy is abandoned or determined adversely to the Trustee or IFA, then the Trustee, and IFA shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

Section 9.04. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Trustee or IFA is intended to be exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise and may be exercised without exhausting and without regard to any other remedy conferred by any law.

Section 9.05. No Liability by the Trustee. The Trustee will have no obligation or liability to any Person with respect to the performance by IFA of any agreements and covenants required to be performed by IFA contained in the PPA or herein, other than as a result of any liability resulting from the Trustee's gross negligence or misconduct.

Section 9.06. No Debt. THE OBLIGATIONS OF THE IFA TO MAKE PAYMENTS TO THE DEVELOPER UNDER THE PPA WHICH ARE SECURED BY THIS PROJECT TRUST AGREEMENT DO NOT CONSTITUTE DEBT OF THE IFA, INDOT OR THE STATE OF INDIANA, OR OF ANY OTHER INSTRUMENTALITY, AGENCY OR

POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY PROVISION OF THE INDIANA CONSTITUTION PROHIBITING OR LIMITING STATE INDEBTEDNESS OR OF ANY STATUTE OF THE STATE OF INDIANA.

(End of Article IX)

ARTICLE X.

TRUSTEE

Section 10.01. Duties, Removal and Resignation.

(a) By executing and delivering this Project Trust Agreement, the Trustee accepts the duties and obligations of the Trustee provided in this Project Trust Agreement, but only upon the terms and conditions set forth in this Project Trust Agreement.

(b) IFA may, by 30 days prior written request and subject to giving notice thereof to Developer and receiving the consent of Developer (except during the continuance of an Event of Default by Developer) under the PPA consent not to be unreasonably withheld, remove the Trustee initially a party hereto, and any successor thereto, and in such event, or in the event the Trustee resigns, IFA shall appoint a successor Trustee, but any such successor shall be a bank or trust company in good standing doing business and having an office in Indianapolis, Indiana, having a combined capital (exclusive of borrowed capital) and surplus of at least One Hundred Million Dollars ($100,000,000) and subject to supervision or examination by federal or state authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of conditions so published.

(c) The Trustee may at any time resign by giving written notice to IFA Custodian and Developer not less than 30 days prior to the date of resignation. Upon receiving any such notice of resignation IFA shall promptly appoint a successor Trustee by an instrument in writing; provided, however, that in the event that IFA does not appoint a successor Trustee within 30 days following receipt of such notice of resignation, the resigning Trustee may petition an appropriate court having jurisdiction to appoint a successor Trustee. Any resignation or removal of the Trustee shall not become effective until written acceptance of appointment by the successor Trustee under this Project Trust Agreement.

(d) Any Trustee which shall resign or be removed pursuant to this Section shall be entitled to compensation due and payable in accordance with Section 10.02 and to reimbursement for all reasonable and proper expenses and advances incurred and not previously reimbursed for its activities in connection with this Project Trust Agreement and for any indemnification due pursuant to this Project Trust Agreement and not previously paid. Any Trustee which resigns or is removed, upon payment of its unpaid compensation and expenses hereunder, shall fully discharge all the right, title and interest of the retiring Trustee and the accounts and funds hereunder shall vest in said successor Trustee, and such retiring Trustee shall promptly pay over, assign and deliver to the successor Trustee any money or other property constituting part of the Fund and any other funds and accounts then held by such Trustee, and deliver any and all records, or copies thereof, in respect of the funds and accounts held hereunder which it may have.

Section 10.02. Compensation of the Trustee; Indemnity.

(a) In accordance with the terms of a separate agreement between IFA and Trustee, IFA shall pay from time to time as an First Priority Costs, upon receipt of a statement, to the Trustee reasonable compensation for the Trustee's services and shall reimburse the Trustee for all its reasonable advances and expenditures, including but not limited to advances to and fees and expenses of independent accountants and attorneys-at-law or other experts employed by it in the exercise and performance of its powers and duties under this Project Trust Agreement, all as set forth in such separate agreement. IFA shall promptly pay such compensation and reimbursement in accordance with the terms of the separate agreement between IFA and the Trustee.

(b) The IFA shall indemnify, defend, protect and hold harmless the Trustee for all costs, claims, expenses and liabilities incurred by or asserted against the Trustee in the performance of its duties under this Project Trust Agreement or any related document, including any such reasonable costs, claims, expenses and liabilities incurred in the course of defending itself against any claims or actions or enforcing any remedies under this Project Trust Agreement or any related document. Any such indemnity shall not extend to any costs, claims, expenses or liabilities adjudicated to have been caused by the negligence or willful misconduct of the Trustee or the breach of the terms of this Project Trust Agreement by Trustee. The indemnification of the Trustee under this Project Trust Agreement shall extend to its directors, officers, employees and agents. The obligations of IFA under this Section shall survive the discharge of this Project Trust Agreement and the removal or resignation of the Trustee.

Section 10.03. Protection to the Trustee.

(a) IFA shall indemnify, defend, protect and hold harmless the Trustee and the Trustee shall incur no liability for acting upon any notice, resolution, consent, order, certificate, report or other paper or document contemplated hereunder and reasonably believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee, in its discretion, may consult with counsel, and the opinion or advice of such counsel, shall be full and complete authorization and protection in respect of any action taken or suffered by it under this Project Trust Agreement in good faith in accordance therewith.

(b) The Trustee, either as principal or agent, may also engage in or be interested in any financial or other transaction with IFA or Developer, and may act as depository, trustee, or agent for any committee or body of IFA or Developer or with respect to other obligations of IFA or Developer as freely as if it were not the Trustee under this Project Trust Agreement.

(c) The recitals at the beginning of this Project Trust Agreement shall be taken and construed as made by and on the part of IFA, and not by the Trustee, and the Trustee does not assume, and shall not have, any responsibility or obligation for the correctness of such recitals. The Trustee shall not be deemed to make any representations with respect to the security afforded by this Project Trust Agreement.

(d) The Trustee may execute any of the trusts or powers hereof and perform the duties required of it under this Project Trust Agreement by or through attorneys, agents, or

receivers, and shall be entitled to advice of counsel concerning all matters of trust and its duty under this Project Trust Agreement.

(e) The Trustee undertakes to perform only such duties as are specifically set forth in this Project Trust Agreement.

(f) Every provision of this Project Trust Agreement relating to the conduct or liability of the Trustee shall be subject to the provisions of this Project Trust Agreement, including without limitation, this Article.

(g) Whenever in the administration of the duties of the Trustee under this Project Trust Agreement the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or not taking any action, the Trustee may request a signed Certificate of IFA or Certificate of Developer as to such matter, and such Certificate shall be full protection to the Trustee for any action taken or not taken in good faith reliance thereon.

(h) Notices to the Trustee, or funds delivered to the Trustee received by the Trustee after 12:00 p.m. (Indianapolis, Indiana time) on any Business Day shall be deemed received by the Trustee on the following Business Day.

(i) No provision of this Project Trust Agreement shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not assured to it in its sole discretion.

Section 10.04. Merger or Consolidation. Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided that such company shall be eligible under Section 9.01, shall be the successor to the Trustee without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

Section 10.05. Waiver of Trustee Lien; Waiver of Trustee Set-off. The Trustee waives any security interest, lien or right to make deductions or setoffs that it may now have or hereafter acquire in or with respect to the Funds, any financial asset credited thereto or any security entitlement in respect thereof (except as expressly set forth in the parenthetical phrase in the immediately succeeding sentence). Neither the financial assets credited to the Funds nor the security entitlements in respect thereof will be subject to deduction, set-off, banker's lien, or any other right in favor of any person.

Section 10.06. Security Interest. (a) Perfection of Security Interests by Control. The Trustee hereby represents and warrants and covenants the following in respect of the Project Trust Accounts, and the IFA consents thereto:

(i) Role as Securities Intermediary. The Trustee is acting as securities intermediary (as defined in Section 8.102 of the Indiana UCC) in connection with the Project Trust Funds.

(ii) Establishment and Maintenance of Securities Accounts. Each Project Trust Fund has been, or will be when required, established in the manner contemplated by this Project Trust Agreement and will be a "securities account" as defined in Section 8.501 of the Indiana UCC.

(iii) Financial Assets. Each item of property (whether investment property, financial asset, security, instrument, cash or other property) credited to any Project Trust Account shall be treated as a "financial asset" within the meaning of Sections 8.102(a)(9) and 8.103 of the Indiana UCC, and all such financial assets (except cash) credited to any such Project Trust Fund will be registered in the name of the Trustee, indorsed to the Trustee or in blank or credited to another securities account maintained in the name of the Trustee and in no case will any financial asset credited to any such Project Trust Fund be registered in the name of Developer or IFA, payable to the order of Developer or IFA, or specially endorsed to Developer or IFA unless such financial asset has been further endorsed to the Trustee or in blank.

(iv) Jurisdiction of Trustee as Securities Intermediary. For purposes of Section 8.110(e) of the Indiana UCC, the jurisdiction of the Trustee, in its capacity as securities intermediary in respect of the Project Trust Funds, is the State of Indiana.

(v) Entitlement Holders. The sole entitlement holder for each Project Trust Account shall be IFA, provided that in exercising any rights as entitlement holder, IFA shall be limited by the rights specifically granted to Developer hereunder, including the rights described herein of Developer to deliver Certificates of Developer.

(vi) Entitlement Orders Generally. The Trustee shall promptly make the deposits, withdrawals, and payments contemplated to be made into or from the Project Trust Funds. For purposes of this Project Trust Agreement, the Trustee shall treat each Certificate of Developer and Certificate of IFA contemplated hereby as an entitlement order relative to the Project Trust Funds so long as such Certificate of Developer and Certificate of IFA is expressly contemplated by this Project Trust Agreement, and shall be entitled to rely on such entitlement orders in order to effect the payments to be made respectively, to IFA and Developer.

(vii) The parties acknowledge the effectiveness and binding nature of the pledge of and lien on the Developer Trust Estate pursuant to Indiana Code 5-1-14.4.

(End of Article X)

ARTICLE XI.

AMENDMENTS OR SUPPLEMENTS TO PROJECT TRUST AGREEMENT; OTHER AGREEMENTS

Section 11.01. Amendment or Supplement by Consent. No amendment of this Project Trust Agreement shall be valid or effective (subject to Section 12.12(a)) unless signed in writing by the Trustee and IFA and consented to in writing by the Developer during the term of the PPA. Notwithstanding the foregoing, this Project Trust Agreement and the rights and obligations provided thereby may be modified or amended at any time without the consent of the Developer, but only (1) for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Project Trust Agreement, or (2) in regard to questions arising under this Project Trust Agreement which the Trustee may deem necessary or desirable and not inconsistent with this Project Trust Agreement and which shall not materially adversely affect the interests of the Developer.

Section 11.02. Amendment or Supplement to Other Agreements. The IFA may enter into an agreement or agreements supplemental to the PPA or Custody Agreement without the consent of the Developer solely for any one or more of the following purposes to the extent permitted in the PPA or Custody Agreement and not inconsistent with the terms and provisions hereof:

(a) To make any changes or corrections in this Agreement as to which the IFA shall have been advised by counsel that the same are verbal corrections or changes or are required for the purpose of curing or correcting any ambiguity or defective or inconsistent provision or omission or mistake or manifest error contained in this Revenue Deposit Agreement, as are necessary or desirable;

(b) To add covenants and agreements of the IFA for the purpose of further securing the payments to Developer under the PPA;

(c) To surrender any right, power or privilege reserved to or conferred upon the IFA by the terms of this Agreement;

(d) To confirm as further assurance any lien, pledge or charge, or the subjection to any lien, pledge or charge, created or to be created by the provisions of this Agreement;

(e) To grant or to confer upon the Developer any additional rights, remedies, powers, authority or security that lawfully may be granted to or conferred upon them, or to grant to or confer upon the Trustee for the benefit of the Developer any additional rights, duties, remedies, power or authority;

(f) To make any changes or modifications hereof or amendments, additions or deletions hereto which may be required to permit this Agreement to be qualified under the Trust Indenture Act of 1939 of the United States of America or laws analogous thereto applicable to bonds issued by governmental bodies;

(g) To pledge additional moneys, properties or revenues to the lien of this Agreement; and

(h) To make any other change in this Agreement which, in the judgment of IFA, does not have a material adverse effect on the Trustee or the Developer.

Section 11.03. Notice of Amendment. The IFA shall provide to the Developer and Trustee on or prior to the effective date of such amendment or supplement, notice of the execution and delivery of any supplement or amendment to the PPA or the Custody Agreement.

(End of Article XI)

ARTICLE XII.

MISCELLANEOUS

Section 12.01. Benefits of Project Trust Agreement. Nothing in this Project Trust Agreement expressed or implied is intended or shall be construed to confer upon, or to give or grant to, any person or entity, other than Developer, IFA and the Trustee, any right, remedy or claim under or by reason of this Project Trust Agreement or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Project Trust Agreement contained by and on behalf of Developer shall be for the sole and exclusive benefit of IFA, Developer and the Trustee. The Trustee and IFA expressly recognize the Developer as a third party beneficiary of this Project Trust Agreement.

Section 12.02. Successor Deemed Included in all References to Predecessor. Whenever IFA, the Trustee, or any officer thereof is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in IFA, the Trustee, or such officer, and all agreements, conditions, covenants and terms required hereby to be observed or performed by or on behalf of IFA, the Trustee, or any officer thereof shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

Section 12.03. Content of Certificates.

(a) Every Certificate of Developer or Certificate of IFA with respect to compliance with any agreement, condition, covenant or term contained herein shall include (i) a statement that the person or persons making or giving such Certificate have the authority to do so and have read such agreement, condition, covenant or term and the definitions herein relating thereto; (ii) a statement that, in the opinion of the signers they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such agreement, condition, covenant or term has been complied with; and (iii) a statement as to whether, in the opinion of the signers, such agreement, condition, covenant or term has been complied with.

(b) Any Certificate of Developer or Certificate of IFA may be based, insofar as it relates to legal matters, upon an opinion of counsel unless the person making or giving such certificate knows that the opinion of counsel with respect to the matters upon which such certificate may be based, as aforesaid, is erroneous, or in the exercise of reasonable care should have known that the same was erroneous. Any opinion of counsel may be based, insofar as it relates to factual matters or information in the possession of Developer or IFA, upon a representation by an officer or officers of Developer or IFA unless the counsel executing such opinion of counsel knows that the representation with respect to the matters or upon which his opinion may be based, as aforesaid, is erroneous, or in the exercise of reasonable care should have known that the same was erroneous.

Section 12.04. Notices. All notices, demands, requests, consents, approvals and other communications required or permitted hereunder shall be in writing and mailed via registered

mail (return receipt requested), telecopied (and promptly confirmed by mail or delivery) or delivered (via courier service), if to Developer at its address at _____, facsimile number _____; if to IFA at its address at One North Capital, Suite 900, Indianapolis, Indiana, Attention: Public Finance Director of the State of Indiana, facsimile number (317) 232-6786; and if to the Trustee, at its address at 10 W. Market Street, Suite 150, Indianapolis, Indiana, Attention: Corporate Trust Services, facsimile number (317) 636-1951 or; as to each party, at such other address as shall be designated by such party in a written notice to the other parties.

Section 12.05. Tax Reporting. All items of income, gain, expense and loss recognized in the Funds or in respect of any financial assets credited thereto shall be reported to the Internal Revenue Service and all state and local taxing authorities under the name and taxpayer identification number of IFA.

Section 12.06. Investments.

(a) Amounts on deposit in each Fund pursuant to this Project Trust Agreement shall be invested in Eligible Investments that will, as nearly as practicable, mature on or before the dates when such money is anticipated to be needed for disbursement hereunder. Such Eligible Investments shall be made in accordance with written directions that IFA gives from time to time. The Trustee may act as principal or agent in the acquisition or disposition of any such investment. The Trustee shall not be liable or responsible for any loss suffered in connection with any such investment made by it under the terms of and in accordance with this Section 11.06. The Trustee may sell or present for prepayment any obligations so purchased whenever it shall be necessary in order to provide moneys to meet any payment of the funds so invested, and the Trustee shall not be liable or responsible for any losses resulting from any such investment sold or presented for prepayment. Interest or profit received on such investments shall be retained in the account that generated the interest or profit.

(b) The Trustee may conclusively rely that any investment directed by IFA is an Eligible Investment as required by this Project Trust Agreement. The Trustee may act as depository, manager, advisor or sponsor with regard to any Eligible Investment.

(c) If IFA receives brokerage confirmations of security transactions as they occur, IFA, as the case may be, will forward such confirmations to the Trustee. The Trustee will furnish Developer and IFA monthly cash transaction statements as provided herein which include detail for all investment transactions made by the Trustee hereunder.

(d) In computing the amount in any fund or account, Eligible Investments shall be valued at market value, exclusive of accrued interest. The Trustee shall perform such valuation no more frequently than monthly.

(e) If at any time after investment therein an Eligible Investment ceases to meet the criteria set forth in the definition of Eligible Investments and such obligation, aggregated with other non-conforming investments, exceeds ten percent (10%) of invested funds, such Eligible Investment shall be sold or liquidated.

(f) Investment earnings on amounts held in the Funds shall be retained therein and credited toward the balances required to be deposited therein, and shall be withdrawn and distributed only as provided in this Agreement.

(g) To the extent relevant to any Fund, IFA shall be entitled to direct the Trustee with respect to the voting of any financial assets credited to such Funds.

Section 12.07. Article and Section Headings, Gender and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof, and words of any gender shall be deemed and construed to include all genders. All references herein to "Articles," "Sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof unless expressly provided otherwise; and the words "hereby," "herein," "hereof," "hereto," "herewith," "hereunder" and other words of similar import refer to this Project Trust Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

Section 12.08. Partial Invalidity. If any one or more of the agreements, conditions, covenants or terms contained herein required to be observed or performed by or on the part of IFA, or the Trustee shall be contrary to law, then such agreement or agreements, such condition or conditions such covenant or covenants or such term or terms shall be null and void and shall be deemed separable from the remaining agreements, conditions, covenants and terms hereof.

Section 12.09. Indiana Law. This Project Trust Agreement shall be construed and governed in accordance with the laws of the State of Indiana.

Section 12.10. Effective Date. This Project Trust Agreement shall become effective upon its execution and delivery.

Section 12.11. Execution in Counterparts. This Project Trust Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

Section 12.12. Survival. (a) This Project Trust Agreement and the rights of the Developer hereunder shall survive the termination of the PPA until such time as the Developer has been paid in full for all amounts due to the Developer under the PPA.

(b) The provisions of this Project Trust Agreement dealing with the Post-Termination Fund shall survive the termination of the PPA until such time as the IFA terminates this Project Trust Agreement in its entirety by written notice to the Trustee.

(End of Article XII)

IN WITNESS WHEREOF, the parties hereto have executed this Project Trust Agreement by their officers thereunto duly authorized as of the day and year first written above.

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: _____

Name: _____

Title: _____

ATTEST:

By: _____

Name: _____

Title: _____

INDIANA FINANCE AUTHORITY

By: _____
Adam M. Horst, Chairman

ATTEST:

_____
Kendra W. York, Public Finance Director of
the State of Indiana

EXHIBIT A

REQUISITION FORM FOR TOLL SYSTEM COLLECTION EXPENSE FUND, IFA PRIORITY COSTS FUND AND OTHER IFA COSTS FUND

This Requisition form is used for requesting payment of or reimbursement for Toll System Collection Expenses, First Priority Costs and other IFA Costs, pursuant to the Project Trust Agreement between the IFA and the Trustee dated _____, 201__, (the "Project Trust Agreement"), as all such terms are defined in the Project Trust Agreement. All terms used herein shall have the meaning specified herein or in the Project Trust Agreement.

1. The undersigned is a duly Authorized Representative of the IFA under the Project Trust Agreement, and is aware of the facts specified in this Requisition, and authorized to make the requests and directions set forth herein.

2. The undersigned hereby requests payment to or upon the order of the IFA as specified in the attached schedule(s) of the following amounts from the following funds:

- $_____ from the Toll System Collection Expense Fund for payment of Toll System Collection Expenses allocable to Indiana and the Project, all as further specified in Schedule ___ hereto and the attachments thereto, pursuant to Sections 2.05 and 7.01 of the Project Trust Agreement. _____ ***(check box or "N/A" as applicable)***

- $_____ from the IFA First Priority Costs Fund for the payment of First Priority Costs as specified in Schedule ___ hereto and the attachments thereto, pursuant to Sections 2.06 and 7.02 of the Project Trust Agreement. _____ ***(check box or "N/A" as applicable)***

- $_____ from the Other IFA Costs Fund for the payment of the IFA Costs specified in Schedule ___ hereto and the attachments thereto, pursuant to Sections 2.14 and 7.05 of the Project Trust Agreement. _____ ***(check box or "N/A" as applicable)***

3. The undersigned hereby certifies that the amounts requested herein are properly due and payable from the fund or funds specified herein, represent costs allocable to Indiana and the Project within the meaning of the Project Trust Agreement, and have not been the subject of any prior requisitions, requests or claims. To the extent this Requisition requests disbursements to the IFA, the undersigned certifies that the disbursements will reimburse the IFA for payments already made by it to third parties as specified in the attached schedules.

Dated: _____, 201__.

INDIANA FINANCE AUTHORITY

By: _____
Authorized Representative

SCHEDULE ___ TO REQUISITION
FOR PAYMENT OF CERTAIN EXPENSES

$_____ payable to IFA for reimbursement of expenses identified in Exhibit A hereto.

$_____ payable to _____for payment of expenses identified in Exhibit B hereto.

$_____ payable to _____for payment of expenses identified in Exhibit B hereto.

$_____ payable to _____for payment of expenses identified in Exhibit B hereto.

$_____ payable to _____for payment of expenses identified in Exhibit B hereto.

EXHIBIT B

REQUISITION FORM FOR AP PAYMENT FUND AND MP PAYMENT FUND

This Requisition form is used for requesting payment of Milestone Payments and Availability Payments, pursuant to the Project Trust Agreement between the IFA and the Trustee dated _____, 201__, (the "Project Trust Agreement") as all such terms are defined in the Project Trust Agreement. All terms used herein shall have the meaning specified herein or in the Project Trust Agreement.

1. The undersigned is a duly Authorized Representative of the IFA under the Project Trust Agreement, and is aware of the facts specified in this Requisition, and authorized to make the requests and directions set forth herein.

2. The undersigned hereby requests the following payment to the Developer from the specified fund pursuant to the terms of the PPA and the Project Trust Agreement:

- $_____ from the MP Payment Fund for payment of a Milestone Payment, all as further specified in Schedule 1 hereto and the attachments thereto, pursuant to Sections 2.10 and 7.04 of the Project Trust Agreement. _____ ***(check box or "N/A" as applicable)***

- $_____ from the AP Payment Fund for the payment of Availability Payment, all as further specified in Schedule 1 hereto and the attachments thereto, pursuant to Sections 2.07 and 7.03 of the Project Trust Agreement. _____ ***(check box or "N/A" as applicable)***

3. The undersigned hereby certifies that the calculation of the amounts due under the PPA for which this Requisition is submitted, as required pursuant to Article X of, and Exhibit 10 to the PPA, are attached hereto as Schedule 1.

4. The undersigned hereby certifies that the amounts requested herein are properly due and payable from the fund specified herein, represent costs allocable to Indiana and the Project within the meaning of the Project Trust Agreement, and have not been the subject of any prior requisitions, requests or claims. To the extent this Requisition requests disbursements to the IFA, the undersigned certifies that the disbursements will reimburse the IFA for payments already made by it to Developer as specified in the attached Schedule 1.

Dated: _____, 201__.

INDIANA FINANCE AUTHORITY

By: _____
Authorized Representative

SCHEDULE 1 TO REQUISITION
FOR _____PAYMENT

$_____ payable to IFA for reimbursement of expenses identified in Exhibit ___ hereto.

$_____ payable to _____, as Developer for payment of _____ Payment identified in Exhibit ___ hereto.

EXHIBIT C

REQUISITION FORM FOR AP DISPUTED AMOUNTS FUND AND AP RELIEF EVENT AND TERMINATION COMPENSATION FUND

This Requisition form is used for requesting payment of Disputed Amounts, Compensation Amounts or Termination Compensation to the Developer after the date of Substantial Completion pursuant to the Project Trust Agreement between the IFA and the Trustee dated _____, 201__, (the "Project Trust Agreement") as all such terms are defined in the Project Trust Agreement. All terms used herein shall have the meaning specified herein or in the Project Trust Agreement.

1. The undersigned is a duly Authorized Representative of the IFA under the Project Trust Agreement, and is aware of the facts specified in this Requisition, and authorized to make the requests and directions set forth herein.

2. The undersigned hereby requests payment to the Developer as specified in the attached schedule(s) of the following amount(s) from the following fund(s):

- $_____ from the AP Disputed Amounts Fund for payment of Disputed Amounts, as further specified in Schedule ___ hereto and the attachments thereto, pursuant to Sections 2.09 and 7.06 of the Project Trust Agreement. _____ ***(check box or "N/A" as applicable)***

- $_____ from the AP Relief Event and Termination Compensation Fund for the payment of Compensation Amounts as specified in Schedule ___ hereto and the attachments thereto, pursuant to Sections 2.08 and 7.07 of the Project Trust Agreement. _____ ***(check box or "N/A" as applicable)***

- $_____ from the AP Relief Event and Termination Compensation Fund for the payment of Termination Compensation specified in Schedule __ hereto and the attachments thereto, pursuant to Sections 2.08 and 7.07 of the Project Trust Agreement. _____ ***(check box or "N/A" as applicable)***

3. The undersigned hereby certifies that the amounts requested herein are properly due and payable from the fund or funds specified herein, represent costs allocable to Indiana and the Project within the meaning of the Project Trust Agreement, and have not been the subject of any prior requisitions, requests or claims

Dated: _____, 201__.

INDIANA FINANCE AUTHORITY

By: _____
Authorized Representative

EXHIBIT D

REQUISITION FORM FOR MP DISPUTED AMOUNTS FUND AND MP RELIEF EVENT AND TERMINATION COMPENSATION FUND.

This Requisition form is used for requesting payment of Disputed Amounts, Compensation Amounts or Termination Compensation to the Developer prior to the date of Substantial Completion pursuant to the Project Trust Agreement between the IFA and the Trustee dated _____, 201__, (the "Project Trust Agreement") as all such terms are defined in the Project Trust Agreement. All terms used herein shall have the meaning specified herein or in the Project Trust Agreement.

1. The undersigned is a duly Authorized Representative of the IFA under the Project Trust Agreement, and is aware of the facts specified in this Requisition, and authorized to make the requests and directions set forth herein.

2. The undersigned hereby requests payment to the Developer as specified in the attached schedule(s) of the following amount(s) from the following fund(s):

- $_____ from the MP Disputed Amounts Fund for payment of Disputed Amounts, as further specified in Schedule ___ hereto and the attachments thereto, pursuant to Sections 2.12 and 7.09 of the Project Trust Agreement. _____ ***(check box or "N/A" as applicable)***

- $_____ from the MP Relief Event and Termination Compensation Fund for the payment of Compensation Amounts as specified in Schedule ___ hereto and the attachments thereto, pursuant to Sections 2.11 and 7.08 of the Project Trust Agreement. _____ ***(check box or "N/A" as applicable)***

- $_____ from the MP Relief Event and Termination Compensation Fund for the payment of Termination Compensation specified in Schedule __ hereto and the attachments thereto, pursuant to Sections 2.11 and 7.08 of the Project Trust Agreement. _____ ***(check box or "N/A" as applicable)***

3. The undersigned hereby certifies that the amounts requested herein are properly due and payable from the fund or funds specified herein, represent costs allocable to Indiana and the Project within the meaning of the Project Trust Agreement, and have not been the subject of any prior requisitions, requests or claims

Dated: _____, 201__.

INDIANA FINANCE AUTHORITY

By: _____
Authorized Representative

EXHIBIT 17

EXTRA WORK COSTS AND DELAY COSTS SPECIFICATIONS

1. EXTRA WORK COSTS

At the sole discretion of IFA, Extra Work Costs shall be determined based either on (a) a negotiated lump sum, or (b) force account.

1.1 Negotiated Lump Sum

1.1.1 Lump sum Extra Work Costs shall be negotiated based on estimated costs of:

1.1.1.1 Labor;

1.1.1.2 Material;

1.1.1.3 Equipment;

1.1.1.4 Third party fees and charges (e.g. permit fees, plan check fees, review fees and charges);

1.1.1.5 Extra insurance costs and extra costs of bonds and letters of credit;

1.1.1.6 Other direct costs, and

1.1.1.7 A reasonable contingency for Developer risk associated with the lump sum pricing.

1.1.2 Lump sum Extra Work Costs also shall include a reasonable, negotiated markup for Contractor indirect costs, overhead and profit and Developer indirect costs and overhead. The negotiated lump sum shall not include any home office overhead of Developer or its Contractors or any markup on Contractor or Developer direct or indirect costs for Developer profit. Such indirect costs shall exclude cost of funds (whether debt or equity), and Lender charges, damages and penalties, which are not allowable as Extra Work Costs.

1.1.3 The price of a negotiated lump sum for Extra Work Costs shall be based on the original allocations of pricing to comparable activities, materials and equipment, as indicated in Exhibit 2-I and other sources of original pricing information (such as the Original Financial Model), whenever possible. If requested by IFA, price negotiations for lump sum Extra Work Costs shall be on an Open Book Basis.

1.1.4 In pricing any negotiated lump sum for Extra Work Costs, Developer shall include sales or use taxes only on such portion of the Extra Work Costs that does not qualify for exemption under applicable Law.

1.2 Force Account

When Extra Work Costs are determined on a force account basis, Developer will

be compensated for the direct costs of labor, materials and equipment used in performing the Extra Work, plus markup for indirect costs, overhead and profit. The direct costs of labor, materials and equipment shall be determined as set forth in Sections 1.2.1 below ("Labor"), 1.2.2 below ("Materials"), and 1.2.3 below ("Equipment Rental"), respectively. Markup for overhead and profit shall be determined as set forth in Section 1.2.4 below ("Costs of Delay, Indirect Costs, Overhead and Profit").

1.2.1 Labor

1.2.1.1 Extra Work Costs shall include the cost of labor for workers used in the actual and direct performance of the Extra Work. Workers include foremen actually engaged in the performance of the Extra Work. Workers do not include East End Crossing supervisory personnel or necessary on-site clerical staff, except when the Extra Work is a Controlling Work Item and the performance of such Extra Work actually delays Work on the Critical Path due to no fault of Developer. In such a case, compensation for East End Crossing supervisory personnel, but in no case higher than a Project Manager's position, shall only be for the pro-rata time such supervisory personnel spend on the Extra Work. In no case shall an officer or director of Developer, an Affiliate or any Contractor, nor those persons who own more than one percent of Developer, an Affiliate or any Contractor, be considered as East End Crossing supervisory personnel, direct labor or foremen hereunder.

1.2.1.2 For workers who are not East End Crossing supervisory personnel, the cost of labor, whether the employer is Developer, an Affiliate, or a Contractor, will be the sum of the following.

(a) Actual Wages

The actual wages paid shall include any employer payments to or on behalf of the workers for health and welfare, pension, vacation and similar purposes.

(b) Labor Surcharge

A labor surcharge, added to the actual wages as set forth in Section 1.2.1.2(a) above. The labor surcharge shall be as set forth in the Blue Book, which is in effect on the date upon which the Extra Work is accomplished. The labor surcharge shall constitute full compensation for all payments imposed by State and Federal laws and for all other payments made to, or on behalf of, the workers, other than actual wages as defined in Section 1.2.1.2(a) above and subsistence and travel allowance as specified in Section 1.2.1.2(c) below.

(c) Subsistence and Travel Allowance

The actual subsistence and travel allowance paid to the workers.

1.2.2 Materials

1.2.2.1 IFA-Furnished Materials

IFA reserves the right to furnish any materials it deems advisable, and Developer shall have no claim for costs and markup on those materials.

1.2.2.2 Developer-Furnished Materials

Only materials furnished by Developer and necessarily used in the performance of the Extra Work may be included in Extra Work Costs. The cost of those materials will be the cost to the purchaser — whether the purchaser is Developer, an Affiliate, or a Contractor — from the Supplier thereof, except as the following are applicable.

(a) Discounts

If a cash or trade discount by the actual Supplier is offered or available to the purchaser, it shall be credited to IFA notwithstanding the fact that the discount may not have been taken.

(b) Non-direct Purchases

If materials are procured by the purchaser by any method which is not a direct purchase from a direct billing by the actual Supplier to the purchaser, the cost of those materials shall be deemed to be the price paid to the actual Supplier as determined by IFA plus the actual costs, if any, incurred in the handling of the materials.

(c) Purchaser-supplied Materials

If the materials are obtained from a supply or source owned wholly or in part by the purchaser, the cost of those materials shall not exceed the price paid by the purchaser for similar materials furnished from that source on contract items or the current wholesale price for those materials delivered to the Site, whichever price is lower.

(d) Excessive Costs

If the cost of the materials is, in the opinion of IFA, excessive, then the cost of the material shall be deemed to be the lowest current wholesale price at which the materials were available in the quantities concerned delivered to the Site, less any discounts as provided in Section 1.2.2.2(a) above.

(e) Evidence of Cost

If Developer does not furnish satisfactory evidence of the cost of the materials from the actual Supplier thereof within 60 days after the date of delivery of the materials or within 15 days after the acceptance of the contract with the Supplier, whichever occurs first, IFA reserves the right to establish the cost of the materials at the lowest current wholesale prices at which the materials were available in the quantities concerned delivered to the location of the Extra Work, less any discounts as provided Section 1.2.2.2(a) above.

1.2.3 Equipment Rental

1.2.3.1 General Equipment Rental Provisions

(a) Extra Work Costs for the use of equipment shall be

determined at the rental rates listed for that equipment in the current edition and appropriate volume of the Rental Rate Blue Book as published by EquipmentWatch®, which is in effect on the date upon which the Extra Work is accomplished, regardless of ownership and any rental or other agreement, if they may exist, for the use of that equipment entered into by Developer or any Contractor; provided that for those pieces of equipment with a rental rate of $10.00 per hour or less as listed in the Blue Book and which are rented from a local equipment agency, other than Developer- owned or Affiliate-owned, Extra Work Costs for use of the equipment shall be determined at the hourly rate shown on the rental agency invoice or agreement for the time used on force account work as provided in Section 1.2.3.2 below ("Equipment on the Site"). If a minimum equipment rental amount is required by the local equipment rental agency, Extra Work Costs shall be determined at the actual amount charged. The $10 figure shall be adjusted annually on July 1 of each year of the Term by the percentage increase, if any, in the CPI since the previous July 1.

(b) If IFA concurs that it is necessary to use equipment not listed in the Blue Book, a suitable rental rate for that equipment will be established by IFA. Developer may furnish any cost data which might assist IFA in the establishment of the rental rate. If the rental rate established by IFA is $10.00 per hour or less, the provisions above concerning rental of equipment from a local equipment agency shall apply. The $10 figure shall be adjusted annually on July 1 of each year of the Term by the percentage increase, if any, in the CPI since the previous July 1.

(c) The rental rates as provided above shall include the cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance and all incidentals.

(d) The cost of labor for operators of rented equipment shall be determined as provided in Section 1.2.1 above ("Labor").

(e) For costs of equipment to be eligible for Extra Work Costs, the equipment shall be in good working condition and suitable for the purpose for which the equipment is to be used.

(f) Unless otherwise specified, manufacturer's ratings and manufacturer approved modifications shall be used to classify equipment for the determination of applicable rental rates. Equipment which has no direct power unit shall be powered by a unit of at least the minimum rating recommended by the manufacturer.

(g) Extra Work Costs exclude the costs of small tools. Individual pieces of equipment or tools not listed in the Blue Book and having a replacement value of $500 or less, regardless of whether consumed by use, shall be considered to be small tools ineligible for Extra Work Cost compensation. The $500 figure shall be adjusted annually on July 1 of each year of the Term by the percentage increase, if any, in the CPI since the previous July 1.

(h) Rental time will not be allowed while equipment is inoperative due to breakdowns.

1.2.3.2 Equipment on the Site

(a) The rental time to be included in Extra Work Costs for equipment on the Site shall be the time the equipment is in operation on the Extra Work being performed, and in addition, shall include the time required to move the equipment to the location of the Extra Work and return the equipment to the original location or to another location requiring no more time than that required to return the equipment to its original location, except that moving time is not includable in Extra Work Costs if the equipment is used at the site of the Extra Work on other than the Extra Work. Loading and transporting costs will be allowed, in lieu of moving time, when the equipment is moved by means other than its own power, except that no loading and transporting costs will be allowed if the equipment is used at the site of the Extra Work on other than the Extra Work.

(b) The following shall be used in computing the rental time of equipment on the Site.

(1) When hourly rates are listed, less than 30 minutes of operation shall be considered to be 0.5 hour of operation.

(2) When daily rates are listed, less than 4 hours of operation shall be considered to be 0.5 day of operation.

1.2.3.3 Equipment Not on the Site

For the use of equipment moved onto the Site from elsewhere to perform Extra Work and used exclusively for Extra Work, the force account Extra Work Costs shall be determined at the rental rates listed in the Blue Book, which is in effect on the date upon which the Extra Work is accomplished, or, at IFA's election, determined as provided in Section 1.2.3.1 above ("General Equipment Rental Provisions") and at the cost of transporting the equipment to the location of the Extra Work and its return to its original location, all in accordance with the following provisions.

(a) The original location of the equipment to be hauled to the location of the Extra Work shall be subject to IFA's prior approval.

(b) The Extra Work Costs will include the costs of loading and unloading the equipment.

(c) The cost of transporting equipment in low bed trailers shall not exceed the hourly rates charged by established haulers.

(d) The rental period shall begin at the time the equipment is unloaded at the site of the Extra Work, shall include each day that the equipment is at the site of the Extra Work, excluding Saturdays, Sundays and Holidays unless the equipment is used to perform the Extra Work on those days, and shall terminate at the end of the day on which the use of the equipment ceases. The rental time per day allowable as Extra Work Costs will be in accordance with the following.

(1) Hours includable in Extra Work Costs shall be determined as follows:

Hours Equipment	Hours Includable in

is in Operation	Extra Work Costs
0	4
0.5	4.25
1	4.5
1.5	4.75
2	5
2.5	5.25
3	5.5
3.5	5.75
4	6
4.5	6.25
5	6.5
5.5	6.75
6	7
6.5	7.25
7	7.5
7.5	7.75
8	8
Over 8	hours in operation

(2) The hours includable in Extra Work Costs for equipment which is operated less than 8 hours due to breakdowns, shall not exceed 8 less the number of hours the equipment is inoperative due to breakdowns.

(3) When hourly rates are listed, less than 30 minutes of operation shall be considered to be 0.5 hour of operation.

(4) When daily rates are listed, 0.5 day will be includable in Extra Work Costs if the equipment is not used. If the equipment is used, one day is includable in Extra Work Costs.

(5) The minimum rental time to be paid for the entire rental

period on an hourly basis shall not be less than 8 hours or if on a daily basis shall not be less than one day.

(e) Should Developer desire the return of the equipment to a location other than its original location, IFA will pay the cost of transportation in accordance with the above provisions, provided the payment shall not exceed the cost of moving the equipment to the Extra Work.

(f) Costs of transporting, and loading and unloading equipment, as above provided, will not be allowed as Extra Work Costs if the equipment is used in any way in addition to or other than upon Extra Work accounted for on a force account basis.

1.2.3.4 Owner-Operated Equipment

When owner-operated equipment is used to perform Extra Work, the force account Extra Work Costs for the equipment and operator shall be determined as follows:

(a) Extra Work Costs for the equipment will be determined in accordance with Section 1.2.3.1 above ("General Equipment Rental Provisions");

(b) Extra Work Costs for labor and subsistence or travel allowance will be determined at the rates paid by Developer to other workers operating similar equipment already on the Site or, in the absence of other workers operating similar equipment, at the rates for that labor established by collective bargaining agreements for the type of workers and location of the work, regardless of whether the owner operator is actually covered by an agreement. A labor surcharge will be added to the cost of labor described herein, in accordance with Section 1.2.1.2(b) above ("Labor Surcharge"); and

(c) To the direct cost of equipment rental and labor, computed as provided herein, there will be added the markups for equipment rental and labor as provided in Section 1.2.4.1 below ("Overhead and Profit").

1.2.3.5 Dump Truck Rental

Dump truck rental shall conform to the provisions in Section 1.2.3.1 above ("General Equipment Rental Provisions"), Section 1.2.3.2 above ("Equipment on the Site") and Section 1.2.3.3 above ("Equipment Not on the Site"), except as follows:

(a) Force account Extra Work Costs for fully maintained and operated rental dump trucks used in the performance of Extra Work shall be determined at the same hourly rate paid by Developer for use of fully maintained and operated rental dump trucks in performing the Work;

(b) In the absence of Work requiring dump truck rental, IFA will establish an hourly rental rate for determining the Extra Work Costs of fully maintained and operated rental dump trucks. Developer shall provide IFA with complete information on the hourly rental rates available for rental of fully maintained and operated dump trucks;

(c) The provisions in Section 1.2.1 above ("Labor") shall not apply to operators of rented dump trucks;

(d) The rental rates listed for dump trucks in the Blue Book shall not apply;

(e) To the total of the rental costs for fully maintained and operated dump trucks, including labor, there will be added a markup in accordance with Section 1.2.4 below ("Costs of Delay, Indirect Costs, Overhead and Profit"); and

(f) The provisions in Section 1.2.3.4 above ("Owner Operated Equipment") shall not apply to dump truck rentals.

1.2.4 Costs of Delay, Indirect Costs, Overhead and Profit

1.2.4.1 Contractor Markups for Delay, Indirect Costs, Overhead and Profit

(a) To the total direct costs of a Contractor's labor, materials, and equipment other than rented dump trucks, there will be added a markup of 20 percent to the Contractor's cost of labor; 12 percent to the Contractor's cost of materials; and 12 percent to the Contractor's cost of equipment. To the total of the rental costs for fully maintained and operated dump trucks, including labor, there will be added a markup of 12 percent; there will be no separate markup for labor. These markups shall constitute full compensation for all the Contractor's costs of delay, indirect costs, overhead costs and profit associated with the Extra Work, which shall be deemed to include all expense items not specifically designated as direct costs of labor in Section 1.2.1 above, materials in Section 1.2.2 above, and equipment in Section 1.2.3 above. Such expense items include third party fees and charges (e.g. permit fees, plan check fees, review fees and charges, extra insurance costs, and extra costs of bonds and letters of credit). Such expense items exclude cost of funds (whether debt or equity), and Lender charges, damages and penalties, which are not allowable as Extra Work Costs.

(b) IFA will not pay any markup for the Lead Contractor or any other Prime Contractor where it subcontracts labor, materials or equipment for Extra Work to a Contractor at a tier lower than the Lead Contractor or other prime Contractor. However, payment to the Lead Contractor or other prime Contractor for a markup on such subcontracted Extra Work may be obtained from Developer (see Section 1.2.4.2(a) below).

1.2.4.2 Developer Markups for Delay, Indirect Costs and Overhead

(a) IFA will pay Developer, for distribution as Developer deems appropriate, a 5 percent markup on the total direct costs of labor, materials, and equipment for the Extra Work performed by a Contractor at any tier (but before any Contractor markups thereon).

(b) There will be added a markup of 20 percent to the total direct cost of Developer's own labor; 12 percent to the total direct cost of Developer's own materials; and 12 percent to the total direct cost of Developer's own rental of equipment.

To the total of the rental costs paid directly by Developer for fully maintained and operated dump trucks, including labor, there will be added a markup of 12 percent; there will be no separate markup for labor.

(c) These markups shall constitute the full compensation for all Developer's costs of delay, indirect costs and overhead costs associated with the Extra Work, which shall be deemed to include all expense items not specifically designated as directs costs of labor in Section 1.2.1 above, materials in Section 1.2.2 above, and equipment in Section 1.2.3 above. Such expense items include third party fees and charges (e.g. permit fees, plan check fees, review fees and charges, extra insurance costs, and extra costs of bonds and letters of credit). Such expense items exclude cost of funds (whether debt or equity), and Lender charges, damages and penalties, which are not allowable as Extra Work Costs.

(d) There shall be paid no markup on the total or any portion of the direct or indirect costs of Developer or its Contractors for Developer profit.

1.2.4.3 No Charge or Markup for Home Office Overhead

There shall be no home office overhead added for Developer or any of its Contractors.

1.2.5 Affiliate Extra Work Costs

1.2.5.1 The direct costs of an Affiliate's labor, materials, and equipment used in performing Extra Work shall be limited in accordance with Section 7.6.1 of the Agreement.

1.2.5.2 If an employee or worker of an Affiliate engages in work or tasks that duplicate or repeat work or tasks being performed by an employee or worker of Developer, then none of the Affiliate's labor costs respecting the duplicated or repeated work or tasks shall be allowed as Extra Work Costs.

1.2.6 Subcontractor Extra Work Costs

There will be added a markup of 5 percent to the total direct cost of each subcontractor.

2. DELAY COSTS

Delay Costs shall be determined as follows:

2.1 Direct Cost of Idle Labor

Compensation for the direct cost of the actual idle time of labor will be determined in the same manner as provided in Section 1.2.1 above ("Labor").

2.2 Direct Cost of Idle Equipment

Compensation for the direct cost of the actual idle time of equipment will be determined in the same manner as determinations are made for force account Extra Work

Costs for equipment used in the performance of Extra Work, as provided in Section 1.2.3 above ("Equipment Rental"), with the following exceptions:

2.2.1 If the Delay Cost is attributable to the Relief Event set forth in clause (i) of the definition of Relief Event (IFA's lack of good and sufficient title to or right to enter and occupy any parcel in the Project Right of Way), then the right of way delay factor for each classification of equipment shown in the Blue Book will be applied to that equipment rental rate;

2.2.2 The Delay Costs will be determined for the actual normal working time during which the Delay condition exists, but in no case will exceed 8 hours in any one day; and

2.2.3 The Delay Costs will be determined for the calendar days, excluding Saturdays, Sundays and Holidays, during the existence of the Delay, except that when Extra Work Costs for rental of equipment are accruing under the provisions in Section 1.2.3.3 above ("Equipment Not on the Site "), Delay Costs shall not include equipment rental costs for equipment not located on the Site.

2.2.4 If IFA determines that idle equipment should not remain on the Site during a delay, then IFA will pay the actual, reasonable costs, without markup, to (a) demobilize the equipment during the delay period and (b) remobilize the equipment at the end of the delay period. Compensation for idle equipment will not be paid while the subject equipment is demobilized from the Site during a delay period.

2.3. Where Delay is to Controlling Work Item

In the case of a Relief Event Delay, Delay Costs shall include the following percentage markups, which shall constitute full compensation for all indirect delay costs (including delay overhead costs), delay expenses and delay profit related to such Relief Event Delay:

2.3.1 The percentage markups for the direct costs of a Contractor's labor and equipment set forth in Section 1.2.4.1(a) above ("Contract Markups for Delay, Indirect Costs, Overhead and Profit") as applied to the Contractor's costs of idle time of labor and equipment as determined under Sections 2.1 above ("Direct Costs of Idle Labor") and 2.2 above ("Direct Costs of Idle Equipment"); and

2.3.2 The percentage markups for the direct costs of Developer's labor and equipment set forth in Section 1.2.4.2(b) above (" Contract Markups for Delay, Indirect Costs, Overhead and Profit") as applied to Developer's costs of idle time of labor and equipment as determined under Sections 2.1 above ("Direct Costs of Idle Labor") and 2.2 above ("Direct Costs of Idle Equipment"). There shall be no added markup to Developer's or any Contractor's cost of idle time of labor and equipment for Developer profit.

2.3.3 Such markups exclude cost of funds (whether debt or equity), and Lender charges, damages and penalties, which are not allowable as Delay Costs. For avoidance of doubt, such exclusion does not affect Developer's right to receive compensation for a Relief Event Delay that extends the date of Substantial Completion as provided in Section 15.3 of the PPA.

2.4 Where Delay is to Non-Controlling Work Item

If the Delay is to a non-Controlling Work Item, then no indirect costs and expenses, and no profit, of Developer or any Contractor are allowable as Delay Costs.

2.5 Home Office Idled Labor and Equipment

There shall be no home office costs of idled labor or idled equipment added for Developer or any of its Contractors.

2.6 Delay Costs in respect of the Extension of the Date for Financial Close by IFA

If the Delay is due to IFA giving Notice to Developer of the extension of the date for Financial Close as provided in Section 13.7.2, Developer shall be entitled to receive the cost of extending the Financial Close Security for the period from the original date of Financial Close as set forth in the Developer FC Notice as provided in Section 13.7.2 to the new date for Financial Close. Such payment shall be due and payable with 45 days of an invoice therefor from Developer. Developer shall also be entitled to receive payment of the compensation for certain escalation costs and the costs related to achieving Financial Close and certain breakage fees as provided in Section 13.7.2.3.

2.7 Delay Costs in respect of Certain Relief Events relating to Environmental Litigation

If the Delay is due to an undisputed Relief Event under clause (s) of the definition thereof, and in such case, arising solely out of, or solely relating to, Environmental Litigation, then notwithstanding anything to the contrary in this Section 2, but still subject in all respects to Sections 2.4 and 2.5 of this Exhibit 17, Developer shall be entitled to receive the costs determined pursuant to Sections 2.7.1 to 2.7.3 below for the period from the effective date of such Relief Event until the earlier of conclusion of such Relief Event or the end of the Term:

Payment for escalation costs due to an undisputed Relief Event under clause (s) of the definition thereof shall be limited to the escalated cost of labor, materials, and equipment on that portion of the Work which is delayed beyond an original intermediate completion date or Project Schedule Deadline and is caused to be performed during a period when the costs were higher than when such portion of the Work was planned to be performed as shown on the accepted schedule prior to the delay. Developer shall submit satisfactory documentation of escalation costs in a format approved by IFA or its designee.

2.7.1 *Labor Escalation.* Payment for escalated labor costs will be calculated as the difference in labor cost between the time the work was performed and the time the work was planned. Labor costs will be calculated in accordance with Section 1.2.1 of this Exhibit 17, except that no markup will be paid for labor escalation. Payment for escalated labor costs will be calculated as the difference in labor cost between the time the work was performed and the time the work was planned.

2.7.2 *Materials Escalation or Storage.* Payment for escalated material costs will be calculated as the difference in the material cost between the time a portion of the Work was performed and the time such portion of the Work was planned. No material escalation cost will be paid for any item covered by a separate escalation or indexing clause under the PPA Documents. IFA will pay for storage of materials due to the delay. Only the actual cost of storing the materials will be paid. No markup will be

paid for materials storage.

2.7.3 *Equipment Escalation.* Payment for eligible equipment escalation costs will be calculated as the difference between the Rental Rate Blue Book FHWA hourly rate at the time the work was performed and the Rental Rate Blue Book FHWA hourly rate at the time the work was planned. No markup will be paid for equipment escalation costs.

EXHIBIT 18

INITIAL PROJECT DEBT COMPETITION

1. Overview

1.1. IFA seeks to ensure that the Project secures the most competitive financing terms at Financial Close, which generates an affordable MAP and provides best value gi ven the Project's risk profile as established in the Agreement, PPA Documents, Principal Project Documents, detailed term sheet(s) for the Funding Agreements attached to the commitment letters from the Core Lender(s) and / or the Lead Underwriter contained in the bid submission (the "Term Sheet(s)").

1.2. Set out below is the process for the initial project debt competition ("Financing Competition" or "Financing Competition Protocol") in order for Developer to place the Initial Project Debt included in its Financial Plan. Developer shall undertake the Financing Competition prior to Financial Close if directed to do so by IFA as provided in Section 13.7.2 of the Agreement. The Financing Competition shall be under the control and responsibility of Developer subject to IFA's comments and review and/or approval as provided in the Financing Competition Protocol, and right to observe, monitor and audit, as set forth in the Financing Competition Protocol.

1.3. No changes to the Agreement, the other PPA Documents or the Principal Project Documents, including no changes in the risk allocation between IFA and Developer or between the parties to such other documents, nor any changes to Developer's risk profile with respect to the financing of the Project as documented in the Term Sheet(s), shall occur as a result of the Financing Competition, unless each of IFA and Developer give their consent to such changes each acting reasonably.

2. Principles of the Financing Competition

Developer shall conduct the Financing Competition according to the following principles (the "Key Principles"):

2.1. The Financing Competition shall be transparent and open to observation by IFA and its advisors. Developer shall conduct, at a minimum, monthly meetings with IFA and its advisors to discuss progress against Financing Competition milestones with the understanding that weekly meetings may be required as progress is made leading to Financial Close.

2.2. Developer shall compete and evaluate both bank and capital market bond solutions.

2.3. Developer will be responsible for managing and controlling all operational aspects of the Financing Competition. Developer's Core Lender(s) and / or Lead Underwriter(s), as identified in Developer's proposal, shall participate in the Financing Competition, while in any case retaining any option to match terms for a specified portion of the loan or issuance as described in Section 4.9 below.

2.4. Developer shall ensure that the process is efficient while achieving the key objective of achieving the most competitive financing terms for the Project, given the Agreement, PPA Documents, Principal Project Documents, and the Term Sheet(s), and the risk allocation contained in each of them. With respect to the delivery of financing, this could include Developer granting right-to-match lending terms to Developer's Core Lender(s) and/or secure a Lead Managing Underwriter position for the Lead Underwriter subject to the limits set out herein.

3. Phase 1: Preparatory Phase

3.1. Developer will develop a schedule and schedule milestones including setting specific dates when review drafts of deliverables will be provided to IFA no later than 5 days after issuance of the IPDC Commencement Notice by IFA. Such schedule shall be subject to IFA's review, comment and approval (in its reasonable discretion) which shall be given within 5 business days after receipt of the draft schedule.

3.2. The schedule milestones shall be consistent with all completion deadlines and shall allow Developer sufficient time to reach Financial Close by the Financial Close Deadline.

3.3. Developer shall meet with IFA and its advisors on a monthly basis, at a minimum, to discuss the status of financing for the Project and the financing markets, in general.

3.4. The Preparatory Phase will conclude with finalization of the schedule and schedule milestones as provided in this Section 3.

4. Phase 2: Financing Competition Phase

4.1. During Phase 2, Developer shall identify and solicit a wide-range of potential bank lenders and capital market underwriters/broker-dealers, and/or derivative product providers (collectively referred to as "Lenders") in order to receive the most competitive terms possible for both bank and bond financing solutions (including PABs), such terms to be consistent with the Agreement, the PPA Documents, the Principal Project Documents, and the Term Sheets. Developer will provide this list of potential Lenders to IFA for its review and comment prior to solicitation to the Lenders.

4.2. Developer shall request and obtain from Lenders preliminary financing terms and conditions for banks and bonds financing solutions in order to evaluate:

4.2.1. the most competitive financing solution (bank versus bond solution) and

4.2.2. the most competitive terms for each financing solution.

4.3. None of the potential Lenders shall be Affiliates of any Developer-Related Entity and IFA will provide review and, if appropriate, comments on the list of Lenders proposed by Developer. IFA shall have the right, acting reasonably, to require Developer to increase the number of potential Lenders under consideration.

4.4. All Lenders shall be required to execute a non-disclosure agreement in form and substance reasonably satisfactory to Developer and IFA. Any material information and clarifications about the Financing Competition that are communicated to one potential Lender shall be promptly shared with all other identified potential Lenders (except for such questions that Developer and IFA agree are commercially sensitive and confidential). Responses to potential Lender questions, comments and requests for clarifications, and any clarifications to be requested from potential Lenders, will be prepared by Developer and subject to review and comment by IFA (acting reasonably and without delay).

4.5. In connection with Phase 2, Developer will prepare a Preliminary Information Memorandum ("PIM") concerning the Project and the financing. The PIM will be submitted to IFA for review, comment and approval (in its reasonable discretion) prior to submittal to any Lender. IFA's response to the PIM shall be provided within 10 business days after receipt thereof for any initial submittal and 5 business days after receipt of any re-submittal.

4.6. Upon receipt of responses by potential Lenders, Developer shall evaluate the responses with the goal of identifying the most competitive financing terms at that point in time which generates a MAP no greater than the Annual MAP Limit and provides overall best value given the Project's risk profile as established in the Agreement, PPA Documents, Principal Project Documents, and the Term Sheet(s).

4.7. IFA expects the following information, at a minimum, to be evaluated for each potential Lender:

4.7.1. For a bond financing solution, a par amount and indicative price proposal (as a margin from the identified Benchmark Index);

4.7.2. For a bank financing solution, preliminary pricing based on either underwriting or club basis or both; and

4.7.3. Commitment by the potential Lender (whether bank or bond solution) to use the identified and approved Benchmark Interest Rate Index as the market reference rate at Financial Close.

4.8. Developer must demonstrate to IFA's reasonable satisfaction that it has given due consideration to both bank and bond financing solutions (including PABs).

4.9. The Core Lender(s) and/or the Lead Underwriters may, at Developer's discretion, have the option to match the terms of up to 50% of the total Initial Project Debt that is offered and generated by the Financing Competition. The right to match is not mandatory and Developer is not obligated to offer it. Developer will provide prompt Notice to IFA as to whether the Core Lender(s) and/or the Lead Underwriters has exercised said option or declined to exercise said option.

4.10. Upon approval by IFA, the process will proceed to Phase 3 as described below.

4.11. Potential Lenders are to provide preliminary financing terms and conditions based on the Agreement, other PPA Documents, the Principal Project Documents, the Term Sheet(s) and draft legal, technical and insurance due diligence reports. If Developer believes that a change to the Agreement or the other PPA Documents may result in a material and beneficial change to financing terms (and therefore a material beneficial change to the MAP from IFA's perspective), then, Developer may also deliver to IFA a written and detailed description of the changes that would be required and an estimation of the change to the MAP. Within 10 business days after receipt of such information, IFA shall then elect, in its sole discretion, whether and to what extent to allow changes to the Agreement or the other PPA Documents.

4.12. The outputs and outcome of Phase 2 will be:

4.12.1. A report to IFA describing the actions taken by Developer during Phase 2, qualitative and quantitative analyses of the structuring and pricing, and implications raised by the information and responses received, particularly on the MAP in each year of the Term;

4.12.2. Updated Term Sheet(s), incorporating the most competitive financing terms for both bank and bond financing solutions in accordance with Section 1.3;

4.12.3. A recommendation by Developer on which financing solution provides the most competitive financing terms without changes to the risk profile as described in Section 2.4 above (other than those agreed pursuant to Section 4.12); and

4.12.4. Agreement by Developer and IFA on the preferred financing approach.

These outputs and outcomes shall be submitted to IFA and shall be subject to IFA comment, review and approval (in its reasonable discretion) regarding the preferred financing approach. IFA's response to such submittals shall be provided within 10 business days after receipt thereof for any initial submittal and 5 business days after receipt of any re-submittal.

5. Phase 3: Final Submission Phase – Bank Financing Solution

5.1. Developer shall finalize the financing structure for the bank financing solution such that the financing structure has been approved by the Lender's credit committee(s) against a target price. Developer shall submit to IFA: (a) confirmation that there are no further comments on the Agreement or other PPA Documents; (b) confirmation that credit committee approval has been received and firm commitment letter(s) have been issued for a commitment period of at least 120 days or a period consistent with market practice at the time of Phase 3 of the IPDC as reasonably approved by IFA; such commitment subject only to market commitment conditions approved by Developer and IFA; and (c) the documentation referred to in Section 5.2 below (collectively referred to as the "Bank Final Submission"). The Bank Final Submission shall be submitted to IFA for review and approval (in its reasonable discretion). IFA's response to the Bank Final Submission shall be provided within 10 business days after receipt thereof for any initial submittal and 5 business days after receipt of any re-submittal.

5.2. The Bank Final Submission is expected to require the following documentation:

5.2.1. Substantially final legal, insurance, and technical due diligence reports;

5.2.2. Firm commitment letters and executed Updated Term Sheet(s), including draft interest rate hedging or other derivative product documentation, if applicable;

5.2.3. Final Contracts (and amendments thereof, if any) with Contractors;

5.2.4. Pro forma update to the Financial Model, including any sensitivities, using the financing terms agreed from Phase 2. This updated financial model will not become a Financial Model Update until Financial Close. The pro forma updated financial model described in this Section 5.2.4 will be used for analysis purposes only; and

5.2.5. Model auditor report (including tax and accounting sign off).

5.3. Within three days after IFA's approval of the Bank Final Submission, if Developer has elected to include a right to match for the Core Lender(s), Developer shall deliver to the Core Lender(s) Notice setting forth all the material financing terms to be matched and informing the Core Lender(s) that it has ten days from delivery of the Notice to exercise its right to match.

5.4. The right to match shall be capable of exercise only by the Core Lender(s) delivered to Developer within such ten-day period Notice setting forth: (a) an unconditional election to match, (b) the total amount of the financing they elect to match (which amount is subject to the constraints set forth herein), (c) confirmation that all the financing terms have received credit committee approval, and (d) confirmation that the Notice constitutes a firm commitment valid for at least 120 days (or a period consistent with market practice at the time of Phase 3 of the IPDC as reasonably approved by IFA) from the deadline for offer

submission subject only to the commitment conditions allowed under the terms established for the Bank Final Submission.

5.5. Developer shall submit a quantitative assessment, based on the financing terms included in the Bank Final Submission, of the impact on the MAP, based on the interest rate, credit spread, and structure adjustment provisions pursuant to Section 13.7.8 of the Agreement. The quantitative assessment should be conducted through pro forma updates to the Financial Model.

6. Phase 3: Final Submission Phase – Bond Financing Solution

6.1. Developer and its Lead Underwriter shall work to finalize the financial structure, preliminary official statement, bond prospectus or other offering documentation. Developer shall submit to IFA: (a) confirmation that there are no further comments on the Agreement or other PPA Documents; (b) confirmation that volume underwriting is committed for a period of at least 120 days or a period consistent with market practice at the time of Phase 3 of the IPDC as reasonably approved by IFA; and (c) the documents outlined in Section 5.2 (collectively referred to as the "Bond Final Submission"). The Bond Final Submission shall be submitted to IFA for review and approval (in its reasonable discretion). IFA's response to the Bond Final Submission shall be provided within 10 business days after receipt thereof for any initial submittal and 5 business days after receipt of any re-submittal.

6.2. The Bond Final Submission is expected to require the following documentation:

6.2.1. Draft preliminary official statement or bond prospectus;

6.2.2. Draft rating letter(s);

6.2.3. Draft Initial Financing Documents and Initial Security Documents, including draft interest rate hedging or other derivative product documentation, if applicable;

6.2.4. Final Contracts (and amendments thereof, if any) with Contractors;

6.2.5. A *pro forma* update to the Financial Model, including any sensitivities, using the financing terms agreed from Phase 2. This updated financial model will not become a Financial Model Update until Financial Close. The pro forma updated financial model described in this Section 6.2.5 will be used for analysis purposes only; and

6.2.6. Model auditor report (including tax and accounting sign off).

6.3. Within three days after IFA's approval of the Bond Final Submission, if Developer has elected to include a right to match for the Core Underwriter(s), Developer shall deliver to the Core Underwriter(s) written notice setting forth all the material financing terms to be matched and informing the Core Underwriter(s) that it has ten days from delivery of the written notice to exercise its right to match.

6.4. Developer shall submit a quantitative assessment, based on the financing terms included in the Bond Final Submission, of the impact on the MAP, based on the interest rate, credit spread, and structure adjustment provisions pursuant to Section 13.7.8 of the Agreement. The quantitative assessment should be conducted through pro forma updates to the Financial Model.

7. Phase 4: Financial Close Phase

7.1. During Phase 4, Developer shall require Lenders to submit their credit approval and proceed to Financial Close by the Financial close deadline (subject to Section 13.7.7). No new information will be presented during Phase 4 except for:

7.1.1. Further updates to the Financial Model, including any sensitivities, updated using financing terms agreed from Phase 3. This updated financial model will not become a Base Case Financial Model Update until Financial Close. The updated financial model will be used for analysis purposes only;

7.1.2. Updated financial model audit report (on the Financial Close Financial Model) – any errors or omissions identified which change the MAP, will be borne by Developer; and

7.1.3. Final Initial Funding Agreements and Initial Security Documents.

7.2. If a bond financing solution is selected by Developer and approved by IFA, Developer shall actively include IFA and its advisors in the marketing and pricing activities related to the bond underwriting process.

7.3. During the final pricing of any interest rate hedging instruments. IFA and its advisors shall have the right to monitor and verify the pricing of those instruments.

7.4. Subject to Section 13.7.10 of the Agreement, the Financial Model, or Base Case Financial Model Update, if applicable, will be updated to reflect final Initial Financing Agreements and fluctuations in Benchmark Interest Rate(s), Credit Spread Fluctuations, and changes to Other Financing Terms, if any.

EXHIBIT 19

INSURANCE COVERAGE REQUIREMENTS

1. Builder's Risk Insurance during Construction

At all times during the period from the commencement of Construction Work until the Substantial Completion Date, Developer shall procure and keep in force, or cause to be procured and kept in force, a builder's risk insurance as specified below.

(a) The policy shall provide coverage for "all risks" of direct physical loss or damage to the portions or elements of the East End Crossing under construction, with no exclusions or restrictions for terrorism, earthquake, earth movement, volcanic activity, tsunami, flood, storm, tempest, windstorm, hurricane, tornado, ice flow, subsidence, or loss of materials while waterborne or under the water. The policy shall contain extensions of coverage that are typical for a project of the nature of the East End Crossing and shall contain only those exclusions that are typical for a project of the nature of the East End Crossing. Any limitations or extensions of coverage to the tunnel exposure shall be described in the response to the RFP.

(b) The policy shall cover (i) all property, roads, buildings, bridge structures, other structures, fixtures, materials, supplies, foundations, pilings, machinery and equipment that are part of or related to the portions or elements of the East End Crossing under construction, and the works of improvement, including permanent and temporary works and materials, and including goods intended for incorporation into the works located at the Project Right of Way, in storage or in the course of transit to the Project Right of Way and all improvements that are within the Project Right of Way.

(c) The policy shall provide coverage per occurrence up to the full replacement cost or a loss limit based on a Probable Maximum Loss (PML) study of the covered property loss, and will include reasonable sublimits for professional fees, demolition and debris removal, without risk of co-insurance; provided, however, that the policy may include appropriate sublimits for earthquake, earth movement, tsunami and flood but in no event less than $50,000,000 aggregate each for earthquake and flood. If a PML option is used, then the study supporting the PML must be provided to IFA, and the PML may only be used as an alternative if it is approved, in writing, by IFA.

(d) Developer, IFA and the Design-Build Contractor shall be the named insureds on the policy as their respective interests appear. Developer also may, but is not obligated to, include other Contractors and interested parties as additional insureds as their respective interests appear. The policy shall be written so that no act or omission of any insured shall vitiate coverage of the other named insureds. Developer may name itself or the Collateral Agent as loss payee under the policy. The proceeds of the policy shall be held by the loss payee and timely applied to the cleanup, repair and reconstruction of the East End Crossing.

(e) The policy shall include coverage for (i) foundations, including pilings, but excluding normal settling, shrinkage, or expansion, (ii) physical damage resulting from machinery accidents but excluding normal and natural wear and tear, corrosion, erosion, inherent vice or latent defect in the machinery, (iii) plans, blueprints and specifications, (iv) physical damage resulting from faulty work or faulty materials, but excluding the cost of making

good such faulty work or faulty materials, (v) physical damage resulting from design error or omission but excluding the cost of making good such design error or omission, (vi) demolition and debris removal coverage, (vii) the increased replacement cost due to any change in applicable codes or other Laws, (viii) expense to reduce loss, (ix) building ordinance compliance, with the building ordinance exclusion deleted, and (x) "soft cost expense" (including costs of Governmental Approvals, mitigation costs, attorneys' fees, and other fees and costs associated with such damage or loss or replacement thereof). The sublimit for coverages (vii) and (ix) shall be not less than $10,000,000.

(f) The policy shall provide a deductible not exceeding $1,000,000 per occurrence. If a $1,000,000 per-occurrence deductible is not available for catastrophe perils such as earthquake, windstorm or flood; then a percentage deductible, not to exceed 3%, shall be acceptable. Also, see 15.7.11 of the Public Private Agreement, Seismic Event, for IFA responsibilities for the earthquake (seismic event) deductible.

2. Property Insurance

Commencing on the Substantial Completion Date and continuing through the Operating Period, Developer shall procure and keep in force, or cause to be procured and kept in force, a policy of property insurance as specified below.

(a) The policy shall provide coverage for "all risks" of direct physical loss or damage to the O&M Limits, with no restrictions or exclusions (except certain sublimits as noted below) for terrorism, earthquake, earth movement, volcanic activity, tsunami, flood, storm, tempest, windstorm, hurricane, tornado, ice flow, subsidence, or loss of property while waterborne or under the water. The policy shall contain extensions of coverage that are typical for a project of the nature of the East End Crossing, and shall contain only those exclusions that are typical for a project of the nature of the East End Crossing.

(b) The policy shall cover all property, roads, buildings, bridge structures, other structures, fixtures, materials, supplies, foundations, pilings, machinery and equipment that are part of or related to the East End Crossing and within the O&M Limits.

(c) The policy shall provide coverage per occurrence sufficient to reinstate the insured property for a limit not less than the probable maximum loss, and will include reasonable sublimits for professional fees, demolition and debris removal, without risk of co-insurance. Developer and its insurance consultant shall perform the maximum probable loss analysis using industry standard underwriting practices. The probable maximum loss analysis and recommended policy limit based thereon shall be subject to the review and comment by IFA to verify reasonableness under industry standard underwriting practices, prior to issuance of the policy or renewal of any policy. Developer and its insurance consultant shall review every two years the probable maximum loss values for the covered property and shall adjust the coverage limit accordingly for the period during which the property Insurance Policy is required hereunder.

(d) Developer and IFA shall be the named insureds on the policy. Developer also may, but is not obligated to, include Contractors and other interested parties as additional insureds as their respective interests appear. The policy shall be written so that no acts or omissions of a named insured shall vitiate coverage of the other named insureds. IFA and/or the Collateral Agent shall be named as loss payee under the policy. If IFA receives proceeds of such insurance for insured loss or damage, IFA shall hold such proceeds available to pay and reimburse Developer for reasonable costs it incurs to repair and replace the loss or damage (i)

first, to the East End Crossing and (ii) second, from remaining proceeds, if any, to property described in Sections 15.7.9.1 and 15.7.9.2 of the Agreement. However, at Developer's request, IFA will negotiate an amendment to the Project Trust Agreement for the purpose of establishing a property insurance proceeds account under the Project Trust Agreement, on commercially reasonable terms that shall include joint control of funds therein, into which such proceeds during the last five years of the Term will be deposited and held available for use to pay for restoration and repair of the damage or loss (with unspent proceeds, if any, to be disposed of in the same manner as proceeds in the Handback Requirements Reserve).

(e) To the extent available, the policy shall include coverage for (i) foundations, including pilings, but excluding normal settling, shrinkage, or expansion, (ii) physical damage resulting from machinery accidents but excluding normal and natural wear and tear, corrosion, erosion, inherent vice or latent defect in the machinery, (iii) plans, blueprints and specifications, (iv) physical damage resulting from faulty work or faulty materials, but excluding the cost of making good such faulty work or faulty materials, (v) physical damage resulting from design error or omission but excluding the cost of making good such design error or omission, (vi) physical damage resulting from mechanical breakdown or electrical apparatus breakdown, (vii) demolition and debris removal coverage, (viii) the increased replacement cost due to any change in applicable codes or other Laws, (ix) expense to reduce loss, (x) building ordinance compliance, with the building ordinance exclusion deleted, (xi) "soft cost expense" (including costs of Governmental Approvals, mitigation costs, attorneys' fees, and other fees and costs associated with such damage or loss or replacement thereof) and (xii) an automatic limit of $20,000,000 or larger if needed for construction during the Operating Period (unless the value of construction is less than $20,000,000, in which case the required sublimit can be less than $20,000,000 so long as such sublimit is no less than the value of construction). The sublimit for coverages (vii) and (xi) shall be not less than $10,000,000.

(f) The policy shall provide a deductible not exceeding $1,000,000 per occurrence. If a $1,000,000 per-occurrence deductible is not available for catastrophe perils such as earthquake, windstorm or flood; then a percentage deductible, not to exceed 3%, shall be acceptable. Also, see 15.7.11 of the Public Private Agreement, Seismic Event, for IFA responsibilities for the earthquake (seismic event) deductible.

3. Delayed Opening and Business Interruption Insurance

Developer shall procure, either as part of the builder's risk and property policies or as a separate business interruption policy procured concurrently with the builder's risk and property policies, and shall keep in effect or cause to be kept in effect, delayed opening insurance coverage (from the date of NTP2 until the Substantial Completion Date, and business interruption insurance coverage from and after the Substantial Completion Date through the remainder of the Term that satisfies the following requirements.

(a) Such Delayed Opening and Business Interruption coverage shall insure against interruption or loss of Availability Payments and, where applicable, additional interest costs due to delayed Milestone Payments resulting from physical loss or damage to any portion of the East End Crossing caused by occurrence of any risk which is required to be insured under the builder's risk or property insurance policies specified in Sections 1 and 2 above.

(b) The Delayed Opening and Business Interruption insurance shall cover interruption or loss of Availability Payments and, where applicable, additional interest costs due to delayed Milestone Payments for up to one full year for the coverage after the deductible

period from the following: (i) for the coverage against occurrences that take place prior to the Substantial Completion Date, the date Substantial Completion would have occurred absent occurrence of the insured risk; or (ii) for the coverage against occurrences that take place on or after to the Substantial Completion Date, the date of the interruption.

(c) For policies issued after the Substantial Completion Date, the amount of coverage shall be adjusted annually to reflect the estimated Availability Payments for the next 12-month period. IFA and Developer shall be named insureds with respect to such coverages. The policy shall be written so that no acts or omissions of a named insured shall vitiate coverage of the other named insureds.

(d) The policy shall provide a deductible per occurrence not exceeding the first 90 days of loss following the date of interruption.

(e) The policy shall be in form and substance as is then standard in the State for policies of like coverage.

(f) Any limitations or extensions of coverage to the tunnel exposure, shall be described in the response to the RFP.

4. Commercial General Liability Insurance

At all times during the Term, Developer shall procure and keep in force, or cause to be procured and kept in force, commercial general liability insurance as specified below.

(a) The policy shall provide the latest form of ISO standard or greater wording, and shall be an occurrence form. The policy shall contain extensions of coverage that are typical for a project of the nature of the East End Crossing, and shall contain only those exclusions that are typical for a project of such nature.

(b) The policy shall insure against the legal liability of the insureds named in Section 4(d) below, relating to claims by third parties for accidental death, bodily injury or illness, property damage, personal injury and advertising injury, and shall include the following specific coverages:

(i) Contractual liability;

(ii) Premises/operations;

(iii) Independent contractors;

(iv) Products and completed operations;

(v) Broad form property damage;

(vi) Hazards commonly referred to as "XCU", including explosion, collapse and underground property damage;

(vii) Fellow employee exclusion deleted;

(viii) Incidental medical malpractice;

(ix) No exclusion for work performed within 50 feet of a railroad;

(x) No professional services exclusion except the latest ISO form CG 22 79;

(xi) Broad named insured endorsement; and

(xii) Non-owned automobile liability, unless covered by the automobile liability policy pursuant to Section 5 of this Exhibit 19 (Insurance Coverage Requirements).

(c) The policy shall have limits of not less than $100,000,000 per occurrence and in the aggregate per policy period, except as noted in Section 15 below. Such limits shall be shared by all insured and additional insured parties. As noted in Section 17.1.6 of the Agreement, Developer shall have the right to satisfy the requisite insurance coverage amounts for liability insurance through a combination of primary policies and umbrella or excess policies. Umbrella and excess policies shall comply with all insurance requirements, terms and provisions set forth in the Agreement for the applicable type of coverage.

(d) Developer shall be a named insured and IFA and the Indemnified Parties including the Collateral Agent shall be additional insureds with respect to the acts, omissions, and activities of Developer and its contractors and subcontractors and subconsultants of every tier. The policy shall be written so that no act or omission of a named insured shall vitiate coverage of the other named insureds.

(e) Each policy shall provide for a deductible up to $1,000,000 per occurrence but only if the primary policy and any excess policy are written to obligate the insurers to pay on behalf of the insured on a first dollar basis and to later be reimbursed by the insured.

(f) With respect to any portion of the East End Crossing that Developer designs and/or builds, but does not operate, maintain or otherwise manage during the Operating Period, the completed operations portion of commercial general liability insurance shall remain in place for no less than ten (10) years after the Substantial Completion Date. For all other parts of the East End Crossing, commercial general liability insurance, including completed operations, shall remain in place for the entire Operating Period.

5. Automobile Liability Insurance

At all times during the Term, Developer shall procure and keep in force or shall cause to be procured and kept in force commercial automobile liability insurance as specified below.

(a) Each policy shall cover accidental death, bodily injury and property damage liability arising from the ownership, maintenance or use of all owned, non-owned and hired vehicles connected with performance of the Work, including loading and unloading. The policy shall contain extensions of coverage that are typical for a project of the nature of the East End Crossing, and shall contain only those exclusions that are typical for a project of the nature of the East End Crossing.

(b) Developer and Design-Build Contractor shall be the named insured under its automobile liability policy.

(c) Developer's policy shall have limits not less than $25,000,000 each accident or shall be scheduled under the umbrella required in Section 13 below (Project-Specific Limits / On-Project Right of Way Coverage) or as required in Section 14 below (All Other Limits / Off-Project Right of Way Coverage), except as noted in Section 15 below. As noted in Section 17.1.6 of the Agreement, Developer shall have the right to satisfy the requisite insurance coverage amounts for liability insurance through a combination of primary policies and umbrella or excess policies. Umbrella and excess policies shall comply with all insurance requirements, terms and provisions set forth in the Agreement for the applicable type of coverage.

(d) Each policy shall provide a deductible not exceeding $50,000 per occurrence.

(e) A deductible of $500,000 per occurrence but only if the primary policy and any excess policy are written to obligate the insurers to pay on behalf of the insured on a first dollar basis and later be reimbursed by the insured.

6. Contractor's Pollution Liability Insurance

At all times during the period from the commencement of Construction Work until the Substantial Completion Date, Developer shall procure and keep in force, or cause to be procured and kept in force, contractor's pollution liability insurance on an occurrence basis as specified below.

(a) The policy shall cover sums that the insured becomes legally obligated to pay to a third party or for the investigation, removal, remediation (including associated monitoring) or disposal of soil, surface water, groundwater or other contamination to the extent required by environmental laws (together "clean-up costs") caused by pollution conditions resulting from covered operations, subject to the policy terms and conditions, including bodily injury, property damage (including natural resource damages), clean-up costs, and legal defense costs. Such policy shall cover claims related to pollution conditions to the extent such are caused (i) by the performance of Work, (ii) by transportation, including loading and unloading, by owned and non-owned vehicles or (iii) by other activities performed by or on behalf of Developer that occur on the East End Crossing during the period from the commencement of Construction Work until the Substantial Completion Date. The policy shall have no exclusions or limitations for loss occurring over water including but not limited to a navigable waterway.

(b) Developer shall be a named insured and the Indemnified Parties shall be the additional insureds under such policy. The policy shall be written so that no acts or omissions of a named insured shall vitiate coverage of the other named insureds. The insured vs. insured exclusion shall not apply to additional insureds named to the policy.

(c) The policy shall have a limit of not less than $50,000,000 per occurrence and in the aggregate per policy period, unless applicable regulatory standards impose more stringent coverage requirements and except as noted in Section 15 below.

(d) The policy shall contain no exclusions that will restrict coverage for loss on, about or under water.

(e) The policy shall provide a deductible not exceeding $500,000 per occurrence.

7. Professional Liability Insurance

At all times during the Term that professional services are rendered respecting design and construction of the East End Crossing (which services are conclusively presumed to start on the Effective Date) until the first to occur of (1) ten years after the professional services have concluded for the East End Crossing or (2) expiration of all applicable statutes of limitation and repose applicable to professional services performed for the East End Crossing, Developer shall cause the Design-Build Contractor and the Lead Engineering Firm (in the case of the Design Work) and each Contractor that is under direct contract with Developer and provides professional services to Developer respecting such design and construction (in the case of any other design or engineering work) to procure and keep in force professional liability insurance as specified below.

(a) Each policy shall provide coverage of liability of the party performing the professional services arising out of any negligent act, error or omission in the performance of professional services or activities for the East End Crossing.

(b) The Design-Build Contractor and the Lead Engineering Firm shall each have a limit of not less than $20,000,000 per claim and in the aggregate. For all other Contractors performing professional services, the policy shall have the limits specified in Table 7:

Table 7

CONTRACT AMOUNT	LIMITS OF LIABILITY	YEARS COVERAGE TO REMAIN IN PLACE AFTER COMPLETION
$ 100,000 - $ 3,000,000	$ 1,000,000 Each Claim $ 1,000,000 Aggregate	3 Years
$ 3,000,001 - $ 5,000,000	$ 2,000,000 Each Claim $ 2,000,000 Aggregate	5 Years
Over $ 5,000,000	$ 5,000,000 Each Claim $ 5,000,000 Aggregate	5 Years

(c) If the policy is project-specific, then the policy limit shall be $20,000,000 per claim and in the aggregate for all firms insured on the policy.

(d) Each annual practice policy shall provide a deductible, as evidenced on a certificate of insurance, not exceeding $250,000 per claim. Any project-specific policy shall provide a deductible not exceeding $1,000,000 per claim.

(e) If a project-specific policy is purchased and it does not include a ten-year extended reporting period after Substantial Completion, then the annual practice policies of the Design-Build Contractor and the Lead Engineering Firm shall each be required to remain in

place at the limits required in Section 7(b) above for the balance of the ten year period or expiration of all applicable statutes of limitation and repose applicable to professional services performed for the East End Crossing. If the project-specific policy is purchased in the name of a joint venture or other special purpose entity formed by the Developer and or its team, and if the project-specific policy has an extended reporting period of five years, and such entity will not maintain its own separate professional liability coverage after the expiration of the project-specific policy, then this requirement can be satisfied by having the Key Contractor(s) and the Lead Engineering Firm(s) that were members of the joint venture or special purpose entity maintain the required coverage for the balance of the ten-year reporting period.

(f) All project-specific or annual practice policies shall maintain a retroactive date that shall be no later than the first date that the Design-Build Contractor or Lead Engineering Firm or any other firm required to maintain professional liability insurance began providing professional services for any Developer-Related Entity with respect to the East End Crossing.

8. Workers' Compensation Insurance

At all times when work is being performed by any employee of Developer, all Contractors, subcontractors and subconsultants, Developer shall procure and keep in force, or cause to be procured and kept in force, a policy of workers' compensation insurance in conformance with applicable Law. Developer and/or the Contractors, subcontractors and subconsultants, whichever is the applicable employer, shall be the named insured on these policies. The workers' compensation Insurance Policy shall contain the following endorsements:

(a) A voluntary compensation endorsement;

(b) An alternative employer endorsement; and

(c) An endorsement extending coverage to all states operations on an "if any" basis.

The workers compensation policy shall also include, by separate policy or by endorsement, U.S. Longshoremen's and Harbor Workers coverage, including, if applicable, Jones Act and Federal Employer's Liabilities Act coverage.

9. Employer's Liability Insurance

At all times during the Term, Developer shall procure and keep in force, or cause to be procured and kept in force, employer's liability insurance for Developer, each Contractor and each Contractor's subcontractors as specified below.

(a) The policy/ies shall insure against liability for death, bodily injury, illness or disease for all employees of Developer, the Contractor and all subcontractors and subconsultants working on or about any Project Right of Way or otherwise engaged in the Work.

(b) Developer and/or the Contractor and all subcontractors and subconsultants, whichever is the applicable employer, shall be the named insured.

(c) The policy shall have a limit of not less than $100,000,000 per accident, except as noted in Section 15 below. As noted in Section 17.1.6 of the Agreement, Developer

shall have the right to satisfy the requisite insurance coverage amounts for liability insurance through a combination of primary policies and umbrella or excess policies. Umbrella and excess policies shall comply with all insurance requirements, terms and provisions set forth in the Agreement for the applicable type of coverage.

(d) The policy may include commercially reasonable deductibles to the extent permitted by applicable Law. Prior to commencement of Work, Developer shall submit to IFA and obtain its approval of the deductible amounts for all Key Contractors under the policy.

10. Primary Vessel Hull and Machinery Insurance

Developer shall procure and keep in force, or cause to be procured and kept in force, where applicable, a policy or policies of primary vessel hull and machinery protective and indemnity insurance providing property and liability coverage for damage or destruction to or caused by all vessels and machinery used in the performance, maintenance, inspection or other purposes in respect of the Work and for maintenance, inspection or other purposes throughout the Operating Period.

(a) Each policy shall be maintained during the period starting on the date of the first shipment of any materials or equipment for the East End Crossing and ending at the conclusion of the Term.

(b) The hull and machinery insurance shall provide coverage for not less than the actual cash value.

(c) The protection and indemnity insurance shall provide coverage of no less than $25,000,000 combined single limit of liability for bodily injury, property damage and personal injury per occurrence, except as noted in Section 15 below. Such limit shall be shared by all insured and additional insured parties. As noted in Section 17.1.6 of the Agreement, Developer shall have the right to satisfy the requisite insurance coverage amounts for liability insurance through a combination of primary policies and umbrella or excess policies. Umbrella and excess policies shall comply with all insurance requirements, terms and provisions set forth in the Agreement for the applicable type of coverage.

(d) IFA and the Indemnified Parties shall be additional insureds with respect to liability arising out of the acts or omissions of the named insured on the policy, whether occurring on or off of the Project Right of Way. The policy shall be written so that no act or omission of a named insured shall vitiate coverage of the additional insureds.

(e) The insurance shall include commercially reasonable deductibles. Prior to commencement of Work, Developer shall submit to IFA and obtain its approval of the deductible amounts under each such Insurance Policy.

11. Aviation Insurance

Developer shall procure and keep in force, or cause to be procured and kept in force for each of its Contractors, where applicable, a policy or policies of aviation physical damage and liability insurance providing property and liability coverage for damage or destruction to or caused by any type of aircraft used in the performance of the Work through the Term.

(a) Each policy shall be maintained during the period starting on the date of

the first shipment of any materials or equipment for the East End Crossing and ending on the Final Acceptance Date.

(b) The physical damage insurance shall provide coverage for not less than the actual cash value. The liability insurance shall provide coverage of no less than $25,000,000 combined single limit of liability for bodily injury, property damage and personal injury per occurrence, except as noted in Section 15 below. Such limit shall be shared by all insured and additional insured parties. As noted in Section 17.1.6 of the Agreement, Developer shall have the right to satisfy the requisite insurance coverage amounts for liability insurance through a combination of primary policies and umbrella or excess policies. Umbrella and excess policies shall comply with all insurance requirements, terms and provisions set forth in the Agreement for the applicable type of coverage.

(c) IFA and the Indemnified Parties shall be additional insureds with respect to liability arising out of the acts or omissions of the named insured on the policy, whether occurring on or off of the Project Right of Way. The policy shall be written so that no act or omission of a named insured shall vitiate coverage of the additional insureds.

(d) The insurance shall include commercially reasonable deductibles. Prior to commencement of Work, Developer shall submit to IFA and obtain its approval of the deductible amounts under each such Insurance Policy.

12. Contractors' Insurance

(a) At all times during the Term, Developer shall cause each Contractor that performs Work on the Project Right of Way to provide commercial general liability insurance that complies with Section 17.1 of the Agreement, with policy limits as required in Sections 14 or 15 below, whichever is applicable, and commercially reasonable deductibles, in circumstances where the Contractor is not covered by Developer-provided or lead Design-Build Contractor provided liability insurance. Developer shall cause each such Contractor that provides such insurance to include each of the Indemnified Parties as additional insureds under such Contractor's liability Insurance Policies. Such insurance need not be East End Crossing-specific. IFA shall have the right to contact the Contractors directly in order to verify the above coverage.

(b) At all times during the Term, Developer shall cause each Key Contractor that has vehicles on the Project Right of Way or uses vehicles in connection with the Work to procure and keep in force, comprehensive, business, or commercial automobile liability insurance meeting the requirements as specified below.

(i) Each policy shall cover accidental death, bodily injury and property damage liability arising from the ownership, maintenance or use of all owned, non-owned and hired vehicles connected with performance of the Work, including loading and unloading. The policy shall contain extensions of coverage that are typical for a project of the nature of the East End Crossing, and shall contain only those exclusions that are typical for a project of the nature of the East End Crossing.

(ii) Each such Key Contractor shall be the named insured under its respective automobile liability policy.

(iii) Each policy shall have a policy limit of $24,000,000 each accident,

except as noted in Sections 14 and 15 below. As noted in Section 17.1.6 of the Agreement, Developer shall have the right to satisfy the requisite insurance coverage amounts for liability insurance through a combination of primary policies and umbrella or excess policies. Umbrella and excess policies shall comply with all insurance requirements, terms and provisions set forth in the Agreement for the applicable type of coverage.

(iv) Each policy shall provide a deductible not exceeding $50,000 per occurrence.

(v) A deductible of $500,000 per occurrence but only if the primary policy and any excess policy are written to obligate the insurers to pay on behalf of the insured on a first dollar basis and later be reimbursed by the insured.

(vi) Each policy shall include each of the Indemnified Parties as additional insureds.

(c) At all times during the Term, Developer shall cause each Contractor that has vehicles on the Project Right of Way or uses vehicles in connection with the Work (other than Key Contractors subject to subsection (b) above) to maintain an automobile liability policy which provides at least the minimum coverage for its employees and automobiles that is required by Law or as required in Section 14, whichever is higher. Developer shall cause each such Contractor to include in the policy each of the Indemnified Parties as additional insureds.

13. Project-Specific Limits / On-Project Right of Way Coverage

Developer, either directly or through its Contractor(s) shall provide project-specific limits for all of the following coverages:

(a) Builders Risk/Property Insurance

(b) Commercial General Liability Insurance

(c) Workers Compensation and Employers Liability

(d) Umbrella/Excess liability insurance (to be no less broad than all scheduled primary insurance)

(e) Pollution Insurance

Providing professional liability coverage on a project-specific basis is optional.

If the above coverages are provided as part of an overall Controlled Insurance Program (CIP) sponsored by Developer or a Contractor, then any Contractor required coverages listed above shall be satisfied by the CIP program as long as the CIP program meets the overall requirements described in this Exhibit 19. For coverages (b), (c), and (d) above, the total limits provided shall be not less than $100,000,000 each occurrence and in the aggregate, except as noted in Section 15 below. For coverage (e), Pollution Liability, the limit shall be not less than $50,000,000 each occurrence and in the aggregate, except as noted in Section 15 below. For professional liability, if provided on a project-specific basis, the limit shall not be less than $20,000,000 each claim and in the aggregate, except as noted in Section 15 below. For those

project participants working on the Project Right of Way and not included in the CIP, they shall provide limits in accordance with Section 14 or 15 below, whichever is applicable.

With respect to loss arising from the operation of watercraft, the CIP Umbrella/Excess liability coverage shall be not less than $75,000,000 each occurrence and in the aggregate in limits excess of the underlying required protection and indemnity insurance of $25,000,000 each occurrence, except as noted in Section 15 below. If the CIP insurer is not capable of providing such an extension, then the CIP sponsor shall provide an alternative approach to provide not less than $75,000,000 in excess limits for liability arising from the operation of watercraft on behalf of the project, except as noted in Section 15 below.

The term "On-Project Right of Way" shall be defined as follows: With respect to the portion of the project that is on land, that which is "On-Project Right of Way" shall include all areas within the borders shown on the maps in set forth in ROW Maps. With respect to the portion of the East End Crossing that is over the river, that which is "On-Project Right of Way" shall include all elements of the bridge and its foundations including any temporary structures.

14. All Other Limits / Off-Project Right of Way Coverage

Any Contractor or other contractor, subcontractor, design firm, fabricator or other entity that is not included in the CIP and/or is performing work off Project Right of Way shall maintain the following coverages:

(a) Commercial General Liability/Completed Operations Insurance

(b) Business Auto including liability and physical damage

(c) Workers Compensation and Employers Liability

(d) Primary Vessel Hull and Machinery Insurance (if applicable)

(e) Aviation Insurance (if applicable)

(f) Umbrella/Excess liability insurance

(g) Professional liability (if applicable and if not insured on a project-specific policy)

(h) Pollution Insurance

For contracts with Contractors, other contractors, subcontractors, firms or entities not included in the CIP and in excess of $10,000,000 or contracts of any amount that involve demolition, utility relocation, or transportation of hazardous waste, the limits required shall not be less than $10,000,000 each occurrence or in the aggregate. An umbrella or excess policy may be used to achieve the required policy limit of not less than $10,000,000 each occurrence or in the aggregate. For all contracts with Contractors, other contractors, subcontractors, firms or entities not included in the CIP and valued under $10,000,000 and not involving demolition, utility relocation or transportation of hazardous waste, the required limits are outlined in Table 14. For all contracts with Contractors, other contractors, subcontractors, firms or entities not included in the CIP and valued under $10,000,000 and not involving demolition, utility relocation or transportation of hazardous waste, Commercial General Liability/Completed Operations must only be maintained until completion of such Contractor's work or services. An umbrella or

excess policy may be used to achieve the required policy limits. Professional liability limits requirements are outlined in Section 7(b) above.

Table 14

CONTRACT AMOUNT	LIMITS OF LIABILITY	YEARS COVERAGE TO REMAIN IN PLACE AFTER COMPLETION
$ 100,000 - $ 3,000,000	$ 1,000,000 Each Claim $ 1,000,000 Aggregate	3 Years
$ 3,000,001 - $ 5,000,000	$ 2,000,000 Each Claim $ 2,000,000 Aggregate	5 Years
Over $ 5,000,000	$ 5,000,000 Each Claim ($ 3,000,000 Each Claim for 14(b) policies) $ 5,000,000 Aggregate ($ 3,000,000 Aggregate for 14(b) policies)	5 Years

15. Policy Limits From the Effective Date Until NTP2.

From the Effective Date until NTP2, for the following policies, the policy limits shall be no less than $10,000,000 each claim and in the aggregate or per accident, as applicable:

- Commercial General Liability Insurance
- Automobile Liability Insurance
- Professional Liability Insurance
- Employer's Liability Insurance
- Primary Vessel Hull and Machinery Insurance, if and when applicable
- Aviation Insurance, if and when applicable
- Contractors' Insurance

If the limits required in Section 15 exceed what is required in Section 14, then the lesser amount required in Section 14 shall be acceptable.

For purposes of clarity, Developer shall be deemed to have acquired and maintained the policies required under this Section 15 if its, and its relevant Contractors', corporate/institutional insurance programs (a) contain each of these prescribed policies, (b) at or in excess of the policy limits prescribed under this Section 15 and (c) otherwise are on the terms and subject to conditions substantially similar to those prescribed for each such policy (excepting policy limits)

under this Exhibit 19.

16. Contractor Tools and Equipment

None of the builders risk or property insurance policies described above shall apply to Contractors' tools or any equipment used by any Contractor to perform their work. All Contractors and Subcontractors shall be responsible for loss to their tools or any equipment used to perform their work and shall be responsible for purchasing insurance coverage for loss to such tools including loss of use over water and underwater.

EXHIBIT 20

FORMS OF PAYMENT BOND AND PERFORMANCE SECURITY

20-A Form of Payment Bond*
20-B Form of Performance Bond*
20-C Form of Multiple Obligee Rider for Payment Bond**
20-D Form of Multiple Obligee Rider for Performance Bond**
20-E Form of Performance Letter of Credit

*If the bond is to secure the payment or performance obligations of Developer rather than the Design-Build Contractor or other prime Contractor, then the form of bond shall be revised to reflect Developer as the "Principal" or "Contractor", IFA and KYTC in place of Developer as the bond obligee, and the Agreement as the "Contract".

** If the bond is to secure the payment or performance obligations of Developer rather than the Design-Build Contractor or other prime Contractor, then the form of multiple obligee rider shall be revised to reflect IFA and KYTC as the "Primary Obligee" and the Collateral Agent as the "Additional Obligee".

EXHIBIT 20-A

FORM OF PAYMENT BOND

Bond No. _____

For

The East End Crossing

KNOW ALL WHO SHALL SEE THESE PRESENTS:

THAT WHEREAS, The Indiana Finance Authority, a body corporate and politic, not a state agency but an instrumentality exercising essential public functions, of the State of Indiana ("IFA") has awarded to WVB East End Partners, LLC (the "Developer" or "Obligee"), a Public-Private Agreement, East End Crossing (Louisville-Southern Indiana Ohio River Bridges Project) (the "Agreement") to design, build, finance, operate and maintain the East End Crossing (the "East End Crossing") through a public-private partnership;

AND WHEREAS, _____ [Contractor Name] an entity duly authorized to do business in the State of Indiana (the "Principal" or "Contractor") has entered into a contract (the "Contract") with Developer bearing the date of _____, related to the performance of design and construction work for the East End Crossing, which Contract is specifically incorporated by reference herein, said work to be done according to the terms of the Contract;

AND WHEREAS, it is one of the conditions of the Contract and the Agreement that these presents shall be executed;

NOW THEREFORE, We the undersigned Principal and _____ (the "Surety" or "Co-Sureties") are firmly bound and held unto the Obligee, in the penal sum of _____ Dollars ($_____) good and lawful money of the United States of America for the payment whereof, well and truly to be paid to the Obligee, we bind ourselves, our heirs, successors, executors, administrators, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

1. If the Principal shall comply with all requirements of law and pay, as they become due, all just claims for labor performed and materials and supplies furnished upon or for the work under the Contract, whether said labor be performed and said materials and supplies be furnished under the original Contract, any subcontract, or any and all duly authorized modifications thereto, then these presents shall become null and void; otherwise they shall remain in full force and effect.

2. The Surety (or Co-Sureties) agree(s) that no change, extension of time, alterations, additions, omissions or other modifications of the terms of the Contract, or in the work to be performed with respect to the East End Crossing, or in the specifications or plans, or any

change or modification of any terms of payment or extension of time for any payment pertaining or relating to the Contract, or any conditions precedent or subsequent in this Bond attempting to limit the right of recovery of claimants otherwise entitled to recover under this Bond, or any fraud practiced by any other person other than the claimant seeking to recover this Bond, shall in any way affect its obligations on this Bond, and it does hereby waive notice of such changes, extension of time, alterations, additions, omissions or other modifications.

3. **[Use in case of multiple or co-sureties]** The Co-Sureties agree to empower a single representative with authority to act on behalf of all of the Co-Sureties with respect to this Bond, so that the Obligee and claimants will have no obligation to deal with multiple sureties hereunder. All correspondence from the Obligee or claimants to the Co-Sureties and all claims under this Bond shall be sent to such designated representative. The designated representative may be changed only by delivery of written notice (by personal delivery or by certified mail, return receipt requested) to the Obligee designating a single new representative, signed by all of the Co-Sureties. The initial representative shall be _____."

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this at _____ _____ on this _____ day of_____, A.D., 20__.

Principal (full legal name): _____

_____

Address: _____

_____

By: _____

Contact Name: _____

Phone: ( ) _____

Surety (full legal name): _____

Address: _____

By: _____

Contact Name: _____

Phone: ( ) _____

[Note: If more than one surety, then add appropriate number of lines to signature block.]

[Note: The bond shall be signed by authorized persons. Where such persons are signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an officer of the legal entity involved, evidence of authority must be furnished.]

EXHIBIT 20-B

FORM OF PERFORMANCE BOND

Bond No. _____

For

The East End Crossing

KNOW ALL WHO SHALL SEE THESE PRESENTS:

THAT WHEREAS, The Indiana Finance Authority, a body corporate and politic, not a state agency but an instrumentality exercising essential public functions, of the State of Indiana ("IFA") has awarded to WVB East End Partners, LLC (the "Developer" or "Obligee"), a Public-Private Agreement, East End Crossing (Louisville-Southern Indiana Ohio River Bridges Project) (the "Agreement") to design, build, finance, operate and maintain the East End Crossing through a public-private partnership;

AND WHEREAS, _____ [Contractor Name] an entity duly authorized to do business in the State of Indiana (the "Principal" or "Contractor") has entered into a contract (the "Contract") with Developer bearing the date of _____, related to the performance of design and construction work for the East End Crossing, which Contract is specifically incorporated by reference herein, said work to be done according to the terms of the Contract;

AND WHEREAS, it is one of the conditions of the Contract and the Agreement that these presents shall be executed;

NOW THEREFORE, We the undersigned Principal and _____ (the "Surety" or "Co-Sureties") are firmly bound and held unto the Obligee, in the penal sum of _____ Dollars ($_____) good and lawful money of the United States of America for the payment whereof, well and truly to be paid to the Obligee, we bind ourselves, our heirs, successors, executors, administrators, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

1. If the Principal shall in all things stand to and abide by and well and truly keep, perform and complete all covenants, conditions, agreements, obligations and work under the Contract, including any and all amendments, supplements, and alterations made to the Contract as therein provided, on the Principal's part to be kept and performed at the time and in the manner therein specified, if the Principal shall indemnify and save harmless the Obligee, its directors, officers and agents, as therein stipulated, and if the Principal shall reimburse upon demand of the Obligee any sums paid the Principal which exceed the final payment determined to be due upon completion of the East End Crossing, then these presents shall become null and void; otherwise they shall remain in full force and effect.

2. The obligations covered by this Bond specifically include liability for liquidated damages and warranties as specified in the Contract, but not to exceed the bonded sum.

3. The Surety (or Co-Sureties) agree(s) that no change, extension of time, alterations, additions, omissions or other modifications of the terms of the Contract, or in the work to be performed with respect to the East End Crossing, or in the specifications or plans, or any change or modification of any terms of payment or extension of time for any payment pertaining or relating to the Contract, or any conditions precedent or subsequent in this Bond attempting to limit the right of recovery of claimants otherwise entitled to recover under this Bond, or any fraud practiced by any other person other than the claimant seeking to recover this Bond, shall in any way affect its obligations on this Bond, and it does hereby waive notice of such changes, extension of time, alterations, additions, omissions or other modifications.

4. The Surety (or Co-Sureties) agree(s) that payments made to contractors and suppliers to satisfy claims on the payment bond do not reduce the Surety's legal obligations under this Bond. Payments made to contractors or suppliers under any agreement where the Surety has arranged for completion of the work to satisfy this Bond will not be considered payment bond claims.

5. Whenever the Principal shall be, and is declared by Developer to be, in default under the Contract, provided that Developer is not then in material default thereunder, the Surety (or Co-Sureties) shall promptly:

(a) remedy such default, or

(b) complete the work covered by this Bond in accordance with the terms and conditions of the Contract then in effect, or

(c) select a contractor or contractors to complete all work covered by this Bond in accordance with the terms and conditions of the Contract then in effect, using a contractor or contractors approved by IFA as required by the Agreement (provided, however, that the Surety may not select the Principal or any affiliate of the Principal to complete the work for and on behalf of the Surety without Developer's express written consent), arrange for a contract meeting the requirements of the Agreement between such contractor or contractors and Developer, and make available as work progresses (even though there should be a default or a succession of defaults under such contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the unpaid balance of the contract price; but not exceeding, including other costs and damages for which Surety (or Co-Sureties) is (are) liable hereunder, the bonded sum.

6. **[Use in case of multiple or co-sureties]** The Co-Sureties agree to empower a single representative with authority to act on behalf of all of the Co-Sureties with respect to this Bond, so that the Obligee and claimants will have no obligation to deal with multiple sureties hereunder. All correspondence from the Obligee or claimants to the Co-Sureties and all claims under this Bond shall be sent to such designated representative. The designated representative may be changed only by delivery of written notice (by personal delivery or by certified mail, return receipt requested) to the Obligee designating a single new representative, signed by all of the Co-Sureties. The initial representative shall be _____."

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this at _____ _____ on this _____ day of_____, A.D., 20__.

Principal (full legal name): _____

_____

Address: _____

_____

By: _____

Contact Name: _____

Phone: ( ) _____

Surety (full legal name): _____

Address: _____

By: _____

Contact Name: _____

Phone: ( ) _____

[Note: If more than one surety, then add appropriate number of lines to signature block.]

[Note: The bond shall be signed by authorized persons. Where such persons are signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an officer of the legal entity involved, evidence of authority must be furnished.]

EXHIBIT 20-C

FORM OF MULTIPLE OBLIGEE RIDER

(Payment Bond)

MULTIPLE OBLIGEE RIDER

This Rider is executed concurrently with and shall be attached to and form a part of Payment Bond No. _____.

WHEREAS, on or about the _____day of _____, 20__, _____, (hereinafter called the "Principal"), entered into a written agreement bearing the date of _____, 20__ hereinafter called the "Contract") with _____, (hereinafter called the "Primary Obligee") for the performance of design and construction work for the East End Crossing; and

WHEREAS, the Primary Obligee requires that Principal provide a payment bond and that the Indiana Finance Authority, a public agency of the State of Indiana ("IFA"), the Kentucky Transportation Cabinet ("KYTC"), _____ and _____ be named as additional obligees under the payment bond; and

WHEREAS, Principal and the Surety have agreed to execute and deliver this Rider concurrently with the execution of Payment Bond No. _____ (hereinafter referred to as "Payment Bond") upon the conditions herein stated.

NOW, THEREFORE, the undersigned hereby agree and stipulate as follows:

IFA, KYTC, _____, and _____ _____ are hereby added to the Payment Bond as named obligees (hereinafter referred to as "Additional Obligees").

The Surety shall not be liable under the Payment Bond to the Primary Obligee, the Additional Obligees, the claimants under the Payment Bond, or any of them, unless the Primary Obligee, the Additional Obligees, or any of them, shall make payments to the Principal (or in the case the Surety arranges for completion of the Contract, to the Surety) in accordance with the terms of the Contract as to payments and shall perform all other obligations to be performed under the Contract in all material respects at the time and in the manner therein set forth such that no material default by the Primary Obligee shall have occurred and be continuing under the Contract.

The aggregate liability of the Surety under this Payment Bond, to any or all of the obligees, as their interests may appear, is limited to the penal sum of the Payment Bond. The Additional Obligees' rights hereunder are subject to the same defenses Principal and/or Surety have against the Primary Obligee and/or the claimants under the Payment Bond, provided that the Additional Obligees have received notice and 30 days prior opportunity to cure breach or default by the Primary Obligee under the Contract.

The Surety may, at its option, make any payments under the Payment Bond by check issued jointly to all of the obligees.

In the event of a conflict between the Payment Bond and this Rider, this Rider shall govern and control. All references to the Payment Bond, either in the Payment Bond or in this Rider, shall include and refer to the Payment Bond as supplemented and amended by this Rider. Except as herein modified, the Payment Bond shall be and remains in full force and effect.

Signed, sealed and dated this ____ day of _____, 20__.

_____

(Principal)
(Seal)

By: _____

(Title)

_____

(Surety)
(Seal)

By: _____

, Attorney-in-Fact

EXHIBIT 20-D

FORM OF MULTIPLE OBLIGEE RIDER

(Performance Bond)

MULTIPLE OBLIGEE RIDER

This Rider is executed concurrently with and shall be attached to and form a part of Performance Bond No. _____.

WHEREAS, on or about the _____ day of _____, 20__, _____, (hereinafter called the "Principal"), entered into a written agreement bearing the date of _____, 20__ (hereinafter called the "Contract") with _____, (hereinafter called the "Primary Obligee") for the performance of design and construction work for the East End Crossing; and

WHEREAS, the Primary Obligee requires that Principal provide a performance bond and that the Indiana Finance Authority, a public agency of the State of Indiana ("IFA"), the Kentucky Transportation Cabinet ("KYTC"), _____ and _____ be named as additional obligees under the performance bond; and

WHEREAS, Principal and the Surety have agreed to execute and deliver this Rider concurrently with the execution of Performance Bond No._____ (hereinafter referred to as "Performance Bond") upon the conditions herein stated.

NOW, THEREFORE, the undersigned hereby agree and stipulate as follows:

IFA, KYTC, _____, and _____ _____ are hereby added to the Performance Bond as named obligees (hereinafter referred to as "Additional Obligees").

The Surety shall not be liable under the Performance Bond to the Primary Obligee, the Additional Obligees, or any of them, unless the Primary Obligee, the Additional Obligees, or any of them, shall make payments to the Principal (or in the case the Surety arranges for completion of the Contract, to the Surety) in accordance with the terms of the Contract as to payments and shall perform all other obligations to be performed under the Contract in all material respects at the time and in the manner therein set forth such that no material default by the Primary Obligee shall have occurred and be continuing under the Contract.

The aggregate liability of the Surety under this Performance Bond, to any or all of the obligees, as their interests may appear, is limited to the penal sum of the Performance Bond. The Additional Obligees' rights hereunder are subject to the same defenses Principal and/or Surety have against the Primary Obligee, provided that the Additional Obligees have received notice and 30 days prior opportunity to cure breach or default by the Primary Obligee under the Contract. The total liability of the Surety shall in no event exceed the amount recoverable from the Principal by the Primary Obligee under the Contract.

The Surety may, at its option, make any payments under the Performance Bond by check issued jointly to all of the obligees.

In the event of a conflict between the Performance Bond and this Rider, this Rider shall govern and control. All references to the Performance Bond, either in the Performance Bond or in this Rider, shall include and refer to the Performance Bond as supplemented and amended by this Rider. Except as herein modified, the Performance Bond shall be and remains in full force and effect.

Signed, sealed and dated this _____ day of _____, 20__.

_____

(Principal)
(Seal)

By: _____

(Title)

_____

(Surety)
(Seal)

By: _____

, Attorney-in-Fact

EXHIBIT 20-E

FORM OF PERFORMANCE LETTER OF CREDIT

* If the letter of credit is to secure the performance obligations of the Design-Build Contractor or other prime Contractor rather than Developer, then:

(1) Developer or the Collateral Agent shall be named as the beneficiary;

(2) The letter of credit shall include provisions, in form and substance acceptable to IFA, expressly authorizing assignment and transfer of the beneficiary rights to IFA without condition or limitation and expressly permitting IFA to draw without presentation of the original letter of credit;

(3) The letter of credit shall include provisions, in form and substance acceptable to IFA, naming IFA as automatic and exclusive transferee beneficiary upon Final Acceptance; and

(4) The draw conditions in paragraph 2 of the form of letter of credit shall be revised to reflect a failure of the Contractor to perform its contract obligations under the Contract between Developer and such Contractor.

IRREVOCABLE STANDBY LETTER OF CREDIT

ISSUER: _____

PLACE FOR PRESENTATION OF DRAFT: _____

_____

(Name and Address of Bank/Branch -- MUST be a United States Bank/Branch)

APPLICANT: [Name of Developer]

BENEFICIARY: INDIANA FINANCE AUTHORITY

Address: _____

_____

Contact Person: _____

Phone No. _____

LETTER OF CREDIT NUMBER: _____

PLACE AND DATE OF ISSUE: _____

AMOUNT: _____ United States Dollars (US$_____)

EXPIRATION DATE: _____, 20__

The Issuer hereby issues this Irrevocable Standby Letter of Credit in favor of the Indiana Finance Authority ("IFA"), for any sum or sums up to the aggregate amount of _____ United States Dollars (US$_____), available by draft at sight drawn on the Issuer. Any draft under this Letter of Credit shall:

1. Identify this Irrevocable Standby Letter of Credit by the name of the Issuer, and the Letter of Credit number, amount, and place and date of issue; and

2. State one of the following:

   "This drawing is due to the failure of WVB East End Partners, LLC ("Developer") to perform certain obligations under the certain Public-Private Agreement, East End Crossing (Louisville-Southern Indiana Ohio River Bridges Project) between IFA and Developer dated as of December 27, 2012 (the "Agreement")."

   or

   "This drawing is due to the failure of WVB East End Partners, LLC ("Developer") to deliver to IFA a new or replacement letter of credit, on the same terms, by the deadline set forth in the certain Public-Private Agreement, East End Crossing (Louisville-Southern Indiana Ohio River Bridges Project) between IFA and Developer dated as of December 27, 2012."

or

"This drawing is due to the fact that the Issuer does not meet the requirements set forth in the certain Public-Private Agreement, East End Crossing (Louisville-Southern Indiana Ohio River Bridges Project) between IFA and WVB East End Partners, LLC ("Developer") dated as of December 27, 2012 (the "Agreement") and Developer has failed to provide a substitute letter of credit issued by a qualified institution within the deadline set forth in the Agreement."

or

[Include another withdrawal condition if established under agreement or applicable law]."

All drafts will be honored if the original sight draft is physically presented to (United States Bank/Branch - Name & Address) on or before (Expiration Date) or any extended expiration date.

This Letter of Credit shall be automatically extended for successive periods of one year, without amendment, from the stated expiration date and each extended expiration date unless we send IFA written notice of our intent not to extend the credit; which notice must be sent at least 30 days prior to the expiration date of the original term hereof or any extended one year term, by registered or certified mail or overnight courier, to IFA at the address for IFA stated above or any other address specified in writing from an executive officer of IFA to the Issuer at the Issuer's address stated above.

This Letter of Credit is subject to the rules of the "International Standby Practices" ISP98. For matters not addressed by ISP98, this Letter of Credit shall be governed by New York law.

Issuer:

By:_____

(Authorized Signature of Issuer

EXHIBIT 21

FORM OF DIRECT AGREEMENT

THIS DIRECT AGREEMENT dated as of [_____] (this "**Direct Agreement**"), is made by and [between]/[among] the Indiana Finance Authority, a body corporate and politic, not a state agency but an instrumentality exercising essential public functions, of the state of Indiana ("**IFA**"), WVB East End Partners, LLC, a Delaware limited liability company ("**Developer**") [and] [_____], a [_____] ("**Lender**") [and Lender's Collateral Agent or Indenture Trustee], as Trustee or Collateral Agent (in such capacity, together with its successors in such capacity, the "**Collateral Agent**") [for Lender]] for the purpose of facilitating Lender's financing or Refinancing of the East End Crossing (as such term is defined below).

RECITALS

A. IFA and Developer have entered into that Public-Private Agreement (the "**PPA**") for the East End Crossing (Louisville-Southern Indiana Ohio River Bridges East End Crossing) (the "**East End Crossing**"), which PPA contemplates Developer obtaining financing or Refinancing for the East End Crossing from third parties.

B. In order to enable Developer, and to induce Lender, to provide certain financing or Refinancing necessary for the East End Crossing, Lender requires certain assurances from IFA regarding Lender's rights in the event of a default by Developer.

C. IFA and Developer have previously set forth such assurances in the PPA for the benefit of Lender as an express third-party beneficiary thereof.

D. In reliance on such assurances, and on this Direct Agreement, Lender has agreed to make available such financing or Refinancing facilities for the purpose of financing or Refinancing all or part of the East End Crossing.

E. The execution of this Direct Agreement by IFA in favor of the Collateral Agent is a condition precedent to such financing or Refinancing facilities being made available to Developer by Lender.

NOW, THEREFORE, in consideration of the foregoing and the mutual terms and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, each of IFA, Developer[,]/[and] [Lender] Collateral Agent hereby agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions. Capitalized terms used and not otherwise defined and references used but not construed in this Direct Agreement have the respective meanings and constructions assigned to such terms in the PPA. In addition, the following terms have the meanings specified below:

Collateral Agent has the meaning given to it in the Preamble.

Cure Period means:

(a) With respect to a Developer Default set forth in an IFA Notice that is curable by the payment of money to IFA, a period starting on the date of the receipt of such IFA Notice and ending 60 days after the later of (i) Lender's receipt of such IFA Notice or (ii) expiration of Developer's cure period (if any) under the PPA;

(b) With respect to a Developer Default set forth in an IFA Notice other than Incurable Developer Defaults and those under clauses (a) above and (c) below, a period starting on the date of the receipt of such IFA Notice and ending 60 days after the later of (i) receipt of such IFA Notice or (ii) expiration of Developer's cure period (if any) under the PPA; and

(c) With respect to a Developer Default set forth in an IFA Notice, other than Incurable Developer Defaults, that by its nature is not capable of cure unless and until the Step-in Party, the Collateral Agent or a court receiver has possession and control of the East End Crossing, a period starting on the date of the receipt of such IFA Notice and ending 180 days after the later of (i) receipt of such IFA Notice or (ii) expiration of Developer's cure period (if any) under the PPA; provided, however, that (i) during such cure period the Step-in Party cures all Developer Defaults which may be cured by the payment of money within the Cure Period under clause (a) above, (ii) during such cure period the Step-in Party cures all Developer Defaults governed by clause (b) above within the Cure Period available under clause (b) above, and (iii) within the later of (A) five days after expiration of Developer's cure period, if any, and (B) 30 days after the Collateral Agent receives such IFA Notice, the Step-in Party initiates and thereafter pursues with good faith, diligence and continuity lawful processes and steps to obtain possession and control of the East End Crossing. This Cure Period is subject to extension in accordance with Section 6.4 below.

Notwithstanding the foregoing, neither a Notice nor opportunity to cure shall be required for a Developer Default under Sections 19.1.1.3(a), 19.1.1.16 or 19.1.1.17 of the PPA.

In no case, however, shall a Cure Period extend beyond the expiration of the Term.

Default means an Event of Default as defined in the Funding Agreement for any senior Project Debt or any event or circumstance specified in such Funding Agreement that would (with the expiration of a grace period, the giving of notice, the lapse of time, the making of any determination under the Funding Agreement or any combination of any of the foregoing) be an Event of Default.

Developer has the meaning given to it in the Preamble.

Direct Agreement has the meaning given to it in the Preamble.

Discharge Date means the date on which all of the obligations of Developer under all Funding Agreements have been irrevocably discharged in full to the satisfaction of the Collateral Agent.

East End Crossing has the meaning given to it in the Recitals.

Event of Default means an "Event of Default" (or its terminological equivalent) as defined in the Funding Agreement for senior Project Debt.

Incurable Developer Default means:

(a) A Developer Default under Section 19.1.1.11 of the PPA (wrongful transfer of Developer's Interest; wrongful Equity Transfer or wrongful Change of Control);

(b) A Developer Default under Section 19.1.1.3(a) of the PPA (missed Long Stop Date); and

(c) A Developer Default under Section 19.1.1.16 or 19.1.1.17 of the PPA (bankruptcy-type events).

IFA has the meaning given to it in the Preamble.

IFA Notice has the meaning given to it in Section 4.1 below.

Lender has the meaning given to it in the Preamble.

Lender Notice has the meaning given to it in Section 5.1 below.

PPA has the meaning given to it in the Recitals.

Revival Date has the meaning given to it in Section 12.1 below.

Step-in Date has the meaning given to it in Section 8 below.

Step-in Notice has the meaning given to it in Section 7.1 below.

Step-in Party has the meaning given to it in Section 7.2 below.

Step-in Period means the period from and including the Step-in Date until the earliest of:

(a) The Substitution Effective Date;

(b) The Step-out Date;

(c) The date of termination of the PPA by IFA in accordance with the PPA and this Direct Agreement);

(d) The date of the expiration or early termination of the Term under the PPA;

(e) Expiration of the applicable Cure Period without cure of the Developer Default to which it relates, and

(f) The date an Incurable Developer Default occurs.

provided, however, that if there occurs a preceding Incurable Developer Default, there shall be no Step-in Period.

Step-out Date means the effective date a Step-in Party designates for ceasing its step-in as set forth in any Step-out Notice served by the Step-in Party pursuant to Section 9 below.

Step-out Notice has the meaning given to it in Section 9 below.

Substituted Entity has the meaning given to it in the PPA.

Substitute Accession Agreement means the agreement to be entered into by a Substituted Entity pursuant to Section 11.1 below.

Substitution Effective Date has the meaning given to it in Section 11.1 below.

Substitution Notice has the meaning given to it in Section 10.1 below.

1.2 Interpretation

Unless the context otherwise clearly requires:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined;

(b) Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms;

(c) The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation";

(d) The word "will" shall be construed to have the same meaning and effect as the word "shall";

(e) Any reference herein to any Person, or to any Person in a specified capacity, shall be construed to include such Person's successors and permitted assigns or such Person's successors in such capacity, as the case may be;

(f) The words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Direct Agreement in its entirety and not to any particular provision hereof;

(g) All references herein to Sections and Schedules shall be construed to refer to Sections of and Schedules to this Direct Agreement, unless otherwise specified herein. Any Schedules to this Direct Agreement are an integral part hereof. The provisions of this Direct Agreement shall prevail over the provisions of any Schedules to the extent of any inconsistency;

(h) The headings used in this Direct Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Direct Agreement;

(i) References herein to this Direct Agreement or to any other agreement or document relating to the East End Crossing includes a reference to this Direct Agreement, or, as the case may be, such other agreement or document as amended from time to time;

(j) "Winding-up", "liquidation", "dissolution", "insolvency", "adjustment" or "reorganization" of a Person and references to the "liquidator", "assignee", "administrator", "receiver", "custodian", "conservator" "sequestrator" or

"trustee" of a Person shall be construed so as to include any equivalent or analogous proceedings or, as the case may be, insolvency representatives or officers under the law of the jurisdiction in which such Person is incorporated, organized or constituted or any jurisdiction in which such Person or, as the case may be, insolvency representative or officer carries on business including the seeking of winding up, liquidation, dissolution, reorganization, administration, arrangement, adjustment or relief of debtors; and

(k) Any definition or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in such agreement, instrument or other document).

2. REPRESENTATIONS AND WARRANTIES

2.1 IFA represents and warrants to the Collateral Agent that:

(a) ***Organization; Power and Authority***. IFA is a body corporate and politic, not a state agency but an instrumentality exercising essential public functions, of the State of Indiana, and IFA has the power and authority to execute this Direct Agreement and the PPA, and to perform the provisions hereof and thereof.

(b) ***Authorizations, Enforceability***. This Direct Agreement and the PPA have been duly authorized by IFA, and this Direct Agreement constitutes a legal, valid and binding obligation of IFA enforceable against IFA in accordance with its terms, except as such enforceability may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(c) ***No Default***. There is no IFA Default; IFA is not aware of any Developer Default, and there exists no event or condition of which IFA is aware that would, with the giving of notice or passage of time or both, constitute such a Developer Default or IFA Default.

(d) ***Initial Funding Agreements***. IFA acknowledges and agrees that the documents referred to in Schedule B attached hereto are deemed to constitute Initial Funding Agreements for purposes of the PPA.

(e) ***No Conflicts***. The execution and delivery by IFA of this Direct Agreement, and the performance by IFA of its obligations hereunder, will not conflict with any Laws applicable to IFA that are valid and in effect on the date of execution and delivery.

(f) ***No Litigation***. As of the date of the execution of this Direct Agreement, there is no action, suit, proceeding, investigation or litigation pending and served on IFA which challenges IFA's authority to execute, deliver or perform, or the validity or

enforceability of, this Direct Agreement.

(g) ***Compliance with Mandatory Requirements.*** The Funding Agreements comply with the provisions of Section 13.3 of the PPA.

2.2 Developer represents and warrants to IFA and the Collateral Agent that::

(a) ***Organization: Power and Authority.*** The Developer is a limited liability company duly organized validly existing and in good standing under the laws of the State of Delaware, is registered to transact business in the State of Indiana, and has all requisite power and authority to conduct, execute, deliver and perform its obligations under the PPA and this Direct Agreement.

(b) ***Authorization: No Conflicts.*** The execution, delivery and performance by the Developer of this Direct Agreement has been duly authorized by all necessary corporate action, and does not and will not (i) require any consent or approval of the Developer's board of directors, shareholders, members, or any other person or entity that has not been obtained, (ii) violate any provision of the Developer's organizational documents or any Law, order, writ, judgment, injunction, decree or award having applicability to the Developer, or (iii) result in a breach of or constitute a default under any agreement to which the Developer is a party.

(c) ***Enforceability.*** This Direct Agreement has been duly executed and delivered and constitutes the legal, valid and binding obligation of Assignor enforceable against Assignor in accordance with its terms, except as enforceability may be limited by general principles of equity and by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally.

(d) ***No Default.*** There is no Developer Default, the Developer is not aware of any IFA Default, and there exists no event or condition of which the Developer is aware that would, with the giving of notice or passage of time or both, constitute a Developer Default or an IFA Default.

(e) ***Purpose of Loan***. The purposes of the Project Debt evidenced and secured by the Funding Agreements are solely to (a) fund Developer's costs of acquiring, designing, permitting, building, constructing, improving, equipping, modifying, operating, maintaining, reconstructing, restoring, rehabilitating, renewing and replacing the East End Crossing, (b) fund reserves relating to the East End Crossing, and (c) pay closing costs with respect to the Initial East End Crossing Debt, financing costs and fees, the costs of financial advisors, technical advisors, legal advisors, and the collateral agent/trustee and interest costs,

(f) ***Initial Funding Agreements***. Schedule B lists all the Initial Funding Agreements.

(g) ***Compliance with Mandatory Requirements***. The Funding Agreement complies with the provisions of Section 13.3 of the PPA.

2.3 The Collateral Agent represents and warrants to IFA and Developer that:

(a) The Collateral Agent is a [_____] duly organized, validly existing and in

good standing under the laws of the [_____], and has all requisite power and authority to conduct, execute, deliver and perform its obligations under this Direct Agreement.

(b) This Direct Agreement has been duly executed and delivered and constitutes the legal, valid and binding obligation of the Collateral Agent enforceable again the Collateral Agent in accordance with its terms, except as enforceability may be limited by general principles of equity and by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally.

3. AGREEMENTS AND CONSENT TO SECURITY; NOTICES TO IFA

3.1 IFA acknowledges notice and receipt of the Funding Agreements, and, notwithstanding anything in the PPA to the contrary but in reliance on Developer's and Collateral Agent's representations and warranties, consents to the assignment by Developer to the Collateral Agent of all of Developer's Interests pursuant to the terms and provisions of, the Security Documents.

3.2 If the Security Documents listed in Schedule B include a pledge of equity interests in Developer held by initial Equity Members, IFA acknowledges notice and receipt of such Security Documents, and in reliance on Developer's and Collateral Agent's representations and warranties, consents to the granting by each of the initial Equity Members to the Collateral Agent of a security interest in such equity interests in Developer pursuant to the terms and provisions of such Security Documents.

3.3 In reliance on Developer's and Collateral Agent's representations and warranties, IFA agrees that the assignment of, and the grant of the security interest in and first lien over, all of the Developer's Interest pursuant to the Security Documents, the grant of the security interest by each initial Equity Member in its equity interests in Developer pursuant to the Security Documents, the execution by Developer and IFA of this Direct Agreement and the performance of their respective obligations hereunder and the enforcement by the Collateral Agent of its rights under the Security Documents, in each case, shall neither constitute a Developer Default, Default Termination Event or any other breach by Developer of the PPA Documents nor would, with the giving of notice or lapse of time or both, constitute a Developer Default, Default Termination Event or any other breach by Developer of the PPA Documents, nor require the consent of IFA, other than as provided herein.

3.4 Collateral Agent shall deliver to IFA together with delivery to Developer or any other Person, every notice of election to sell, notice of sale or other notice under any requirement of Law or of any Funding Agreement in connection with the exercise of remedies under this Direct Agreement or any other Funding Agreement. The Collateral Agent agrees to be bound by the provisions of Section 13.3.7 of the PPA.

3.5 IFA acknowledges and confirms that the Funding Agreements and Security Documents do not conflict with any of the terms, conditions, or restrictions contained in Section 13.3 of the PPA.

4. IFA NOTICE OF TERMINATION AND EXERCISE OF REMEDIES

4.1 Except as provided otherwise in Section 12.2 below, IFA shall give the Collateral Agent

written notice (an "**IFA Notice**") promptly upon giving Notice to Developer of:

(a) A Developer Default (other than an Incurable Developer Default under clause (c) of the definition thereof);

(b) IFA's right to terminate, or IFA's election to terminate, the PPA under Sections 19.2 and 20.3 of the PPA;

(c) IFA's exercise of any rights under Sections 19.2.3 (except under 19.2.3.5), 19.2.4 or 19.2.8.1 of the PPA; or

(d) IFA's right to suspend its performance (including in connection with any insolvency or bankruptcy proceeding in relation to Developer) under the PPA.

4.2 An IFA Notice shall specify:

(a) The unperformed obligations of Developer under the PPA that are the grounds for termination of the PPA, or for suspension of performance or for exercise of the other rights all as referred to in Sections 19.2.8.1, 19.2.3 (except 19.2.3.5), 19.2.4 and 19.2.1 of the PPA in detail sufficient to enable the Collateral Agent to assess the scope and amount of any liability of Developer resulting therefrom;

(b) To the extent known to IFA, all amounts due and payable by Developer to IFA under the PPA on or before the date of such IFA Notice and which remain unpaid at such date and the nature of Developer's obligation to pay such amounts; and

(c) The estimated amount of Developer's payment obligation to IFA that IFA reasonably foresees will arise during the applicable Cure Period.

4.3 Upon the Collateral Agent's request made not more frequently than monthly, IFA shall update the statements and information in its IFA Notice.

4.4 Following receipt of an IFA Notice, the Collateral Agent shall have the rights set forth in Section 6.2 and the right to deliver to IFA a Step-in Notice as provided in Section 7 below.

5. LENDER NOTICE; PAYMENTS TO COLLATERAL AGENT

5.1 The Collateral Agent shall give IFA written notice (a "**Lender Notice**"), with a copy to Developer, promptly upon the occurrence of any Default or Event of Default (whether or not an IFA Notice has been served relating to the same event).

5.2 The Collateral Agent shall specify in any Lender Notice the circumstances and nature of the Default or Event of Default to which the Lender Notice relates.

5.3 IFA shall, following receipt of a Lender Notice relating to an Event of Default and until further notification from the Collateral Agent, pay to an account designated by the Collateral Agent in the Lender Notice any payments required to be made by IFA to Developer under the PPA including any termination compensation required to be paid to Developer under the PPA,

but subject to all rights, defenses, adjustments, deductions and offset respecting payment available to IFA under the PPA. The Collateral Agent shall provide to IFA the following information: (a) the individual responsible for administering the account, including his or her position; (b) the mailing address of such individual; and (c) the telephone, fax and e-mail address of such individual.

5.4 All sums paid as provided in Section 5.3 above shall be deemed paid to Developer under the PPA. IFA shall have no liability, whatsoever, for any delay in processing any payment request pursuant to Section 5.3 above, provided that such delay does not extend 14 Business Days beyond the date of IFA's certified, return-receipt or registered mail receipt of the Lender Notice. In no event shall any payment be due to the Collateral Agent earlier than it is due under the PPA.

5.5 Developer and the Collateral Agent agree that any payment made in accordance with Section 5.3 above shall constitute a complete discharge of IFA's relevant payment obligations to Developer. IFA shall have the unconditional right to rely upon any Lender Notice purported to be signed and delivered by or for the Collateral Agent, without IFA obligation or liability to ascertain or investigate its authenticity, truth or accuracy.

5.6 The Collateral Agent shall promptly provide Notice to IFA of any decision to accelerate amounts outstanding under the Funding Agreements or to exercise any enforcement remedies under the Funding Agreements.

5.7 The Collateral Agent's or Lender's exercise of any right it may have pursuant to the Security Documents to assign, transfer or otherwise dispose of any right, title or interest it may have in, or obligations it may have pursuant to, the Security Documents shall be subject to compliance with the requirements of Section 13.4 of the PPA to the extent such exercise of rights would constitute a Refinancing.

6. LIMITATIONS ON IFA REMEDIES DURING CURE PERIOD; CURE PERIOD EXTENSION

6.1 Prior to the expiration of any applicable Cure Period (except if there exists an Incurable Developer Default) and provided IFA has given an IFA Notice relating to a Developer Default if required under this Direct Agreement, IFA agrees not to terminate the PPA under Section 20.3 of the PPA or take or support any legal action for the liquidation, bankruptcy, administration, receivership, reorganization, dissolution or winding up of Developer or for the composition or readjustment of Developer's debts, or any similar insolvency procedure in relation to Developer, or for the appointment of a receiver, trustee, custodian, sequestrator, conservator, liquidator, administrator or similar official for Developer or for any part of Developer's Interest; provided that IFA shall not be prevented from (i) taking any such action on a Revival Date in respect of any prior Developer Default, or (ii) exercising any other rights and remedies available to IFA under the PPA Documents with respect to the subject Developer Default or any other breach by the Developer of the PPA Documents.

6.2 If:

(a) IFA exercises any step-in rights under Section 19.2.4 or suspension rights under Section 19.2.8.1 of the PPA,

(b) The Collateral Agent delivers a Step-in Notice; and

(c) There does not exist and does not occur any Incurable Developer Default;

then, IFA shall cease exercising its step-in and suspension rights at such time as:

(i) The Step-in Party obtains possession or control of the East End Crossing from Developer;

(ii) The Collateral Agent notifies IFA that the Step-in Party stands ready to immediately commence good faith, diligent curative action; and

(iii) IFA is fully reimbursed for IFA's Recoverable Costs in connection with IFA's performance of any act or Work authorized by Section 19.2.4 of the PPA.

6.3 Except if there exists an Incurable Developer Default, during any Cure Period, without giving a Step-in Notice, the Collateral Agent shall have the right (but shall have no obligation), at its sole option and discretion, to perform or arrange for the performance of any act, duty, or obligation required of Developer under the PPA, or to cure any default of Developer thereunder at any time (whether or not a Default Termination Event has occurred or been declared), which performance by the Collateral Agent shall be accepted by IFA in lieu of performance by Developer and in satisfaction of Developer's obligations under the PPA. To the extent that any default of Developer under the PPA is cured and/or any payment liabilities or performance obligations of Developer are performed by the Collateral Agent during the Cure Period, such action shall discharge the relevant liabilities or obligations of Developer to IFA.

6.4 If the Collateral Agent or another Step-in Party (i) shall have succeeded to the Developer's Interest and obtained possession in accordance with the terms of this Direct Agreement, (ii) shall have delivered to IFA within 15 days after obtaining possession and control a Substitute Accession Agreement in accordance with Section 11 below, and (iii) shall have thereafter diligently and with continuity cured all Developer Defaults which are capable of being cured through possession, then the Collateral Agent or other Step-in Party shall have time after it obtains possession as may be necessary with exercise of good faith, diligence and continuity to cure such Developer Default or perform such condition, in any event not to exceed 120 days after the date it obtains possession, and the Cure Period shall be extended accordingly; provided that in no event shall the Term be extended.

7. STEP-IN NOTICE

7.1 Upon the issuance of a Lender Notice or an IFA Notice, except for an Incurable Developer Default, the Collateral Agent may give a written notice (a "**Step-in Notice**") under this Section 7 to IFA at any time during the Cure Period in the case of the issuance of an IFA Notice or at any time following the receipt by IFA of a Lender Notice.

7.2 The Collateral Agent shall nominate, in the Step-in Notice, (a) the Collateral Agent, a Lender or any entity that is wholly owned by a Lender or group of Lenders; or (b) any Person approved by IFA as a Substituted Entity in accordance with Section 21.6 of the PPA and Section 10 below, and the person so nominated being referred to as the "Step-in Party."

7.3 IFA shall have the unconditional right to rely upon any Step-in Notice purported to be signed and delivered by or for the Collateral Agent, without IFA obligation or liability to ascertain or investigate its authenticity, truth or accuracy.

8. RIGHTS AND OBLIGATIONS ON STEP-IN

8.1 On and from the date of the receipt of the Step-in Notice and the approval of IFA to the appointment of the Step-in Party if required by Section 7.2 above ("**Step-in Date**") and during the Step-in Period, the Step-in Party shall be entitled to exercise and enjoy the rights and powers expressed to be assumed by or granted to a Step-in Party under this Direct Agreement.

8.2 Without prejudice to Section 12 below (Revival of Remedies), unless there exists an Incurable Developer Default, from and after commencement of any applicable Cure Period and during the applicable Step-in Period, IFA shall:

(a) Not terminate or give Notice terminating the PPA under Sections 19.2 or 20.3 (Termination for Developer Default) of the PPA unless such Cure Period shall expire without cure of the Developer Default to which it relates or the grounds for termination or giving notice of termination or otherwise exercising its rights under Section 20.3 of the PPA in accordance with such section are a subsequent Developer Default, subject to the Cure Period applicable to such subsequent Developer Default;

(b) Not suspend its performance (including in connection with any insolvency, bankruptcy or similar proceeding in relation to Developer) under the PPA, unless such Cure Period shall expire without cure of the Developer Default to which it relates or the grounds for suspension of performance are failure by the Step-in Party to perform Developer's obligations under the PPA (other than the Developer Default to which such Cure Period relates), subject to the Cure Period applicable to such failure, or unless the PPA has been rejected;

(c) Not take or support any action for the liquidation, bankruptcy, administration, receivership, reorganization, dissolution or winding up of Developer or for the composition or readjustment of Developer's debts, or any similar insolvency procedure in relation to Developer, or for the appointment of a receiver, trustee, custodian, sequestrator, conservator, liquidator, administrator or similar official for Developer or for any part of Developer's Interest;

(d) Continue to make payments pursuant to Section 5.3 above; and

(e) Endorse over as may be directed by the Collateral Agent any checks received by IFA with respect to the Performance Security if, in each case, such security is in the form of a surety bond; provided that the Collateral Agent reimburse IFA for any Losses incurred by IFA in attempting to cure the Developer Default as and to the extent: (i) IFA is entitled to such reimbursement pursuant to the PPA; (ii) IFA has promptly notified the Collateral Agent of such Losses at or prior to the time of endorsement and (iii) the Collateral Agent's obligation to reimburse IFA for such Losses do not exceed the proceeds from any such security.

8.3 IFA, Collateral Agent and Developer agree that:

(a) The performance by IFA in favor of either the Step-in Party or Developer shall be a good and effective discharge of IFA's obligations under this Direct Agreement and the PPA;

(b) IFA's receipt of performance from either the Step-in Party or Developer shall be a good and effective discharge of Developer's corresponding obligations under the PPA;

(c) The Collateral Agent shall be entitled at any time by Notice to IFA to direct (such direction being binding on the Collateral Agent, IFA and Developer) that, at all times during the Step-in Period, the Step-in Party shall be solely entitled to make any decisions, to give any directions, approvals or consents, to receive any payments or otherwise to deal with IFA under the PPA. IFA shall be entitled to conclusively rely on any such decisions, directions, approvals or consents, without any duty whatsoever to ascertain or investigate the validity thereof, and any such decisions, directions, approvals or consents shall be as binding on Developer as if made or given by Developer itself;

(d) Any amount due from Developer to IFA under the PPA or this Direct Agreement as of the Step-in Date and notified to such Step-in Party prior to the Step-in Date shall be paid to IFA on the Step-in Date, failing which IFA shall be entitled to exercise its rights under the PPA in respect of the amount so due and unpaid; and

(e) Developer shall not be relieved from any of its obligations under the PPA, whether arising before or after the Step-in Date, by reason of the Step-in Party exercising the rights provided herein, except to the extent provided in Section 6.3 above and Section 9 below.

9. STEP-OUT

A Step-in Party may, at any time, by giving not less than 30 days' prior written notice **("Step-out Notice")** to IFA, terminate its obligations to IFA under this Direct Agreement respecting the event giving rise to the Step-in Notice, in which event such Step-in Party shall be released from all obligations under this Direct Agreement respecting the event giving rise to the Step-in Notice, except for any obligation or liability of the Step-in Party arising on or before the effective date set forth in the Step-out Notice. The obligations of IFA to the Step-in Party under this Direct Agreement respecting the event giving rise to the Step-in Notice shall also terminate upon the effective date set forth in the Step-out Notice. If the Step-in Party giving the Step-out Notice is a Substituted Entity that is not a Lender, then such Step-in Party shall be released from all obligations under this Direct Agreement arising from and after the effective date contained in the Step-out Notice and its relinquishment of possession and control of the East End Crossing.

10. SUBSTITUTION PROPOSAL BY THE LENDERS

10.1 The Collateral Agent may give a notice ("**Substitution Notice**") under this Section 10 in writing to IFA at any time:

(a) During any Cure Period;

(b) During any Step-in Period; or

(c) After delivery of a Lender Notice.

10.2 In any Substitution Notice, the Collateral Agent shall provide Notice to IFA that it intends

to designate a Substituted Entity.

10.3 The Collateral Agent shall, as soon as practicable, provide to IFA the information, evidence and supporting documentation regarding the proposed Substituted Entity and any third party entering into a material subcontract with such Substituted Entity, including:

(a) The name and address of the proposed Substituted Entity and its proposed Key Contractors;

(b) The names of the proposed Substituted Entity's shareholders or members and the share capital or partnership or membership interests, as the case may be, held by each of them;

(c) The manner in which it is proposed to finance the proposed Substituted Entity in its performance of the balance of the Work and the extent to which such financing is committed;

(d) Copies of the proposed Substituted Entity and its proposed Key Contractors' most recent financial statements (and if available such financial statements shall be for the last three financial years) or in the case of a newly-formed special purpose company its opening balance sheet;

(e) A copy of the proposed Substituted Entity's and its proposed Key Contractors' formation documents, and other evidence of each of their organization and authority, including organizational documents, resolutions and incumbency certificates;

(f) Details of the resources available to the proposed Substituted Entity and its proposed Key Contractors, and the appropriate qualifications, experience and technical competence available to the proposed Substituted Entity and its proposed Key Contractors to enable the proposed Substituted Entity to perform the obligations of Developer under the PPA;

(g) The names of the proposed Substituted Entity's and its proposed Key Contractors' directors/managers/members and any key personnel who will assume substantially-similar roles as the Key Personnel and otherwise have responsibility for the day-to-day management of its participation in the East End Crossing;

(h) Disclosure of any actual or potential conflicts of interest of the proposed Substituted Entity and its proposed Key Contractors; and

(i) All certificates, including certificates regarding debarment or suspension, forms, statements, representations and warranties and opinion(s) of counsel that IFA may reasonably request, signed by the proposed Substituted Entity and, where applicable, proposed Key Contractors, in each case not at IFA's cost or expense.

10.4 IFA shall not be required to give its approval to the proposed Substituted Entity if:

(a) There are unremedied breaches under the PPA and there is no rectification plan reasonably acceptable to IFA with respect to the breaches which are capable of

being cured by the Substituted Entity; or

(b) Any proposed security interests to be granted by the proposed Substituted Entity to the Collateral Agent and/or Lender in addition to (or substantially different from) the security interests granted to the Collateral Agent and/or Lender under the Initial Funding Agreements or Initial Security Documents materially and adversely affect the ability of the Substituted Entity to perform Developer's obligations under the PPA Documents or have the effect of increasing any liability of IFA, whether actual or potential (un less a Rescue Refinancing is concurrently proposed, in which case the Project Debt Termination Amount may increase by up to 10%).

10.5 If IFA fails to give its approval within 45 days of the date on which IFA has confirmed it has received the information specified in Section 10.3 above in respect of any proposed Substituted Entity, or any extension thereof by mutual agreement of IFA and the Collateral Agent, then the approval of IFA shall be deemed to have been given.

11. SUBSTITUTION

11.1 If IFA approves (or is deemed to have approved) a Substitution Notice pursuant to Section 10 above, then the Substituted Entity named therein shall execute a duly completed Substitute Accession Agreement substantially in the form attached hereto as Schedule A and submit it to IFA (with a copy thereof to the other parties to this Direct Agreement). The assignment set forth in the Substitute Accession Agreement shall become effective on and from the date on which (a) the Collateral Agent or the Substituted Entity lawfully succeeds to all the Developer's Interest through exercise of foreclosure rights and actions on security interests or through transfer from Developer in lieu of foreclosure, (b) IFA receives all payments described in Section 11.4 below and (c) IFA countersigns the Substitute Accession Agreement (the "**Substitution Effective Date**"), or the date that is ten days after the date IFA receives the completed Substitute Accession Agreement if IFA fails to sign the Substitute Accession Agreement.

11.2 As of the Substitution Effective Date:

(a) Such Substituted Entity shall become a party to the PPA Documents and this Direct Agreement in place of Developer;

(b) All of Developer's obligations and liabilities under the PPA Documents and under this Direct Agreement arising from and after the Substitution Effective Date shall be immediately and automatically transferred to the Substituted Entity, without release of Developer from any such obligations and liabilities to IFA. Notwithstanding the foreclosure or other enforcement of any security interest created or perfected by any Funding Agreement, and notwithstanding occurrence of the Substitution Date, Developer shall remain liable to IFA for the payment of all sums owing to IFA under the PPA and for the performance and observance of all of Developer's covenants and obligations under the PPA;

(c) Such Substituted Entity shall exercise and enjoy the rights and perform the obligations of Developer under the PPA Documents and this Direct Agreement, and

(d) IFA shall owe its obligations (including any undischarged liability with respect to any loss or damage suffered or incurred by Developer prior to the Substitution Effective Date) under the PPA Documents and this Direct Agreement to such Substituted Entity in place of Developer, subject to IFA's right to offset any losses or damages suffered or incurred by IFA as provided under the PPA, which when such obligations are performed by IFA shall be, and be deemed to be, a release by Developer of its entitlement to such performance.

11.3 IFA shall use its reasonable efforts to facilitate the transfer to the Substituted Entity of Developer's obligations under the PPA and this Direct Agreement.

11.4 The Substituted Entity shall pay to IFA on the Substitution Effective Date any amount due to IFA under the PPA and this Direct Agreement, including IFA's reasonable costs and expenses incurred in connection with (a) Developer's default and termination, (b) IFA's activities with respect to the East End Crossing during any period IFA was in possession of the East End Crossing, and (c) the approval of the Substituted Entity, all as of the Substitution Effective Date and notified to such Substituted Entity prior to the Substitution Effective Date. IFA's receipt of the payment pursuant to this Section 11.4 shall be a condition precedent to the Substitution Effective Date.

11.5 The occurrence of the Substitution Effective Date shall not extinguish prior Developer Defaults that remain uncured, and IFA shall continue to have all rights and remedies available under the PPA with respect to such Developer Defaults, including any applicable termination rights, subject to (a) the limitations on IFA's exercise of such rights and remedies set forth in this Direct Agreement during any applicable Cure Period that continues after the Substitution Effective Date (b) the limitations on termination due to accumulation of Noncompliance Points prior to the Substitution Effective Date to the extent provided in Section 21.4.5 of the Agreement and (c) Section 13 below.

11.6 As of the Substitute Effective Date, IFA shall enter into an equivalent direct agreement on substantially the same terms as this Direct Agreement, save that Developer shall be replaced as a party by the Substituted Entity.

12. REVIVAL OF REMEDIES; INCURABLE DEVELOPER DEFAULT

12.1 If:

(a) An IFA Notice has been given;

(b) The grounds for such IFA Notice are continuing and have not been remedied or waived; and

(c) The Step-in Period ends without cure of the Developer Defaults that were the subject of IFA Notice,

Then, from and after the date such Step-in Period expires (the "**Revival Date**"), IFA shall be entitled:

(i) Except as provided otherwise in Section 6.4 above, to act upon any and all grounds for termination or suspension available to it in relation to the PPA in respect of defaults under the PPA not remedied or waived;

(ii) To pursue any and all claims and exercise any and all remedies against Developer; and

(iii) To take or support any action of the type referred to in Section 20.7 of the PPA if and to the extent that it is then entitled to do so under the PPA.

12.2 IFA may terminate the PPA without providing an IFA Notice, Step-in Period or Cure Period to the Collateral Agent in the event of an Incurable Developer Default. Upon the occurrence of an Incurable Developer Default, IFA's termination and suspension rights shall be effective without regard to any limitations set forth in this Direct Agreement, subject to and except to the extent provided otherwise in Section 13 below.

13. NEW AGREEMENTS

13.1 The provisions of this Section 13 shall apply only if:

(a) There occurs an Incurable Developer Default under clause (a) or (c) of the definition of Incurable Developer Default; or

(b) (i) there occurs a Developer Default governed by clause (c) of the definition of Cure Period, (ii) the Collateral Agent pursues with good faith, diligence and continuity lawful processes and steps to obtain the appointment of a court receiver for the East End Crossing and possession, custody and control of the East End Crossing, (iii) despite such efforts the Collateral Agent is unable to obtain such possession, custody and control of the East End Crossing within the 180-day Cure Period set forth in clause (c) of the definition of Cure Period and (iv) no Step-out Notice has been given.

13.2 If this Section 13 is applicable and either (i) IFA terminates the PPA or (ii) IFA receives notice that the PPA is otherwise terminated, rejected, invalidated or rendered null and void by order of a bankruptcy court, then (a) IFA shall deliver to the Collateral Agent Notice of such event, and (b) the Collateral Agent or other Step-in Party, to the extent then permitted by Law, shall have the option to obtain from IFA agreements to replace the PPA Documents, and, to the extent necessary, new ancillary agreements (e.g. escrow agreements) (together the "**New Agreements**") in accordance with and upon the terms and conditions of this Section 13.

13.3 In order to exercise such option, the Collateral Agent or other Step-in Party must deliver to IFA, within 60 days after IFA delivers its Notice of termination, (a) a request for New Agreements, (b) a written commitment that the Collateral Agent or other Step-in Party will enter into the New Agreements and pay all the amounts described in Sections 13.5(a) and (c) below, and (c) originals of such New Agreements, duly executed and acknowledged by the Collateral Agent or other Step-in Party. If any of the foregoing is not delivered within such 60-day period, the option in favor of the Collateral Agent and all other Step-in Parties shall automatically expire.

13.4 Within 30 days after timely receipt of the Notice, written commitment and New Agreements duly executed, IFA shall enter into the New Agreements to which IFA is a party with the Collateral Agent or other Step-in Party, subject to any extension of such 30-day period as IFA deems necessary to clear any claims of Developer to continued rights and possession.

13.5 Upon the execution by all parties and as conditions to the effectiveness of the New Agreements, the Collateral Agent or other Step-in Party shall perform all of the following:

(a) Pay to IFA:

(i) Any and all sums which would, at the time of the execution of the New Agreements, be due under the PPA Documents but for such termination; and

(ii) The amount of any Termination Compensation previously paid by IFA under the PPA, with interest thereon at a floating rate equal to the LIBOR in effect from time to time plus 200 basis points from the date the termination compensation was paid until so reimbursed;

(b) Otherwise fully remedy any existing Developer Defaults under the PPA Documents (provided, however, that Incurable Developer Defaults need not be remedied and with respect to any Developer Default which cannot be cured until the Collateral Agent or other Step-in Party obtains possession, it shall have such time, after it obtains possession, as is necessary with the exercise of good faith, diligence and continuity to cure such default, in any event not to exceed 120 days after the date it obtains possession);

(c) Without duplication of amounts previously paid by Developer, pay to IFA all reasonable costs and expenses, including IFA's Recoverable Costs, incurred by IFA in connection with (i) such default and termination, (ii) the assertion of rights, interests and defenses in any bankruptcy or related proceeding, (iii) the recovery of possession of the East End Crossing, (iv) all IFA activities during its period of possession of, and respecting, the East End Crossing, including permitting, design, acquisition, construction, equipping, maintenance, operation and management activities, minus the lesser of (A) the foregoing clause (iv) amount and (B) the amount of Availability Payments, if any, that would have been paid during such period had the PPA not been terminated and had there been no adjustments to such Availability Payments, and (v) the preparation, execution, and delivery of such New Agreements. Upon request of the Collateral Agent or other Step-in Party, IFA will provide a written, documented statement of such costs and expenses; and

(d) Deliver to IFA a new Payment Bond and Performance Security and new letters of credit and guarantees to the extent then required under the PPA.

13.6 Upon execution of the New Agreements and payment of all sums due IFA, IFA shall:

(a) Assign and deliver to the Collateral Agent or other Step-in Party, without warranty or representation, all the property, contracts, documents and information that Developer may have assigned and delivered to IFA upon termination of the PPA; and

(b) If applicable, transfer into a new Handback Requirements Reserve Account established by the Collateral Agent or other Step-in Party in accordance with the PPA, all funds IFA received from the Handback Requirements Reserve Account pursuant to Section 6.13.3 of the PPA (or from draw on a Handback Requirements Letter of Credit) less so much thereof that IFA spent or is entitled to as reimbursement for costs of Rehabilitation Work IFA performed prior to the effectiveness of the New Agreements.

13.7 The New Agreements shall be effective as of the date of termination of the PPA and shall run for the remainder of the Term. The New Agreements shall otherwise contain the same covenants, terms and conditions and limitations as the PPA Documents and ancillary agreements and documents that were binding on IFA and Developer (except for any requirements which have been fulfilled by Developer prior to termination and except that Section 18.1 of the PPA (and any equivalent provisions of the other PPA Documents) shall be revised to be particular to the Collateral Agent or other Step-in Party).

13.8 If the holders of more than one Security Document make written requests upon IFA for New Agreements in accordance with this Section 13, IFA shall grant the New Agreements to, as applicable, the holder whose Security Documents have the most senior priority of record. Priority shall be established as follows.

(a) IFA shall submit a written request to the Collateral Agent to designate the Security Documents having the most senior priority of record. IFA shall have the right to conclusively rely on the Collateral Agent's written designation, without duty of further inquiry by IFA and without liability to any Lender; and thereupon the written requests of each holder of any other Security Document shall be deemed to be void.

(b) If IFA does not receive the Collateral Agent's written designation within ten days after delivering written request, then IFA may conclusively rely, without further inquiry and without liability to any Lender, on the seniority indicated by a then-current title report that IFA obtains from one of the four largest title insurance companies doing business in the State of Indiana (unless otherwise agreed in writing by the most senior holder so indicated); and thereupon the written requests of each holder of any other Security Document shall be deemed to be void.

(c) If the holders of more than one Security Document share *pari passu* senior lien priority as indicated pursuant to clause (a) or (b) above and make written requests upon IFA for New Agreements in accordance with this Section 13, IFA shall grant the New Agreement to such holders jointly (unless otherwise agreed in writing by such holders); and thereupon the written requests of each holder of any other Security Documents shall be deemed to be void.

14 GENERAL

14.1 Neither Lender nor the Collateral Agent shall have any obligation hereunder to extend credit to IFA or any contractor to IFA at any time, for any purpose.

14.2 For so long as any amount under the Funding Agreements is outstanding, IFA shall not, without the prior written consent of the Collateral Agent, consent to any assignment, transfer, pledge or hypothecation of the PPA or any interest therein by Developer, other than as specified in the PPA or this Direct Agreement.

14.3 Notwithstanding anything to the contrary contained herein, the Collateral Agent is acting hereunder, not in its individual capacity but solely as collateral agent, on behalf of the secured parties identified in the Security Documents. The Collateral Agent shall not be required to take any action whatsoever hereunder unless and until it is specifically directed to do so in writing as specified in the Security Documents. The Collateral Agent shall not be liable for acting in

accordance with such directions or for failing to act if it does receive any such written directions. Under no circumstances (other than in respect of gross negligence or willful misconduct of the Collateral Agent) shall the Collateral Agent be liable for any and all claims, liabilities, obligations, losses, damages, penalties, costs and expenses that may be imposed on, incurred by, or asserted against the Collateral Agent at any time or in any way relating to or arising out of the execution, delivery and performance of this Direct Agreement by the Collateral Agent. Under no circumstances shall the Collateral Agent be liable for any indirect, special, consequential or punitive damages for any action it takes pursuant to the authority or directions given under the Security Documents. For the avoidance of doubt, under no circumstances shall the Collateral Agent be required to perform any activity related to the construction of the East End Crossing including, without limitation, directing or supervising any portion of the construction of the East End Crossing. Nothing contained herein shall require the Collateral Agent to advance or risk its own funds.

15. TERMINATION

This Direct Agreement shall remain in effect until the earlier to occur of (a) the Discharge Date; (b) the time at which all of IFA's obligations and liabilities have expired or have been satisfied in accordance with the terms of the PPA Documents and this Direct Agreement; and (c) any assignment to a Substituted Entity has occurred under Section 11 above and IFA shall have entered into an equivalent direct agreement on substantially the same terms as this Direct Agreement, save that Developer has been replaced as a party by the Substituted Entity.

16. EFFECT OF BREACH

Without prejudice to any rights a party may otherwise have, a breach of this Direct Agreement shall not of itself give rise to a right to terminate the PPA.

17. NO PARTNERSHIP

Nothing contained in this Direct Agreement shall be deemed to constitute a partnership between the parties hereto. None of the parties shall hold itself out contrary to the terms of this Section 17.

18. REMEDIES CUMULATIVE

No failure or delay by IFA, Lender or the Collateral Agent (or their designee) in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The remedies provided herein are cumulative and not exclusive of any remedies provided by law and may be exercised by Lender, the Collateral Agent or any designee, transferee or permitted assignee thereof from time to time.

19. AMENDMENT AND WAIVER

No amendment, modification or waiver of any provision of this Direct Agreement shall be effective against any party hereto unless the same shall be in writing and signed by the party against whom enforcement is sought, and then such amendment, modification or waiver shall be effective only in the specific instance and for the specific purpose for which it was given.

20. SUCCESSORS AND ASSIGNS

20.1 No party to this Direct Agreement may assign or transfer any part of its rights or obligations hereunder without the consent of the other parties, save that (a) the Collateral Agent may assign or transfer its rights and obligations hereunder to a successor Collateral Agent in accordance with the Funding Agreements, and (b) IFA may assign or transfer its rights and obligations hereunder as provided in Section 22.4.1 of the PPA.

20.2 This Direct Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

21. COUNTERPARTS

This Direct Agreement may be executed in any number of counterparts, each of which shall be identical and all of which, taken together, shall constitute one and the same instrument, and the parties may execute this Direct Agreement by signing any such counterpart. Transmission by facsimile or electronic ("e-mail") delivery of an executed counterpart of this Direct Agreement shall be deemed to constitute due and sufficient delivery of such counterpart, to be followed thereafter by an original of such counterpart.

22. SEVERABILITY

If, at any time, any provision of this Direct Agreement is or becomes illegal, invalid or unenforceable, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision will in any way be affected or impaired. The illegal, invalid or unenforceable provision shall be deemed replaced by such provisions as shall be legal, valid and enforceable in the relevant jurisdiction.

23. NOTICES

23.1 Any notice, approval, election, demand, direction, consent, designation, request, agreement, instrument, certificate, report or other communication required or permitted to be given or made under this Direct Agreement (each, a "**Notice**") to a party must be given in writing (including by fax or electronic mail). All Notices will be validly given if on a Business Day to each party at the following address:

To IFA:

Public Finance Director
Indiana Finance Authority
One North Capitol, Suite 900
Indianapolis, IN 46204
Telephone. (317) 233-4332
Fax: (317) 232-6786
E-mail: ifa@ifa.in.gov

with copy to:

General Counsel
Indiana Finance Authority
One North Capitol, Suite 900
Indianapolis, IN 46204
Telephone. (317) 233-4332

Fax: (317) 232-6786
E-mail: ifa@ifa.in.gov

To Developer:

WVB East End Partners, LLC
1260 East Summit Street
Crown Point, Indiana 46307
Attention: Sidney Florey
Telephone: (407) 470-6639
Fax: (646) 400-5868
E-mail: sidney.florey@vinci.com

with copies to:

WI East End, LLC
c/o The Walsh Group
929 W. Adams Street
Chicago, Illinois 60607
Attention: Gregory Ciambrone
Telephone: (312) 563-5471
Fax: (312) 563-5442
E-mail: gciambrone@walshgroup.com

and

Vinci Concessions Investments USA Inc.
c/o Vinci Concessions S.A.S.
9 Place de l'Europe
92851 Rueil-Malmaison, France
Attention: Fadi Selwan
Telephone: 33 1 47 16 32 33
Fax: 33 1 47 16 36 36
E-mail: fadi.selwan@vinci.com

and

Bilfinger East End Holdings Inc.
c/o Bilfinger Project Investments North America Inc.
675 Cochrane Drive
West Tower, Suite 630
Markham, ON (Canada) L3R 0B8
Attention: Damian Joy
Telephone: (905) 752-3134
Fax: (905) 530-2214
E-mail: damian.joy@pi.bilfinger.ca

To the Collateral Agent:

[Collateral Agent's name]
[Office or department (e.g., Corporate Trust Administration)]
[Street number]
[City, State, zip code]
Telephone: [_____]
Fax: [_____]
E-Mail:[_____]

23.2 A Notice shall be deemed to have been given:

(a) Upon receipt, if delivered in person;

(b) Upon receipt (confirmed by automatic answer back or equivalent evidence of receipt), if validly transmitted electronically before 3:00 p.m. (local time at the place of receipt) on a Business Day;

(c) Upon receipt, if delivered by overnight courier; or

(d) Four Business Days after deposit with postage prepaid and properly addressed, if delivered by United States Postal Service certified or registered mail.

23.3 Each of the parties will provide Notice to each other in writing of any change of address, such Notice to become effective 15 days after dispatch.

24. GOVERNING LAW AND JURISDICTION

24.1 This Direct Agreement shall be governed by, and construed in accordance with, the laws of the State of Indiana applicable to contracts to be performed within such State. The Parties consent to exclusive jurisdiction of and venue in the federal and state courts located in Marion County, Indiana.

24.2 Each of Developer, IFA and the Collateral Agent irrevocably consents to service of process by personal delivery, certified mail, postage prepaid or overnight courier, and waives any different statutory requirements for service of process. Nothing in this Direct Agreement will affect the right of any party to serve process in any other manner permitted by law.

24.3 Each of IFA, Developer and the Collateral Agent hereby (a) certifies that no representative, agent or attorney of another party has represented, expressly or otherwise, that the other party would, in the event of a proceeding, seek to attack the enforceability of the foregoing waiver and (b) acknowledges that it has been induced to sign, and to change its position in reliance upon the benefits of, this Direct Agreement by, among other things, the mutual waivers in this Section 24.

25. CONFLICT WITH AGREEMENT

In the event of any irreconcilable conflict or inconsistency between the provisions of this Direct Agreement and the PPA, including, without limitation, Sections 13 and 21 of the PPA, the provisions of this Direct Agreement shall control and prevail.

IN WITNESS WHEREOF, each of the parties hereto has caused this Direct Agreement to be duly executed by its duly authorized officer as of the date first written above.

INDIANA FINANCE AUTHORITY

By:_____

Name:_____
Title:_____

[COLLATERAL AGENT BANK], AS COLLATERAL AGENT

By:_____

Name:_____
Title:_____

WVB EAST END PARTNERS, LLC

By:_____

Name:_____
Title:_____

SCHEDULE A
Form of Substitute Accession Agreement

[Date]

To: **Indiana Finance Authority**
For the attention of: [_____]
[Lender and other parties to Funding Agreements to be listed]
[insert address]
For the attention of: [_____]

From: ***[Substituted Entity]***

EAST END CROSSING –
LOUISVILLE-SOUTHERN INDIANA OHIO RIVER BRIDGES PROJECT:
SUBSTITUTE ACCESSION AGREEMENT

Ladies and Gentlemen:

Reference is made to the Public-Private Agreement, dated as of December 27, 2012 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "***Agreement***") between the Indiana Finance Authority (the "***IFA***") and WVB East End Partners, LLC ("***Developer***") and the Direct Agreement, dated as of [_____], 20[__] (as amended, amended and restated, supplemented or otherwise modified from time to time, the "***Direct Agreement***") among IFA, Developer and [_____] [Collateral Agent Bank or Trustee], as Collateral Agent. Terms defined in the Direct Agreement and not otherwise defined herein have the respective meanings set forth in or incorporated into in the Direct Agreement.

1. The undersigned ("we") hereby confirms that it is a Substituted Entity pursuant to Sections 10 and 11 of the Direct Agreement.

2. We acknowledge and agree that, upon and by reason of our execution of this Substitute Accession Agreement, we will become a party to the Agreement and the Direct Agreement as a Substituted Entity and, accordingly, shall have the rights, powers and obligations of Developer under the Agreement and the Direct Agreement.

3. We hereby assume all duties, obligations and liabilities of Developer under the PPA Documents.

4. Our address, fax and telephone number and address for electronic mail for the purpose of receiving notices are as follows:

[contact details of Substituted Entity]

5. This Substitute Accession Agreement shall be governed by, and construed in accordance with, the law of the State of Indiana applicable to contract to be performed within such State.

The terms set forth herein are hereby agreed to:

[Substituted Entity]

By: _____

Name: _____

Title: _____

Accepted:

INDIANA FINANCE AUTHORITY

By: _____

Name: _____

Title:

SCHEDULE B
Initial Funding Agreements

Funding Agreements

Document	Party 1	Party(ies) 2

Security Documents

Document	Party 1	Party(ies) 2

EXHIBIT 22

EARLY TERMINATION DATES AND TERMS FOR TERMINATION COMPENSATION

All Section references in this Exhibit 22 are to the Sections of the Agreement unless expressly provided otherwise.

1. Termination for Convenience

1.1 If IFA exercises its right of Termination for Convenience pursuant to Section 20.1, the Early Termination Date shall be as specified in the Notice of Termination for Convenience, but in no event earlier than 30 days after the date such Notice is delivered.

1.2 If IFA exercises its right of Termination for Convenience pursuant to Section 20.1, IFA shall pay compensation to Developer in an amount equal to either (a) the Backward Looking Termination for Convenience Amount, or (b) the Forward Looking Termination for Convenience Amount, as selected by Developer in Exhibit 2-J.

1.3 The Backward Looking Termination for Convenience Amount shall be calculated as follows (calculated at the Early Termination Date and without duplicative-counting):

1. The Project Debt Termination Amount; plus

2. An amount which, when added to all Distributions described in clause (a) of the definition thereof actually paid to Equity Members or their Affiliates on or before the Early Termination Date:

   (a) Yields as of the Early Termination Date at an internal rate of return on Committed Investment described in clause (a) of the definition thereof, other than Subordinate Debt (taking into account the timing of such Distributions and Committed Investment), equal to the Original Equity IRR; plus

   (b) Repays as of the Early Termination Date outstanding Subordinate Debt (excluding Breakage Costs) with interest thereon accrued up to the Early Termination Date at a rate equal to the lesser of (i) the non-default interest rate provided in the Funding Agreements for the Subordinate Debt or (ii) the Original Equity IRR; plus

3. Redundancy Payments for employees of Developer that have been or will be reasonably incurred by Developer as a direct result of termination of the Agreement; plus

4. Subject to Section 19.4.4, any Losses that have been incurred and will be incurred by Developer as a direct result of termination of the Agreement arising out of the termination of contracts with Contractors, including reasonable and documented out-of-pocket costs to demobilize, but only to the extent that:

   (a) Such Losses are incurred in connection with the East End Crossing and in respect of the provision of services or the completion of work required to be

provided by Developer;

(b) Such Losses are incurred under arrangements and/or agreements that are consistent with terms of the Agreement, have been entered into in the ordinary course of business and, in the case of contracts with Affiliates, are on commercially reasonable terms, and

(c) Each of Developer and the relevant Contractors has used reasonable efforts to mitigate the Losses; minus

5. All amounts standing to the credit of any bank or trust account held by or on behalf of Developer as of the Early Termination Date, except in the Handback Requirements Reserve Account (governed by Section 6.13.4) and the Relief Events Allowance Account (governed by Section 15.6.1); minus

6. The portion of any previous payments to Developer that compensated Developer for Extra Work Costs and Delay Costs accruing after the Early Termination Date and attributable to Relief Events that occurred prior to termination.

1.4 The Forward Looking Termination for Convenience Amount shall be calculated as follows (calculated at the Early Termination Date and without duplicative-counting):

1. The Project Debt Termination Amount; plus

2. The amount of all Distributions described in clause (a) of the definition thereof to Equity Members or their Affiliates anticipated in the Financial Model to be paid on Committed Investment and outstanding Subordinate Debt (excluding Breakage Costs) between the Early Termination Date until the date of expiration of the Term, each amount discounted back (i) for Committed Investment, at the Original Equity IRR, and (ii) for outstanding Subordinate Debt, at the lesser of the non-default interest rate provided in the Funding Agreements or the Original Equity IRR, with the discounting in each case to be from the date on which it is shown to be payable in the Financial Model to the Early Termination Date; plus

3. Redundancy Payments for employees of Developer that have been or will be reasonably incurred by Developer as a direct result of termination of the Agreement; plus

4. Subject to Section 19.4.4, any Losses that have been incurred and will be incurred by Developer as a direct result of termination of the Agreement arising out of the termination of contracts with Contractors, including reasonable and documented out-of-pocket costs to demobilize, but only to the extent that:

   (a) Such Losses are incurred in connection with the East End Crossing and in respect of the provision of services or the completion of work required to be provided by Developer;

   (b) Such Losses are incurred under arrangements and/or agreements that are consistent with terms of the Agreement, have been entered into in the ordinary course of business and, in the case of contracts with Affiliates, are on commercially reasonable terms, and

(c) Each of Developer and the relevant Contractors has used reasonable efforts to mitigate the Losses; minus

5. All amounts standing to the credit of any bank or trust account held by or on behalf of Developer as of the Early Termination Date, except in the Handback Requirements Reserve Account (governed by Section 6.13.4) and the Relief Events Allowance Account (governed by Section 15.6.1); minus

6. The portion of any previous payments to Developer that compensated Developer for Extra Work Costs and Delay Costs accruing after the Early Termination Date and attributable to Relief Events that occurred prior to termination.

1.5 The Termination Compensation under Section 1.3 or 1.4 above, as applicable, shall be due and payable by IFA in immediately available funds within 90 days after:

1. IFA gives its Notice of its election to terminate;

2. The Collateral Agent provides IFA with a written statement as to the Project Debt Termination Amount, with documentation reasonably required by IFA to support such statement; and

3. Developer provides IFA with a written statement as to the amounts payable and deductible pursuant to subsections 2 through 6 of Section 1.3 or 1.4 above, as applicable, with documentation reasonably required by IFA to support such statement and a certification that such amounts are true and correct.

1.6 The Termination Compensation shall bear interest from the later of the Early Termination Date or the date that is five days after IFA receives the statements and documentation set forth in subsections 2 and 3 of Section 1.5 above, until the date paid, at an annual rate equal to Developer's then weighted average cost of Project Debt and Committed Investment, assuming, however, (a) non-default rates of interest, (b) a cost of Committed Investment other than Subordinate Debt equal to that set forth in Section 1.3 or 1.4 above, as applicable, and (c) a cost of Subordinate Debt equal to that set forth in Section 1.3 or 1.4 above, as applicable. Payments shall be applied first to accrued unpaid interest and second to the outstanding Termination Compensation amount.

2. Termination for Extended Relief Events, Extended Permitted Closure or Insurance Unavailability

2.1 If the Agreement is terminated pursuant to Section 20.2, the Early Termination Date shall be 60 days after, as the case may be:

1. The date of acceptance of the conditional election to terminate;

2. The date IFA delivers Notice of election to terminate pursuant to Section 20.2.2; or

3. The date either Party delivers Notice of its unconditional election to terminate pursuant to Section 20.2.5.

2.2 If the Agreement is terminated pursuant to Section 20.2, IFA shall pay compensation to Developer calculated as follows (calculated at the Early Termination Date and without double-counting):

1. The Project Debt Termination Amount; plus

2. Amounts paid by the Equity Members or their Affiliates to Developer in the form of Committed Investment described in clause (a) of the definition thereof or in the form of Subordinate Debt up until the Early Termination Date, less any amounts actually received by the Equity Members or their Affiliates from Developer as Distributions described in clause (a) of the definition thereof, provided if the amounts calculated pursuant to this subsection 2 are less than zero, then, for purposes of the calculation of the termination amount, they shall be deemed to be zero; provided, further, that if the termination under Section 20.2.1.1(a) is due to Environmental Litigation, amounts payable under this Section 2.2(2) shall include a rate of return (i) with respect to Committed Investment equal to the Original Equity IRR and (ii) with respect to Subordinate Debt equal to the lesser of the Original Equity IRR or the non-default interest rate owing on the Subordinate Debt.; plus

3. Redundancy Payments for employees of Developer that have been or will be reasonably incurred by Developer as a direct result of termination of the Agreement; plus

4. Subject to Section 19.4.4, any Losses that have been or will be incurred by Developer as a direct result of termination of the Agreement arising out of the termination of contracts with Contractors, including reasonable and documented out-of-pocket costs to demobilize, but only to the extent that: such

   (a) Such Losses are incurred in connection with the East End Crossing and in respect of the provision of services or the completion of work required to be provided by Developer;

   (b) Such Losses are incurred under arrangements and/or agreements that are consistent with terms of the Agreement, have been entered into in the ordinary course of business and, in the case of contracts with Affiliates, are on commercially reasonable terms, and

   (c) Each of Developer and the relevant Contractors has used reasonable efforts to mitigate the Losses; minus

5. All amounts standing to the credit of any bank or trust account held by or on behalf of Developer as of the Early Termination Date, except in the Handback Requirements Reserve Account (governed by Section 6.13.4) and the Relief Events Allowance Account (governed by Section 15.6.1); minus

6. The portion of any previous payments to Developer that compensated Developer for Extra Work Costs and Delay Costs accruing after the Early Termination Date and attributable to Relief Events that occurred prior to termination.

2.3 Payment of the Termination Compensation is conditioned upon IFA's receipt of the following:

1. From the Collateral Agent, a written statement as to the Project Debt Termination Amount, with documentation reasonably required by IFA to support such statement; and

2. From Developer, a written statement as to the amounts payable and deductible pursuant to subsections 2 through 6 of Section 2.2 above, with documentation reasonably required by IFA sufficient to support such statement and a certification that such amounts are true and correct.

2.4 Provided that IFA has received the statements and documentation set forth in Section 2.3 above, the Termination Compensation under Section 2.2 above shall be due and payable by IFA in immediately available funds as follows:

1. If the termination Notice has been given by Developer:

   First, from all amounts held in the MP Relief Event and Termination Compensation Fund or the AP Relief Event and Termination Compensation Fund, as applicable; and;

   The remaining balance, in any, in full, not later than (a) July 1 immediately following the date IFA receives the statements and documentation set forth in Section 2.3 above, if such date occurs before August 1, or (b) the second July 1 immediately following the date IFA receives the statements and documentation set forth in Section 2.3 above, if such date occurs on or after August 1.

2. If the termination Notice has given by IFA, Termination Compensation shall be due and payable by IFA no later than 90 days after receipt of the written statements referred to in Section 2.3 above.

2.5 The Termination Compensation shall bear interest from the later of the Early Termination Date or the date that is five days after IFA receives the statements and documentation set forth in Section 2.3 above, until the date paid. The annual interest rate shall equal Developer's then weighted average cost of Project Debt (including Subordinate Debt, if any) and Committed Investment, assuming however, (a) non-default rates of interest, (b) a cost of Committed Investment other than Subordinate Debt (if any) equal to the Original Equity IRR, and (c) a cost of Subordinate Debt (if any) equal to the lesser of its non-default interest rate or the Original Equity IRR. Payments shall be applied first to accrued unpaid interest and second to the outstanding Termination Compensation amount. Interest shall be due and payable (a) on the dates when interest is required to be paid to Lenders under the Funding Agreements if paid pursuant to Section 2.4(1) above, or (2) on the date of payment of the Termination Compensation if paid pursuant to Section 2.4(2) above.

3. Termination for Developer Default

3.1 If the Agreement is terminated due to a Default Termination Event pursuant to Section 20.3, the Early Termination Date shall be effective immediately upon delivery of Notice of termination to Developer and the Collateral Agent, or such other date as IFA may specify in the termination Notice.

3.2 If the Agreement is terminated due to a Default Termination Event pursuant to Section 20.3 (but excluding a termination due to a Default Termination Event under Section 19.1.1.16 or 19.1.1.17) before the Substantial Completion Date, and if and only if no Lender has duly exercised an option to obtain New Agreements from IFA pursuant to Section 21.4.4, then IFA shall pay compensation to Developer (calculated at the Early Termination Date and without duplicative-counting) equal to the greater of:

1. The amount calculated as follows:

   (a) The amount of the Project Adjusted Costs; plus

   (b) The amount of any compensation accrued under Section 15.3 but not yet paid; minus

   (c) The amount of any Losses that have been or will be incurred by IFA resulting from the Developer Default, including the damages described in Section 19.2.5; minus

   (d) The portion of any lump sum amounts previously paid (excluding the Milestone Payment and Availability Payments) by IFA to Developer under the Agreement as compensation for Extra Work Costs or Delay Costs not yet incurred by Developer relating to a Relief Event that occurred prior to termination; and

2. The amount calculated as follows:

   (a) 80% of the Project Debt Termination Amount; minus

   (b) The portion of any lump sum amounts previously paid (excluding the Milestone Payment and Availability Payments) by IFA to Developer under the Agreement as compensation for Extra Work Costs or Delay Costs not yet incurred by Developer relating to a Relief Event that occurred prior to termination, except there shall not be subtracted the portion of previous payments by IFA to Developer that Developer applied to reduce the principal amount of the Project Debt.

3.3 If the Agreement is terminated due to a Default Termination Event pursuant to Section 20.3 (but excluding a termination due to a Default Termination Event under Section 19.1.1.16 or 19.1.1.17) on or after the Substantial Completion Date, and if and only if no Lender has duly exercised an option to obtain New Agreements from IFA pursuant to Section 21.4.4, then IFA shall pay compensation to Developer (calculated at the Early Termination Date and without duplicative-counting) equal to the greater of:

1. The amount calculated as follows:

   (a) The amount of the Project Adjusted Costs; minus

   (b) The value of the accrued amortization of the Project Adjusted Costs funded with Committed Investment, calculated as the greater of (i) the total accrued amortization through the Early Termination Date determined using a straight line amortization schedule over 35 years commencing on the

Substantial Completion Date, and (ii) the total accrued amortization through the Early Termination Date as shown in the Financial Model; minus

(c) The value of the accrued amortization of the Project Adjusted Costs funded with Project Debt, calculated as the total accrued amortization of Project Debt through the Early Termination Date as shown in the Financial Model; minus

(d) The amount of any Losses recoverable by IFA under the PPA Documents resulting from the Developer Default, including the damages described in Section 19.2.5; minus

(e) The portion of any lump sum amounts previously paid (excluding the Milestone Payment and Availability Payments) by IFA to Developer under the Agreement as compensation for future Extra Work Costs or Delay Costs not yet incurred by Developer relating to a Relief Event that occurred prior to termination; and

2. The amount calculated as follows:

(a) 80% of the Project Debt Termination Amount; minus

(b) The portion of any lump sum amounts previously paid (excluding the Milestone Payment and Availability Payments) by IFA to Developer under the Agreement as compensation for future Extra Work Costs or Delay Costs not yet incurred by Developer relating to a Relief Event that occurred prior to termination, except there shall not be subtracted the portion of previous payments by IFA to Developer that Developer applied to reduce the principal amount of the Project Debt.

3.4 If the Agreement is terminated due to a Default Termination Event under Section 19.1.1.16 or 19.1.1.17, or if the Agreement is terminated due to a Default Termination Event and any Lender duly exercises an option to obtain New Agreements from IFA pursuant to Section 13.2 of any Direct Agreement, if any, then no compensation shall be due to Developer.

3.5 Payment of the Termination Compensation is conditioned upon IFA's receipt of the following:

1. From the Collateral Agent, a written statement as to the Project Debt Termination Amount, with documentation reasonably required by IFA to support such statement; and

2. From Developer, a written statement as to the amounts described in subsections 1(a) and 1(b) of Section 3.2 above or subsections 1(a), (1(b) and 1(c) of Section 3.3 above, as the case may be, with written documentation sufficient to support such statement and a certification that such amounts are true and correct.

3.6 The Termination Compensation under Section 3.2 or 3.3 above, as applicable, shall be due and payable by IFA in immediately available funds as follows:

1. First from all amounts in the MP Relief Event and Termination Compensation

Fund or the AP Relief Event and Termination Compensation Fund, as applicable. If, however, any Lender continues to have the option to obtain New Agreements from IFA pursuant to Section 21.4.4, then installments of the Termination Compensation shall not commence until the first Monthly Disbursement Date after the earlier of (a) the date IFA receives written waivers of all such options from all applicable Lenders or (b) all such options expire without exercise; and

2. The remaining balance, if any, in full, not later than (a) July 1 of the year immediately following the date IFA receives the statements and documentation set forth in Section 2.3 above, if such date occurs before August 1, or (b) the second July 1 immediately following the date IFA receives the statements and documentation set forth in Section 2.3 above, if such date occurs on or after August 1.

3.7 The Termination Compensation shall bear interest from the later of the Early Termination Date or the date that is five days after IFA receives the statements and documentation set forth in Section 3.5 above, until the date paid, at an annual rate equal to Developer's then weighted average cost of Project Debt, excluding however, Subordinate Debt (if any) and assuming non-default rates of interest. Payments shall be applied first to accrued unpaid interest and second to the outstanding Termination Compensation amount.

4. Termination for IFA Default, Suspension of Work or Delayed Notice to Proceed

4.1 If the Agreement is terminated pursuant to Section 20.4, the Early Termination Date shall be effective 30 days after Developer's delivery of Notice of termination to IFA.

4.2 If the Agreement is terminated pursuant to Section 20.4, IFA shall pay compensation to Developer in an amount equal to the amount described in Section 1.2 above.

4.3 Payment of the Termination Compensation is conditioned upon IFA's receipt of the following:

1. From the Collateral Agent, a written statement as to the Project Debt Termination Amount, with documentation reasonably required by IFA to support such statement; and

2. From Developer, a written statement as to the amounts payable and deductible pursuant to subsections 2 through 6 of Section 1.3 or 1.4, as applicable, with documentation reasonably required by IFA sufficient to support such statement and a certification that such amounts are true and correct.

4.4 The Termination Compensation under Section 4.2 above shall be due and payable by IFA in immediately available funds no later than 90 days after receipt of the written statements referred to in Section 4.3 above.

4.5 The Termination Compensation shall bear interest from the later of the Early Termination Date or the date that is five days after IFA receives the statements and documentation set forth in Section 4.3 above, until the date paid, at an annual rate equal to Developer's then weighted average cost of Project Debt and Committed Investment, assuming, however, (a) non-default rates of interest, (b) a cost of Committed Investment other than Subordinate Debt equal to that set forth in Section 1.3 or 1.4 above, as applicable, and (c) a cost of Subordinate Debt equal to that set forth in Section 1.3 or 1.4 above, as applicable.

Payments shall be applied first to accrued unpaid interest and second to the outstanding Termination Compensation amount.

5. Termination by Court Ruling

5.1 Termination by Court Ruling under Section 20.5 becomes effective, and automatically terminates the Agreement, upon issuance of the final, non-appealable court order by a court of competent jurisdiction.

5.2 If the Agreement is terminated pursuant to Section 20.5, IFA shall pay compensation to Developer in an amount equal to the amount described in Section 2.2 above, provided that for purposes of calculating the amount of termination compensation payable under this Section 5.2, amounts payable under Section 2.2(2) shall include a rate of return on such amounts paid by the Equity Members or their Affiliates in the form of Committed Investment or drawn under Subordinate Debt from the date paid or drawn under the Subordinate Debt until the Early Termination Date equal to 5% per annum; provided, that for avoidance of doubt, if the Termination by Court Ruling is due to Environmental Litigation, such rate of return (i) with respect to Committed Investment shall equal the Original Equity IRR and (ii) with respect to Subordinate Debt shall equal to the lesser of the Original Equity IRR or the non-default interest rate owing on the Subordinate Debt.

5.3 Payment of the Termination Compensation is conditioned upon IFA's receipt of the following:

1. From the Collateral Agent, a written statement as to the Project Debt Termination Amount, with documentation reasonably required by IFA to support such statement; and

2. From Developer, a written statement as to the amounts payable and deductible pursuant to subsections 2 through 6 of Section 2.2 above, with documentation reasonably required by IFA sufficient to support such statement and a certification that such amounts are true and correct.

5.4 The Termination Compensation under Section 5.2 above shall be due and payable by IFA in immediately available funds as follows:

1. First from all amounts held in the MP Relief Event and Termination Compensation Fund or the AP Relief Event and Termination Compensation Fund, as applicable; and

2. The remaining balance, if any, in full, not later than (a) July 1 of the year immediately following the date IFA receives the statements and documentation set forth in Section 2.3 above, if such date occurs before August 1, or (b) the second July 1 immediately following the date IFA receives the statements and documentation set forth in Section 2.3 above, if such date occurs on or after August 1.

5.5 The Termination Compensation shall bear interest from the later of the Early Termination Date or the date that is five days after IFA receives the statements and documentation set forth in Section 5.3 above, until the date paid. The annual interest rate shall equal Developer's then weighted average cost of Project Debt (including Subordinate Debt, if any) and Committed Investment, assuming however, (a) non-default rates of interest, (b) a cost

of Committed Investment other than Subordinate Debt (if any) equal to the Original Equity IRR, and (c) a cost of Subordinate Debt (if any) equal to the lesser of its non-default interest rate or the Original Equity IRR. Payments shall be applied first to accrued unpaid interest and second to the outstanding Termination Compensation amount. Interest shall be due and payable on the dates when interest is required to be paid to Lenders under the Funding Agreements.

6. Termination for Failure of Financial Close

6.1 If the Agreement is terminated pursuant to Section 20.6.1, IFA shall pay compensation to Developer an amount calculated as follows (calculated at the Early Termination Date and without double-counting):

1. The lesser of (a) (i) Developer's documented, actual, reasonable external costs incurred, without mark-up by Developer for overhead or profit, for the satisfaction of conditions precedent to each of issuance of NTP1 and to the commencement of the Design Work and for the preparation of Design Documents between the date of satisfaction of the conditions precedent to commencement of the Design Work and the date of delivery of the Notice of termination, plus (ii) Developer's documented, actual, reasonable external costs incurred for the work necessary to achieve Financial Close and the conditions precedent to issuance of NTP2, including, without limitation, in connection with conducting the IPDC, if IFA has issued the IPDC Commencement Notice, and to satisfy the conditions precedent to issuance of NTP1, conditions precedent to commencement of the Design Work, and conditions precedent to issuance of NTP2, plus (iii) legal advisor, insurance advisor and technical advisor fees payable or reimbursable to Lenders who provided commitments in connection with the delivery of the Financial Proposal as well as breakage costs and work fees, if any, payable to the Lenders who provided price commitments in connection with the submission of the Financial Proposal in an amount not to exceed 1% of the principal amount of such commitments, that are or were due and payable by Developer upon the expiration of such commitments if IFA gave its Notice extending the period for Financial Close as provided in Section 13.7.2 of the PPA beyond the commitment period set forth in such commitments, or (b) $43,000,000; plus

2. $2,500,000.

6.2 For purposes of this Section 6, "external costs" means only those costs that are payable for work or services performed between the Effective Date and the Termination Date by Contractors, rating agencies, financial advisors, technical advisors, insurance advisors, and legal counsel that are not Equity Members. "External costs" expressly excludes costs of work and services performed by, and the overhead costs of, Developer and Equity Members.

6.3 Payment of the Termination Compensation is conditioned upon IFA's receipt from Developer of a written statement as to the amounts payable pursuant to subsection 1 of Section 6.1 above, with documentation reasonably required by IFA sufficient to support such statement and a certification that such amounts are true and correct. Termination Compensation as provided in this Section 6 shall be due and payable no later than 60 days following IFA's receipt of Developer's written statement as described in this Section 6.3.

EXHIBIT 23

FEDERAL REQUIREMENTS

Exhibit Description	No. of Pages
Attachment 1 – Federal Provisions	2
Attachment 2 – FHWA Form 1273	13
Attachment 3 – Federal Prevailing Wage Rates	64
Attachment 4 – Equal Employment Opportunity	5
Attachment 5 – Affirmative Action	2
Attachment 6 – Compliance with 23 U.S.C. §129(a)(3)	1

ATTACHMENT 1 TO EXHIBIT 23

FEDERAL REQUIREMENTS FOR FEDERAL-AID CONSTRUCTION EAST END CROSSINGS

GENERAL. The provisions of this Exhibit 23 (Federal Requirements) shall be construed and applied according to Section 24.2 of the Agreement (notwithstanding that they may appear to conflict with Section 24.2). The "Required Contract Provisions, Federal-Aid Construction Contracts, Form FHWA 1273," are included in this Exhibit 23 (Federal Requirements). Whenever in said required contract provisions, and those at Section 3 of Attachment 4 to this Exhibit 23, references are made to:

(a) "contracting officer" or "authorized representative," such references shall be construed to mean IFA or its Authorized Representative;

(b) "contractor," "prime contractor," "bidder," "proposer," "Federal-aid construction contractor," "prospective first tier participant," or "First Tier Participant," such references shall be construed to mean Developer or its authorized representative and/or the Design-Build Contractor for the Work to which this Exhibit 23 (Federal Requirements) applies or its authorized representative, as may be appropriate under the circumstances;

(c) "contract" "prime contract," "Federal-aid construction contract" or "design-build contract," such references shall be construed to mean the Design-Build Contract for the Work to which this Exhibit 23 (Federal Requirements) applies;

(d) "subcontractor," "supplier," "vendor," "prospective lower tier participant," " lower tier prospective participant," "Lower Tier participant," or "lower tier subcontractor," such references shall be construed to mean, as appropriate, Contractors other than the Design-Build Contractor for the Work to which this Exhibit 23 (Federal Requirements) applies; and

(e) "department," "agency," "department or agency with which this transaction originated," or "department or agency entering into this transaction," such references shall be construed to mean IFA, except where a different department or agency is specified.

PERFORMANCE OF PREVIOUS CONTRACT. — In addition to the provisions in Form 1273 required contract provisions, Developer shall cause the contractor to comply with the following:

The bidder shall execute the CERTIFICATION WITH REGARD TO THE PERFORMANCE OF PREVIOUS CONTRACTS OR SUBCONTRACTS SUBJECT TO THE EQUAL OPPORTUNITY CLAUSE AND THE FILING OF REQUIRED REPORTS located in the proposal. No request for subletting or assigning any portion of the contract in excess of $10,000 will be considered under the provisions of the required contract provisions unless such request is accompanied by the CERTIFICATION referred to above, executed by the proposed subcontractor.

NON-COLLUSION PROVISION. — The provisions in this section are applicable to all contracts except contracts for Federal Aid Secondary projects. Title 23, United States Code, Section 112, requires as a condition precedent to approval by the Federal Highway Administrator of the contract for this work that each bidder file a sworn statement executed by, or on behalf of, the person, firm, association, or corporation to whom such contract is to be awarded, certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into

any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid. A form to make the non-collusion affidavit statement required by Section 112 as a certification under penalty of perjury rather than as a sworn statement as permitted by 28 U.S.C., Sec. 1746, is included in the Proposal.

PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN SUBCONTRACTING. — Part 26, Title 49, Code of Federal Regulations applies to this project. Pertinent sections of said Code are incorporated within other sections of the Contract and the IFA DBE Special Provisions (Exhibit 7) adopted pursuant to 49 CFR Part 26.

CONVICT PRODUCED MATERIALS

a. FHWA Federal-aid projects are subject to 23 CFR § 635.417, Convict produced materials.

b. Materials produced after July 1, 1991, by convict labor may only be incorporated in a Federal aid highway construction projects if such materials have been: (i) produced by convicts who are on parole, supervised release, or probation from a prison, or (ii) produced in a prison project in which convicts, during the 12 month period ending July 1, 1987, produced materials for use in Federal aid highway construction projects, and the cumulative annual production amount of such materials for use in Federal aid highway construction does not exceed the amount of such materials produced in such prison project for use in Federal aid highway construction during the 12 month period ending July 1, 1987.

BUY AMERICA REQUIREMENTS — FHWA Federal-aid projects are subject to 23 CFR § 635.410, Buy America requirements. The provisions of 23 CFR § 635.410 are incorporated herein by reference.

ACCESS TO RECORDS

a. As required by 49 CFR 18.36(i)10), Developer and its Contractors shall allow FHWA and the Comptroller General of the United States, or their duly authorized representatives, access to all books, documents, papers, and records of Developer and Contractors which are directly pertinent to any grantee or subgrantee contract, for the purpose of making audit, examination, excerpts, and transcriptions thereof. In addition, as required by 49 CFR 18.36(i)(11), Developer and its Contractor shall retain all such books, documents, papers, and records for three years after final payment is made pursuant to any such contract and all other pending matters are closed.

b. Developer agrees to include this section in each Contract at each tier, without modification except as appropriate to identify the Contractor who will be subject to its provisions.

ATTACHMENT 2 TO EXHIBIT 23

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Nonsegregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Compliance with Government-wide Suspension and Debarment Requirements
XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. **Equal Employment Opportunity**: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28

CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate

corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division,

Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of

Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not

less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for

compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. § 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier

Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

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2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

ATTACHMENT 3 TO EXHIBIT 23

FEDERAL PREVAILING WAGE RATE

The prevailing wage rates for the Work through Final Acceptance shall be the rates applicable to each county where any of such Work will be performed. Such prevailing wage rates are set forth below.

Indiana

IN120006 MOD 28 REVISED 10/26/12 IN6
******** THIS WAGE DETERMINATION WAS REPLACED ON 10/26/12********
General Decision Number: IN120006 09/28/2012

Superseded General Decision Number: IN20100006

State: Indiana

Construction Types: Heavy and Highway

Counties: Adams, Allen, Bartholomew, Benton, Blackford,
Boone, Brown, Carroll, Cass, **Clark**, Clay, Clinton, Crawford,
Daviess, Dearborn, Decatur, DeKalb, Delaware, Dubois, Elkhart,
Fayette, Floyd, Fountain, Franklin, Fulton, Gibson, Grant,
Greene, Hamilton, Hancock, Harrison, Hendricks, Henry, Howard,
Huntington, Jackson, Jasper, Jay, Jefferson, Jennings, Johnson,
Knox, Kosciusko, Lagrange, Lawrence, Madison, Marion, Marshall,
Martin, Miami, Monroe, Montgomery, Morgan, Newton, Noble, Ohio,
Orange, Owen, Parke, Perry, Pike, Posey, Pulaski, Putnam,
Randolph, Ripley, Rush, Scott, Shelby, Spencer, Starke,
Steuben, Sullivan, Switzerland, Tippecanoe, Tipton, Union,
Vanderburgh, Vermillion, Vigo, Wabash, Warren, Warrick,
Washington, Wayne, Wells, White and Whitley Counties in Indiana.

* EXCEPT LAKE, LAPORTE, PORTER AND ST. JOSEPH COUNTIES HEAVY
AND HIGHWAY CONSTRUCTION PROJECTS

Modification Number	Publication Date
0	01/06/2012
1	01/13/2012
2	01/27/2012
3	02/03/2012
4	02/17/2012
5	02/24/2012
6	03/02/2012

7	03/23/2012
8	03/30/2012
9	04/06/2012
10	04/13/2012
11	04/27/2012
12	05/11/2012
13	05/18/2012
14	06/01/2012
15	06/08/2012
16	06/15/2012
17	06/22/2012
18	06/29/2012
19	07/06/2012
20	07/13/2012
21	07/20/2012
22	07/27/2012
23	08/03/2012
24	08/10/2012
25	08/17/2012
26	08/24/2012
27	08/31/2012
28	09/28/2012

* ASBE0008-004 07/01/2012

DEARBORN, FAYETTE, FRANKLIN, OHIO, RIPLEY SWITZERLAND AND UNION COUNTIES

	Rates	Fringes
Asbestos Workers/Insulator (Includes application of all insulating materials, protective coverings, coatings & finishings to all types of mechanical systems)	$ 28.50	13.22
HAZARDOUS MATERIAL HANDLER (Includes preparation, wettings, stripping, removal, scrapping, vacuuming, bagging & disposing of all insulation materials, whether they contain asbestos or not, from mechanical systems)	$ 23.75	11.20

ASBE0018-004 06/01/2011

BARTHOLOMEW, BENTON, BOONE, CARROLL, CLINTON, DELAWARE, FOUNTAIN, HAMILTON, HANCOCK, HENDRICKS, HOWARD, JOHNSON, MADISON, MARION, MONROE, MONTGOMERY, MORGAN, SHELBY, TIPPECANOE, TIPTON, AND WARREN COUNTIES:

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR (includes application of all insulating materials, protective coverings, coatings and finishings to all types of mechanical systems)	$ 31.23	14.60
HAZARDOUS MATERIAL HANDLER (includes preparation, wettings, stripping, removal, scrapping, vacuuming, bagging & disposing of all insulation materials, whether they contain asbestos or not, from mechanical systems)	$ 18.75	9.70

ASBE0037-004 04/01/2012

DAVIESS, DUBOIS, GIBSON, KNOX, MARTIN, PIKE, POSEY, SPENCER, SULLIVAN, VANDERBURGH AND WARRICK COUNTIES

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR (includes application of all insulating materials protective coverings, coatings an finishes to all types of mechanical systems. Also the application of firestopping, material openings and penetrations in walls, floors, ceilings, curtain walls and all lead abatement.)	$ 29.45	15.21
HAZARDOUS MATERIAL HANDLER (Includes preparation, wetting, stripping, removal, scrapping, vacuuming, bagging		

and disposing of all
insulation materials, whether
they contain asbestos or not,
from mechanical systems).....$ 19.35 10.35

ASBE0041-002 06/01/2012

ADAMS, ALLEN, BLACKFORD, DE KALB, GRANT, HUNTINGTON, JAY,
MIAMI, NOBLE, STEUBEN, WABASH, WELLS AND WHITLEY COUNTIES:

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR (includes application of all insulating materials, protective coverings, coatings and finishings to all types of mechanical systems)	$ 29.98	12.56
HAZARDOUS MATERIAL HANDLER (includes preparation, wettings, stripping, removal, scrapping, vacuuming, bagging & disposing of all insulation materials, whether they contain asbestos or not, from mechanical systems)	$ 21.15	12.20

ASBE0051-003 04/01/2012

CLARKE, FLOYD, HARRISON and JENNINGS COUNTIES

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR (Includes application of all insulating materials, protective coverings, coatings and finishings to all types of mechanical systems)	$ 24.67	11.08
HAZARDOUS MATERIAL HANDLER (includes preparation, wettings, stripping, removal, scrapping, vacuuming, bagging & disposing of all insulation materials, whether they		

contain asbestos or not, from
mechanical systems).....$ 19.35 10.35

ASBE0079-002 07/01/2008

RANDOLPH AND WAYNE COUNTIES

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR (Includes application of all insulating materials, protective coverings, coatings & finishings to all types of mechanical systems)	$ 22.25	8.89
HAZARDOUS MATERIAL HANDLER (Includes preparation, wetting, stripping, removal, scrapping, vacuuming, bagging & disposing of all insulation materials, whether they contain asbestos or not, from mechanical systems))	$ 22.60	9.40

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* BRIN0003-001 06/01/2012

INDIANAPOLIS
BOONE, HANCOCK, HENDRICKS, JOHNSON, MARION, MONTGOMERY, MORGAN and SHELBY COUNTIES

	Rates	Fringes
Bricklayer, Stone Mason, Pointer, Caulking	$ 29.75	10.23
TERRAZZO FINISHER	$ 18.96	6.30
TERRAZZO WORKER/SETTER	$ 29.58	9.93
Tile & Marble Finisher	$ 19.83	6.32
Tile, Marble Setter	$ 28.99	9.83

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* BRIN0004-004 06/01/2012

FORT WAYNE
ADAMS, ALLEN, DEKALB, HUNTINGTON, NOBLE, STEUBEN, WELLS AND WHITLEY COUNTIES:

	Rates	Fringes
BRICKLAYER (STONE MASON, MARBLE MASONS, POINTER, CLEANER, AND CAULKER)	$ 28.06	11.88
Terrazzo Grinder Finisher	$ 24.01	8.45
Terrazzo Worker Mechanic	$ 28.52	10.35
Tile Setter & Marble Mason Mechanic	$ 25.61	10.35
Tile, Marble & Terrazzo Finisher	$ 20.84	8.45

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* BRIN0004-009 06/01/2012

BARTHOLOMEW, BROWN, DEARBORN, DECATUR, JENNINGS, MONROE, OHIO, OWENS, RIPLEY and SWITZERLAND COUNTIES

	Rates	Fringes
Bricklayer, Stonemason	$ 27.20	9.95
TERRAZZO FINISHER	$ 18.96	6.30
TERRAZZO WORKER/SETTER	$ 29.58	9.93
Tile & Marble Finisher	$ 19.83	6.32
Tile, Marble Setter	$ 28.99	9.83

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* BRIN0004-010 06/01/2012

	Rates	Fringes
BRICKLAYER		
CLARK, FLOYD, & HARRISON COUNTIES		
BRICKLAYERS, STONEMASONS AND CEMENT MASONS	$ 24.11	10.07
TILE, MARBLE AND TERRAZZO WORKERS	$ 22.64	6.05
POSEY, VANDERBURGH AND WARRICK COUNTIES		
BRICKLAYERS, MASONS	$ 28.47	12.89
TILE, MARBLE AND TERRAZZO WORKERS	$ 23.72	8.71

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* BRIN0004-015 06/01/2012

TERRE HAUTE
CLAY, DAVIESS, GIBSON, GREENE, KNOX, MARTIN, PARKE, PIKE, PUTNAM, SULLIVAN, VERMILLION and VIGO COUNTIES

	Rates	Fringes
BRICKLAYER		
BRICKLAYERS, STONE MASONS and POINTER/ CLEANER/CAULKER	$ 29.40	10.95
CEMENT MASON (GREENE and SULLIVAN COUNTIES)	$ 27.05	10.95
CEMENT MASON (REMAINING COUNTIES)	$ 27.30	10.85
TERRAZZO FINISHERS	$ 18.96	6.30
TERRAZZO WORKER	$ 29.58	9.93
TILE AND MARBLE FINISHERS	$ 19.83	6.32
TILE LAYER, MARBLE MASON, MOSAIC WORKER	$ 28.99	9.83

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* BRIN0004-016 06/01/2012

MUNCIE
BLACKFORD, DELAWARE, FAYETTE, FRANKLIN, HAMILTON, HENRY, JAY, MADISON, RANDOLPH, RUSH, TIPTON, UNION and WAYNE COUNTIES

	Rates	Fringes
Bricklayer, Stonemason, Pointer, Caulker & Cleaner	$ 28.05	12.34
TERRAZZO FINISHER	$ 18.96	6.30
TERRAZZO WORKER/SETTER	$ 29.58	9.93
Tile & Marble Finisher	$ 19.83	6.32
Tile & Marble Setter; Mosaic Worker	$ 28.99	9.83

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* BRIN0006-001 03/06/2012

MERRILLVILLE
JASPER, NEWTON & STARKE COUNTIES

	Rates	Fringes
Bricklayer, Stone Mason, Marble Mason, Terrazzo Worker, Tile Layer, Pointer, Cle	$ 35.87	19.55
Tile, Marble & Terrazzo Worker	$ 35.87	19.55

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* BRIN0011-001 06/01/2012

LAFAYETTE
BENTON, CARROLL, CLINTON, FOUNTAIN, TIPPECANOE, WARREN and
WHITE COUNTIES

	Rates	Fringes
Bricklayer, Stonemason,		
Pointer, Caulker & Cleaner	$ 27.00	13.19
TERRAZZO FINISHER	$ 18.96	6.30
TERRAZZO WORKER/SETTER	$ 29.58	9.93
Tile & Marble Finisher	$ 19.83	6.32
Tile & Marble Setter; Mosaic		
Worker	$ 28.99	9.83

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* BRIN0018-002 06/01/2012

CASS, ELKHART, FULTON, GRANT, HOWARD, KOSCUISKO, LAGRANGE,
MARSHALL, MIAMI, PULASKI, WABASH

	Rates	Fringes
Bricklayer, Caulker, Cleaner,		
Pointer	$ 27.61	12.14

CARP0107-010 04/01/2010

ADAMS, CASS, ELKHART, FULTON, GRANT, HOWARD, HUNTINGTON,
KOSCIUSKO, MARSHALL, MIAMI, TIPTON, WABASH AND WELLS COUNTIES:

	Rates	Fringes
CARPENTER	$ 24.53	12.94

CARP0108-002 06/01/2012

BENTON, CARROLL, CLINTON, PULASKI, TIPPECANOE, WARREN AND WHITE
COUNTIES

	Rates	Fringes
CARPENTER	$ 26.56	15.95

CARP0109-002 04/01/2012

DAVIESS, GIBSON, GREENE, KNOX, LAWRENCE, MARTIN, ORANGE AND SULLIVAN COUNTIES:

	Rates	Fringes
CARPENTER	$ 23.93	15.78

CARP0111-002 04/01/2012

BOONE, CLAY, FOUNTAIN, HAMILTON, HANCOCK, HENDRICKS, JOHNSON (Townships of Clark, Camp Atterbury north of Hospital Road, Pleasant, White River), MONROE, MONTGOMERY, MORGAN, OWEN, PARKE, PUTNAM, VERMILLION AND VIGO COUNTIES

	Rates	Fringes
CARPENTER	$ 24.76	15.21

CARP0111-003 04/01/2012

BARTHOLOMEW, BROWN,(Camp Atterbury south of Hospital Road), DECATUR, FRANKLIN, JOHNSON (Townships of Blue River, Franklin, Hensley, Needham, Nineveh, Union) , RUSH AND SHELBY COUNTIES

	Rates	Fringes
CARPENTER	$ 24.32	15.21

CARP0111-004 04/01/2012

MARION COUNTY

	Rates	Fringes
CARPENTER	$ 25.87	15.21

CARP0111-005 04/01/2012

BLACKFORD, DELAWARE, FAYETTE, HENRY, JAY, MADISON, RANDOLPH, UNION AND WAYNE COUNTIES

	Rates	Fringes

CARPENTER.....$ 24.62 15.21

CARP0232-003 04/01/2012

ALLEN, DEKALB, LAGRANGE, NOBLE, STEUBEN and WHITLEY COUNTIES

Rates Fringes

CARPENTER.....$ 24.70 14.57

CARP0999-001 06/01/2012

JASPER, NEWTON AND STARKE COUNTIES:

Rates Fringes

CARPENTER.....$ 35.42 23.70

CARP0999-002 04/01/2012

CRAWFORD, DUBOIS, PERRY, PIKE, POSEY, SPENCER, VANDERBURGH AND WARRICK COUNTIES:

Rates Fringes

CARPENTER.....$ 23.60 15.71

CARP0999-004 04/01/2012

DEARBORN, JACKSON, JENNINGS, OHIO, RIPLEY AND SWITZERLAND COUNTIES

Rates Fringes

CARPENTER.....$ 24.12 15.19

CARP0999-005 04/01/2012

CLARK, FLOYD, HARRISON, JEFFERSON, SCOTT AND WASHINGTON COUNTIES

Rates Fringes

CARPENTER.....$ 23.47 15.84

CARP1031-012 06/01/2011

CLARK, FLOYD, HARRISION AND WASHINGTON COUNTIES

	Rates	Fringes
MILLWRIGHT	$ 24.65	17.57

ELEC0016-003 10/01/2011

CRAWFORD, DAVIESS, DUBOIS, GIBSON, LAWRENCE, MARTIN, ORANGE, PERRY, PIKE, POSEY, SPENCER, VANDERBURGH, WARRICK

	Rates	Fringes
ELECTRICIAN	$ 33.47	13.77

ELEC0071-006 01/16/2012

DEARBORN, OHIO, and SWTIZERLAND COUNTIES

	Rates	Fringes
Line Construction:		
Equipment Operator	$ 29.03	10.65
Groundman	$ 20.96	9.40
Lineman & Cable Splicers	$ 32.25	11.77

ELEC0153-003 03/01/2012

ELKHART, KOSCIUSKO and MARSHALL COUNTIES

	Rates	Fringes
Communication Technician	$ 24.58	12.05
ELECTRICIAN	$ 30.25	17.81

Includes the installation, operation, inspection, modification, maintenance and repair of systems used for the transmission and reception of signals of any nature, for any purpose, including but not limited to , sound and voice transmission/transference systems, communication systems that transmit or receive information and /or control systems, television and video systems, micre-processor controlled fire alarm systems, and security systems and the performance of any task directly related to such installation or service. The scope of work shall exclude the installation of electrical power wiring and the

installation of conduit raceways exceeding fifteen (15) feet in length.

ELEC0212-009 05/28/2012

DEARBORN, OHIO, and SWITZERLAND COUNTIES

	Rates	Fringes
ELECTRICIAN	$ 26.11	15.42

ELEC0305-003 01/01/2012

ADAMS, ALLEN, DE KALB, HUNTINGTON, NOBLE, STEUBEN, WELLS, and WHITLEY COUNTIES

	Rates	Fringes
ELECTRICIAN	$ 29.98	13.56

ELEC0369-005 05/30/2012

CLARK, FLOYD, and HARRISON COUNTIES

	Rates	Fringes
ELECTRICIAN	$ 29.32	13.78
Line Construction:		
Groundman	$ 13.83	6.35
Lineman; Equipment Operator	$ 22.25	6.35

ELEC0481-003 01/01/2009

BARTHOLOMEW, BOONE, DECATUR, HAMILTON, HANCOCK, HENDRICKS, JENNINGS, JOHNSON, MADISON, MARION, MONTGOMERY, MORGAN, PUTNAM, RIPLEY, RUSH AND SHELBY COUNTIES

	Rates	Fringes
ELECTRICIAN	$ 31.45	14.74

ELEC0668-002 06/01/2012

BENTON, CARROLL, CASS, FULTON, TIPPECANOE and WHITE COUNTIES

	Rates	Fringes

ELECTRICIAN.....$ 30.90 14.99

FOOTNOTE: a. PAID HOLIDAYS: New Years Day, Memorial Day, July 4th, Labor Day, Veterans Day Thanksgiving Day and Christmas Day

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* ELEC0702-003 07/02/2012

DUBOIS, GIBSON, PERRY, PIKE, POSEY, SPENCER AND VANDERBURGH COUNTIES

	Rates	Fringes
Line Construction:		
GROUNDMAN, Class A	$ 23.79	12.66
GROUNDMAN-EQUIPMENT OPERATOR (All other equipment)	$ 30.16	14.51
HEAVY-EQUIPMENT OPERATOR (All crawler type equipment D-4 and larger)	$ 34.40	15.74
LINEMAN	$ 41.91	17.91

ELEC0725-003 01/01/2011

CLAY, GREENE, OWEN, PARKE, SULLIVAN AND VIGO COUNTIES

	Rates	Fringes
ELECTRICIAN	$ 33.15	23%+$5.64

ELEC0725-007 09/01/1999

CLAY, GREENE, OWEN, PARKE, SULLIVAN AND VIGO COUNTIES

	Rates	Fringes
Communication Technician	$ 18.70	3.80+3%

Includes the installation, operation, inspection, maintenance, repair and service of radio, television, recording, voice sound and vision production and reproduction apparatus, equipment and appliances used for domestic, commercial, education, entertainment and private telephone systems.

ELEC0855-001 06/01/2012

FAYETTE, FRANKLIN, HENRY, RANDOLPH, UNION AND WAYNE COUNTIES

	Rates	Fringes
ELECTRICIAN	$ 32.37	12.24

ELEC0873-002 03/01/2012

CLINTON, GRANT, HOWARD, MIAMI, TIPTON AND WABASH COUNTIES:

	Rates	Fringes
ELECTRICIAN	$ 32.03	11.75

ELEC1393-001 12/06/2010

REMAINING COUNTIES

	Rates	Fringes
Line Construction:		
EQUIPMENT OPERATOR (Backhoes over 1/2 yard bucket capacity, cranes rated at 15 ton or more capacity) 95% J.L. rate	$ 32.00	4.75+27.75%
GROUNDMAN TRUCK DRIVER	$ 21.51	4.75+27.75%
GROUNDMAN, EQUIPMENT OPERATOR: Diggers, 5th wheel type trucks, crawler type, D-4 and smaller, bucket trucks and live boom type line trucks	$ 24.67	4.75+27.75%
GROUNDMAN	$ 18.69	4.75+27.75%
LINEMAN	$ 32.00	4.75+27.75%

ELEC1393-002 12/06/2010

NEWTON COUNTY

	Rates	Fringes
Line Construction:		
EQUIPMENT OPERATOR (Backhoes over 1/2 yard bucket capacity, cranes		

rated at 15 ton or more
capacity) 95% J.L. rate.....$ 32.00 4.75+27.75%
GROUNDMAN TRUCK DRIVER.....$ 21.51 4.75+27.75%
GROUNDMAN, EQUIPMENT
OPERATOR: Diggers, 5th
wheel type trucks, crawler
type, D-4 and smaller,
bucket trucks and live
boom type line trucks.....$ 24.67 4.75+27.75%
GROUNDMAN.....$ 18.69 4.75+27.75%
LINEMAN.....$ 32.00 4.75+27.75%

ENGI0103-003 04/01/2012

INCLUDING UNDERGROUND AND UTILITY CONSTRUCTION

REMAINING COUNITES

	Rates	Fringes
Power equipment operators:		
GROUP 1	$ 30.25	14.40
GROUP 2	$ 28.53	14.40
GROUP 3	$ 27.61	14.40
GROUP 4	$ 26.11	14.40

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Air compressors in manifold with throttle valve; Asphalt plant engineer; Auto grade or similar type machine; Auto patrol; Backhoe or farm-type tractor, 45 hp and over; Ballast regulator (RR); Bituminous mixer; Bituminous paver; Bituminous plant engineer; Bulldozer; Caisson drilling machine; Cherry picker, 15 ton or over; Chip spreader; Concrete mixer 21 cu. ft. or over; Core drilling machine; Crane or derrick with any attachment (including clamshell, dragline, shovel, backhoe, etc.); Dredge engineer; Dredge operator; Drilling machine on which the drill is an integral part; Earth mover, rubber-tired (paddle wheel, 616, 631, TS-24 or similar type); Earth mover, rubber-tired, tandem ($0.50 per hour additional for each bowl); Elevating grader; Fork lift, 10 ton or over; P.C.C. formless paver post driver; Highlift shovel, 1 1/2 cu. yd. or over; Hoist, 2 drums and over; Helicopter, crew; Hydraulic boom truck; keystone, skimmer scoop; Loader, self-propelled (belt, chain, wheel); Locomotive operator; Mechanic; Mucking machine; Panel board concrete plant, central mix type; Paver, Hetherington; Pile driver, skid or crawler; Road

paving mixer; Rock breaking plant; Rock crushing plant, portable; Roller (asphalt, waterbound macadam, bituminous macadam, brick surface); Roller with dozer blade; Root rake, tractor-mounted; Self-propelled widener; Stump remover, tractor-mounted; Surface heater and planer; Tandem push tractor ($0.50 per hour additional); Tractor, boom; Winch or hoe head; Tractor, push; Tractor with scoop; Tractor-mounted spreader; Tree mover; Trench machine, over 24"; Tug boat operator; Well drilling machine; Winch truck with A-frame

GROUP 2: Air compressor with throttle valve or clever brooks-type combination; Backfiller; Backhoe on farm-type tractor, under 45 hp; Bull float; Cherry picker under 15 ton; Chip spreader, self-propelled; Concrete pump; Concrete mesh depressor, independently operated; Concrete spreader, power-driven; End loader under 1 1/2 cu. yd.; Excavating loader, portable; Finishing machine and bull float; Gunite machine; Head greaser; Mesh or steel placer; Multiple tamping machine (RR); P.C.C. concrete belt placer; Pull grader, power control; Refrigerating machine, freezing operation; Ross carrier; Sheepfoot roller (self-propelled); Tamper (multiple vibrating, asphalt, waterbound macadam, bituminous macadam, brick surface); Trench machine, 24" and under; Tube float; Welder

GROUP 3: Assistant plant engineer; Base paver (Jersey or similar type machine); Concrete finishing machine; Concrete mixer, less than 21 cu. ft.; Curb machine; Farm tractor, including farm tractor with all attachments except backhoe and including high lift end loaders of 1 cu. yd. capacity or less; Fire tender on boiler; Hoist, 1 drum; Operator, 5 pieces of minor equipment; Paving breaker; Power broom, self-propelled; Roller, earth and sub-base material; Slurry seal machine; Spike machine (RR); Tamper (multiple vibrating, earth and sub-base material); Throttle valve and fire tender combination on horizontal or upright boiler; Tractaire with drill; Tractor, 50 h.p. or over; Well point system; Widener, APSCO or similar type

GROUP 4: Air compressor; Assistant to engineer, oiler; Automatic dry batch plant; Bituminous distributor; Bituminous patching tamper; Belt spreader; Broom and belt machine; Chair cart, self-propelled; Coleman-type screen; Conveyor, portable; Digger post hole, power-driven; Fork lift, under 10 ton; Form grader; Form tamper, motor-driven; Generator; Hetherington driver; Hydra seeder; Operator, 1 through 4 pieces of minor equipment; Outboard or inboard

motor boat; Power curing spraying machine; Power saw, concrete, power-driven; Pug mill; Pull broom, power-type; Seaman tiller; Straw blower or brush mulcher; Striping machine paint, motor-driven; Sub grader; Tractaire, tractor, below 50 h.p.; Truck crane oiler, driver; Spreader; Water pump; Welding machine, 2 of 300 amps or over

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ENGI0150-009 04/01/2012

HEAVY, HIGHWAY AND RAILROAD CONSTRUCTION

ELKHART, FULTON, JASPER, KOSCIUSKO, LAGRANGE, MARSHALL, NEWTON, NOBLE, PULASKI, and STARKE COUNTIES

	Rates	Fringes
Power equipment operators:		
GROUP 1	$ 28.60	20.10
GROUP 2	$ 27.00	20.10
GROUP 3	$ 25.70	20.10
GROUP 4	$ 24.30	20.10
GROUP 5	$ 21.05	20.10

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Air compressors in manifold with throttle valve; Asphalt plant engineer; Auto grade or similar type machine; Auto patrol; Automatic Sub-Grade; Backhoe or farm type tractor, 45 hp and over; Ballast regulator (RR); Barrier Wall Machine; Batch Plants (Concrete & Asphalt); Bituminous mixer; Bituminous paver; Bituminous plant engineer; Boring Machine; Bulldozer; Caisson drilling machine; Cherry picker, 15 ton or over; Chip spreader; Concrete mixer, 21 cu. ft. or over; Concrete Belt Placer; Concrete Paver; Concrete Pump (Truck Mounted); Concrete Saw (track mounted); Concrete Spreader (power driven); Core drilling machine; Crane or derrick with any attachment (including clamshell, dragline, shovel, backhoe, etc.); Curb Machine; Gutter Machine; Dredge engineer; Dredge operator; Drilling machine on which the drill is an integral part; Earthmover, rubber-tired (paddle wheel, 616, 631, TS-24 or similar type); Earthmover, rubber-tired, tandem (.50 per hr. additional for each bowl); Elevating Grader; Forklift (10 ton or over); P.C.C. Formless Paver; Gradall; Gravel Processing Plant (portable); Operator of Guard Rail Post Driver; Highlift Shovel 1-1/2 cu. yd. or over) Frame; Hoist (2 drum & over); Helicopter crew;

Hydraulic boom truck; Hydraulic Excavator; Loaded-Self propelled (belt chain wheel); Laser Screed; Locomotive operator; Mechanic; Mucking machine; P.C.C. Concrete Belt Placer; Panel board concrete plant (central mix type); Paver (Hetherington); Pavement Breaker; Pile driver, skid or crawler; Road paving mixer; Rock breaking plant; Rock crushing plant (portable); Roller (asphalt, waterbound macadam, bituminous macadam, brick surface); Roller with dozer blade; Road Widener; Root rake (tractor-mounted); Roto Mill Grinder; Self-propelled widener; Stump remover; Surface heater and planer; Tandem push tractor ($0.50 per hour additional); Tractor, boom; Winch or hoe head; Tractor (push); Tractor with scoop; Tractor-mounted spreader; Tree mover; Trench machine, over 24"; Tug boat operator; Well drilling machine; Widener (Apsco or similar type); Winch truck with A-frame

GROUP 2: Air compressor with throttle valve or Clever Brooks type combination; Backfiller; Farm type tractor (under 45 H.P.); Cherry picker under 15 ton; Chip spreader (self-propelled); Concrete pump (trailer type); Concrete mesh depressor, independently operated; End loader under 1 1/2 cu. yd.; Excavating loader (portable); Finishing machine and bull float; Gunite machine; Hydraulic Power unit; Head greaser; Mesh or steel placer; Multiple tamping backhoe on machine (RR); Bull float (bidwell Machine); Refrigerating machine-operation; Ross Carrier; Sheepfoot roller (self-propelled); Tamper-Multiple Vibrating (Asphalt, Waterbound, Macadam, Bituminous Macadam, Brick Surface); Trench machine (24" and under); Tube float; Water Pull/Wagon; Welder

GROUP 3: Plant engineer; Base paver (Jersey or similar type machine); Concrete finishing machine; Concrete mixer, less than 21 cu. ft.; Curb machine; Farm tractor, including farm tractor with all attachments except backhoe and including high lift end loaders of 1 cu. yd. capacity or less; Fireman, on boiler; Hoist, 1 drum; Operator, 3-5 pieces of minor equipment; Paving breaker; Power broom, self-propelled; Roller, earth and sub-base material; Power Saw-Concrete (Power Driven); Slurry seal machine; Spike machine (RR); Sub-surface Material Distributor; Tamper (multiple vibrating, earth and sub-base material); Throttle valve; Throttle Valve and fireman combination on horizontal or upright boiler; Tractaire with drill; Well Point

GROUP 4: Air compressor; Assistant to engineer, oiler; Bituminous patching tamper; Belt spreader; Broom and belt

machine; Chair cart, self-propelled; Coleman-type screen; Conveyor, portable; Deck-hand Digger post hole, power-driven; Forklift, under 10 ton; Form grader; Form tamper, motor-driven; Generator; Hetherington driver; Hydra seeder; Mechanic heater; Operator, 2 pieces of minor equipment; Outboard or inboard motor boat; Power curing spraying machine; Pug mill; Pull broom, power type; Seaman tiller; Skid steer loader over 3/4 cu. yd.; Straw blower or brush mulcher; Striping machine paint, motor-driven; Sub-grader; Tractaire; Tractor, below 50 h.p.; Truck crane oiler; Spreader; Water pump

GROUP 5: Skid steer loader under 3/4 cu. yds.

ENGI0150-039 06/01/2012

UNDERGROUND & UTILITY CONSTRUCTION:

JASPER, NEWTON, PULASKI AND STARKE COUNTIES:

	Rates	Fringes
Power equipment operators:		
GROUP 1	$ 38.45	24.93
GROUP 2	$ 37.65	24.93
GROUP 3	$ 33.35	24.93
GROUP 4	$ 31.15	24.93

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Mechanic; Asphalt plant; Autograde; Batch plant; Benoto (requires 2 engineers); Boiler and throttle valve; Boring machine (mining machine); Caisson rigs; Central Redi-mix plant; Combination backhoe-endloader with backhoe bucket over 1/2 cu. yd.; Combination tugger hoist and air compressor; Compressor and throttle; Concrete breaker (truck-mounted); Concrete conveyor; Concrete paver over 27E cu. ft.; Concrete paver 27E cu. ft. and under; Concrete pump with boom (truck-mounted); Concrete tower; Cranes and backhoes, all attachments; Cranes, Hammerhead tower; Creter cranes; Derricks, all; Derricks, traveling; Forklift, lull type; Forklift, 10 ton and over; Hoists, 1, 2 and 3 drum; Hoist, 2 tugger - one floor; Hydraulic boom truck; Locomotives, all; Motor patrol; Mucking machine; Pile driving and skid rig; Pit machines; Pre-stress machines; Pumpcrete and similar types; Rock drill, self-propelled; Rock drill, truck-mounted; Slip form paver; Straddle buggies; Tractor with boom and side boom; Trenching

machine; Winch tractors

GROUP 2: Asphalt spreader; Boilers; Bulldozers; Combination backhoe-endloader with backhoe bucket 1/2 cu. yd. and under; Engineer acting as conductor in charge of crew; Grader, elevating; Greaser engineer; Grouting machines; Highlift shovels or front endloader; Hoists, automatic; Corboy drilling machines; Hoists, all elevators; Hoists, tugger, single drums; Post hole digger; Roller, all; Scoops, tractor-drawn; Stone crushers; Tournapull; Winch trucks

GROUP 3: Concrete mixer (2 bag and over); Conveyor, portable; Steam generators; Tractor, farm and similar type; Air compressor, small, 150 and under, 1 to 5 not to exceed a total of 300 ft.; Air compressor, large, over 150; Combination, small equipment operator; Forklift, under 10 ton; Generator; Pump, 1 to 3 not to exceed a total of 325 ft.; Pumps; Well points; Welding machines (2 through 5); Winches, 4 electric drill winches

GROUP 4: Heater, mechanical (1 to 5); Oilers; Switchmen

ENGI0181-014 04/01/2012

HEAVY AND HIGHWAY CONSTRUCTION:

BARTHOLOMEW, BROWN, CLARK, CRAWFORD, DEARBORN, DECATUR, DUBOIS, FLOYD, FRANKLIN, GIBSON, HARRISON, JACKSON, JEFFERSON, JENNINGS, LAWRENCE, MARTIN, OHIO, ORANGE, PERRY, PIKE, POSEY, RIPLEY, SCOTT, SPENCER, SWITZERLAND, VANDERBURGH, WARRICK, and WASHINGTON COUNTIES

	Rates	Fringes
Power equipment operators:		
GROUP A	$ 29.70	13.00
GROUP B	$ 27.05	13.00
GROUP C	$ 24.92	13.00

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP A: Air compressor in manifold with throttle valve; Asphalt plant engineer; Auto grade or similar type machine; Bituminous mixer; Bituminous paver; Bituminous plant engineer; Bulldozer; Caisson drilling machine; Cherry picker, all; Ballast regulator (RR); Chip spreader,

self-propelled; Cold grinder or similar type equipment; Concrete mixer, 21 cu. ft. or over; Concrete pump, truck-mounted; Core drilling machine; Crane or derrick with any attachment (including clamshell, dragline, shovel, backhoe, etc.); Dredge operator; Drilling machine on which the drill is an integral part; Earth mover, rubber-tired, tandem 0.50 per hour additional; Elevating grader; Endloader, Hi- lift shovel; P.C.C. formless paver; Gradall; Gravel processing plant, portable; Guardrail post driver operator; Head greaser; Hi-lift shovel, endloader; Hoist (2 drums and over); Helicopter crew; Hydraulic boom truck, Keystone, Skimmer Scoop; Loader, self-propelled (belt, chain wheel); Locomotive operator; Mechanic; Mucking machine; Multi-bank drill operator; Panel board concrete plant, central mix type; Paver, Hetherington; Pile driver, skid or crawler; Road paving mixer; Rock breaking plant; Rock crushing plant, portable; Roller (asphalt, waterbound, macadam, bituminous macadam, brick surface); Roller, with dozer blade; Root rake, tractor-mounted; Stump remover, tractor- mounted; Surface heater and planer; Tandem push tractor, $0.50 per hour additional; Tractor, boom winch or hoe head; Tractor, push; Tractor with scoop; Tractor-mounted spreader; Tree mover; Trench machine, over 24"; Tug boat operator; Welder; Well drilling machine; Self-propelled widener.

GROUP B: Air compressor with throttle valve or clever brooks-type combination; Backfiller, base paver, Jersey or similar type machine; Bull float; Concrete finishing machine; Concrete mesh depressor, independently operated; Concrete spreader, power- driven; Dredge engineer; Excavator loader, portable; Fire tender on boiler; Forklift, regardless of ton; Hoists, 1 drum; Mesh or steel placer; Minor equipment operator, 5 pieces; Multiple tamping machine (RR); P.C.C. concrete placer; Paving breaker; Power broom, self-propelled; Pull grader, power-controlled; Refrigerating machine, freezing operation; Roller, earth and sub- base material; Ross carrier (Straddle buggy); Sheepfoot roller, self-propelled without blade; Tamper, multiple\vibrating (asphalt, waterbound macadam, bituminous macadam, brick surface); Tamper, multiple vibrating (earth and sub-base material); Trench machine, 24" and under; Tube float; Well point system; Widener, Apsco or similar type; Winch truck with A-frame.

GROUP C: Air compressor, oiler; Automatic dry batch plant; Bituminous distributor; Bituminous patching tamper; Belt

spreader; Broom and belt machine; Brush burner; Chair cart, self- propelled; Coleman-type screen; Cold grinder oiler; Concrete mixer, less than 21 cu. ft.; Conveyor, portable; Curb machine; Deckhand; Digger (post hole, power-driven); Farm tractor, including farm tractor with all attachments (except backhoe, Hi- lift endloaders); Form grader; Form tamper, motor-driven; Generator; Gunite machine; Hetherington driver; Hydra seeder; Mechanical heater; Minor equipment operator, 1 through 4 pieces; Curing spraying machine; Power saw, concrete (power-driven); Pug mill pull broom, power type; Seaman tiller; Slurry seal machine; Spike machine; Straw blower or brush mulcher; Stripping machine (paint, motor-driven); Sub grader; Throttle valve; Tractaire with drill; Truck crane and multi-drill oiler, driver; Spreader; Water pump.

ENGI0181-015 04/01/2012

SEWER WATERLINE & UTILITY CONSTRUCTION:

BARTHOLOMEW, BROWN, CLARK, CRAWFORD, DEARBORN, DECATUR, DUBOIS, FLOYD, FRANKLIN, GIBSON, HARRISON, JACKSON, JEFFERSON, JENNINGS, LAWRENCE, MARTIN, OHIO, ORANGE, PERRY, PIKE, POSEY, RIPLEY, SCOTT, SPENCER, SWITZERLAND, VANDERBURGH, WARRICK, and WASHINGTON COUNTIES

	Rates	Fringes
Power equipment operators:		
GROUP A	$ 29.38	13.40
GROUP B	$ 21.25	13.40

SEWER WATERLINE & UTILITY CONSTRUCTION

GROUP A: A-frame winch truck; Air compressor 900 cu. ft. and over; Air tugger; Autograde (CMI); Auto patrol; Backhoe; Ballast regulator (RR); Batch plant (electrical control concrete); Bending machine (pipe); Bituminous plant (engineer); Bituminous plant; Bituminous mixer travel plant; Bituminous paver; Bituminous roller; Buck hoist; Bulldozer; Cableway; Chicago boom; Clamshell; Concrete mixer, 21 cu. ft. or over; Concrete paver, concrete pump, crete; Crane; Craneman; Crusher plant; Derrick; Derrick boat; Dinky; Dope pots (pipeline); Dragline; Dredge operator; Dredge engineer; Drill operator; Elevator grader; Elevator; Ford hoe, or similar type equipment; Forklift; Formless paver; Gantry crane; Gradall; Grademan; Hopto;

Hough loader or similar type; Hydro crane; Motor crane; Mucking machine; Multiple tamping machine (RR); Overhead crane; Pile driver; Pulls; Push dozer; Push boats; Roller (sheep foot); Ross Carrier; Scoop; Shovel; Side boom; Swing crane; Trench machine; Welder (heavy duty; Truck-mounted concrete pump; Truck-mounted drill; Well point; Whirleys.

GROUP B: Air compressor, up to 900 cu. ft.; Brakeman; Bull float; Concrete mixer, over 10S and under 21S; Concrete spreader or puddler; Deck engine; Electric vibrator compactor (earth or rock); Finishing machine; Fireman; Greaser, on grease facilities servicing heavy equipment; Material pump; Motor boats; Portable loader; Post hole digger; Power broom; Rock roller; Roller, wobble wheel (earth and rock); Spike machine (RR); Seaman tiller; Spreader rock; Sub grader; Tamping machine; Welding machine; Widener, Apsco or similar type: Bituminous distributor; Cement gun; Concrete saw; Conveyor; Deckhand oiler; Earth roller; Form grader; Generator; Guard rail driver; Heater; JLG lifts; Oiler; Paving joint machine; Power traffic signal; Scissor lift; Steam Jennyu; Truck crane oiler; Vibrator; Water pump.

ENGI0841-011 04/01/2012

HEAVY, HIGHWAY AND UTILITY CONSTRUCTION

BOONE, CLAY, DAVIESS, FOUNTAIN, GREENE, HENDRICKS, KNOX, MONROE, MONTGOMERY, MORGAN OWEN, PARKE, PUTNAM, SULLIVAN, VERMILLIAN, VIGO, and WARREN COUNTIES

	Rates	Fringes
Power equipment operators:		
GROUP 1	$ 29.25	16.00+a
GROUP 2	$ 23.00	16.00+a

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Air Compressor Over 600 CU FT, Air Compressors (2), Compressors hooked in Manifold, Asphalt Plant Engineer, Auto Grade and/or C.M.I. or similar type Machine, Auto Patrol, Motor Patrol, Power Blade, Aspco Paver, Asphalt Planer, Asphalt Rollers, Asphalt Paver Operator, Concrete or Asphalt Milling Machine, Self Propelled Widener, Backhoe and/or Pavement Breaker Attachment, Self Propelled Pavement Breaker, Ballast Regulator (R.R.), Bituminous Mixer,

Bituminous Paver, Bituminous Plant Engineer, Bulk Cement Plant Engineer, Bulldozer, One Drum Hoist with Tower or Boom, Cableways, Tower Machines, Back Filler, Boom Tractor, Boom or Winch Truck, Winch or Hydraulic Boom Truck, Boring Machine, Boiler Operator, Brush Mulcher, Bull Float, Finishing Machine, Power Cranes, Overhead Cranes, Truck cranes, Piledriver, Skid or Crawler, Guard Rail Post Driver, Tower Cranes, Hydro Crane, Cherry Picker, Draglines, Derricks, Shovels, Clam, Gradalls, Two Drum Machine, Concrete or Asphalt Curb Machine, Self Propelled, Concrete Mixers with Skid, Tournamixer, Concrete Pump (Truck or Skid Mounted), Concrete Plant Engineer, Soil Cement Machine, Formless Paver, Concrete Spreader, Span Saw (and similar types), Chip Spreader, Mesh Placer, Dredging Equipment or Dredge Engineer or Dredge Operator, Tug Boat Operator, Marine Scoops, Ditching Machine with Dual Attachment, Standard or Dinkey Locomotives, Drilling Machine, including Well Testing, Caissons, Shaft or any similar type Drilling Machine (Well Point Systems), 4 Point Life System (Power Lift or similar type), Mud Cat, Mucking Machine, Sull-Air, Mechanics, Welder, Head Equipment Greaser, Tournapull, Tractor Operating Scoops, Push Tractors, Large Rollers on Earth, Loaders (Track or Rubber Mounted), or similar type Machine, Lull, Tournadozer, Scoopmobiles, Elevating Machines, Power Broom (Self Propelled), Power Sub Grader, Hydra Ax, Farm Tractor with Attachments, Soil Stabilizer (Seaman Tiller, Bo mag, Rago Gator and similar types of equipment), Tree Mover, Stump Remover, Root Rake, Hydra Seeder, Straw Blower, Refrigerating Machine, Freezing Operator, Chair Cart-Self Propelled, Helicopter Crew (3), Ross Carrier or Straddle Buggy or similar Machine, Rock Crusher Plant, Gravel Processing Machine, Pipe Cleaning Machine, Pipe Wrapping Machine, Pipe Bending Machine, Pug Mill, Concrete Bump Grinder Machine, Power Curing Spray Machine, Forklift (except when used for landscaping), Snooper Truck Operator.

GROUP 2: Air Compressor 600 cu. ft. and under, Air Tugger, Air Valves, Assistant Concrete Plant Engineer, Assistant Asphalt Plant Engineer, Asphalt Plant Fireman, Bulk Cement Plant Equipment Greaser, Concrete Mixers without Skips, Curbing Machine, Concrete Saw (Self Propelled), Conveyors, Cement Blimps, Ditching Machine under 6", Distributor Operator On trucks, Deck Hands, Elevators when used for hoisting material, Engine Tenders, Fork Lift (when used for landscaping), Farm Tractor, Fireman, Fireman on Paint or Dope Pots, Form Tamper, Form Grader, Flex Plane, Generators (two to four), or Welding Machines or Water

Pumps, within 400 feet, Gunite Machine, Machine Mounted Post Hole Digger, Mude Jack, One Drum Machines without Tower or Boom, One Water Pump, One Welding Machine, Outboard or Inboard Motor Boat, Pull Broom (Power Type, Siphons and Pulsometer, Switchman, Striping and or Painting Machine (motor driven), Slurry Seal Machine, Track Jack, Temporary Heat, Throttle Valve, Tube Float, Tractaire, Wagon Drill, Multiple Tamping Machine (R.R.), Spike Machine (R.R.), Mechanical Heaters, Brush Burner, Vacuum Truck (Super Sucker and similar types).

FOOTNOTES:

A. Employees operating booms from 149 Ft. to 199 Ft. including jib, shall receive an additional seventy-five Cents (.75) per hour above the rate. Employees operating booms over 199 Ft. including jib, shall receive an additional one dollar and twenty- five cents ($1.25) per hour above the regular rate.

B. Employees operating scoops, pulls, or tractors hooked in tandem shall receive an additional one dollar ($1.00) per hour above the regular rate.

C. Employees operating scoops, pulls, or tractors pulling any other hauling unit in tandem shall receive an additional one dollar ($1.00) per hour above the regular rate.

D. Underground work - Employees working in tunnels, shafts, etc. shall be paid a thirty percent (30%) premium above the wage rate.

IRON0022-001 06/01/2012

BARTHOLOMEW, BENTON (REMAINDER OF COUNTY), BOONE, BROWN, CARROLL, CASS, CLAY, CLINTON, DAVIESS (REMAINDER OF COUNTY), DECATUR (W 3/4), DELAWARE (REMAINDER OF COUNTY), FAYETTE (W 1/3), FOUNTAIN, FRANKLIN (NW TIP), FULTON (REMAINDER OF COUNTY), GRANT (REMAINDER OF COUNTY), GREENE, HAMILTON, HANCOCK, HENDRICKS, HENRY, HOWARD, JACKSON, JASPER (SOUTHEASTERN 1/3), JENNINGS (NORTHWEST 2/3), JOHNSON, KNOX (REMAINDER OF COUNTY), LAWRENCE, MADISON, MARTIN (NW 2/3), MIAMI (REMAINDER OF COUNTY), MONROE, MONTGOMERY, MORGAN, NEWTON (SOUTHERN HALF), OWEN, PARKE, PULASKI (REMAINDER OF COUNTY), PUTNAM, RANDOLPH (SW TIP), RUSH (REMAINDER OF COUNTY), SHELBY, SULLIVAN, TIPPECANOE, TIPTON, VERMILLION, VIGO, WAYNE, WARREN AND WHITE COUNTIES:

	Rates	Fringes
IRONWORKER	$ 28.60	18.40

IRON0044-010 06/01/2012

DEARBORN, DECATUR (REMAINDER OF COUNTY), FAYETTE (REMAINDER OF COUNTY), FRANKLIN (REMAINDER OF COUNTY), JEFFERSON (REMAINDER OF COUNTY), JENNINGS (REMAINDER OF COUNTY), OHIO, RIPLEY, RUSH (SOUTHEASTERN TIP), SWITZERLAND, AND UNION (SOUTHERN 1/3)

	Rates	Fringes
Ironworkers:		
FENCE ERECTORS	$ 22.50	18.10
ORNAMENTAL	$ 24.80	18.10
STRUCTURAL, MACHINERY MOVERS, RIGGERS	$ 24.80	18.10

IRON0070-002 06/01/2012

CLARK, CRAWFORD, FLOYD, HARRISON, JACKSON (SOUTHERN 3/4); JEFFERSON (EXCLUDING NORTHEASTERN TIP); JENNINGS (SOUTHERN 3/4), LAWRENCE (SOUTHERN 2/3), MARTIN (SOUTHEASTERN 2/3), ORANGE, PERRY (EASTERN 3/4); SCOTT AND WASHINGTON COUNTIES:

	Rates	Fringes
IRONWORKER	$ 26.34	18.58

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* IRON0103-001 04/01/2012

DAVIESS (S 1/2), DUBOIS, GIBSON, KNOX (S 1/2), MARTIN (SW 1/3), PERRY (W 1/4), PIKE, POSEY, SPENCER, VANDERBURGH, AND WARRICK

	Rates	Fringes
IRONWORKER	$ 27.02	15.755

IRON0147-004 06/01/2012

ADAMS, ALLEN, BLACKFORD, DEKALB, DELAWARE (NORTHEAST THIRD OF COUNTY), FULTON (EASTERN PART), GRANT (EXCLUDING SOUTHWEST

PORTION), HUNTINGTON, JAY, MIAMI (NORTHEAST HALF), NOBLE (EXCLUDING NORTHEAST TIP), STEUBEN, WABASH, WELLS, and WHITLEY COUNTIES

	Rates	Fringes
IRONWORKER	$ 24.64	18.32

IRON0290-004 06/01/2012

FAYETTE (NE 1/4), RANDOLPH (S. PART OF COUNTY EXCLUDING WINCHESTER BUT INCLUDING UNION CITY) UNION (NORTHERN 2/3) AND WAYNE (REMAINDER OF COUNTY) COUNTIES

	Rates	Fringes
Ironworkers:	$ 26.23	18.15

IRON0292-005 06/01/2012

ELKHART, FULTON (North 2/3), KOSCIUSKO (Remainder of County), LAGRANGE (West 1/3), MARSHALL, MIAMI (Northwestern Tip), NOBLE (Northwestern Tip), PULASKI (Northeast Half), and STARKE COUNTIES

	Rates	Fringes
IRONWORKER	$ 26.38	17.91

IRON0372-007 06/01/2012

DEARBORN, DECATUR (REMAINDER OF COUNTY), FAYETTE (SE CORNER), FRANKLIN (S 3/4), OHIO, RIPLEY (REM. OF COUNTY), SWITZERLAND (REMAINDER OF COUNTY) and JENNINGS (NE TIP) COUNTIES

	Rates	Fringes
IRONWORKER (Reinforcing)		
Beyond 25 miles of Hamilton County, Ohio Court House	$ 26.59	18.58
Within 25 miles of Hamilton County, Ohio Court House	$ 26.34	18.58

IRON0395-002 06/01/2012

JASPER (NORTHERN 1/2), NEWTON (NORTHERN 1/2), PULASKI (NORTHWESTERN TIP) COUNTIES

	Rates	Fringes
Ironworkers:		
IRONWORKERS	$ 38.00	23.74
SHEETER	$ 38.25	23.74

IRON0465-002 06/01/2008

BENTON (NORTHWESTERN TIP), JASPER (REMAINDER OF COUNTY), NEWTON (REMAINDER OF COUNTY)

	Rates	Fringes
IRONWORKER	$ 34.50	24.03

LABO0041-005 04/01/2012

UTILITY CONSTRUCTION

JASPER AND NEWTON COUNTY

	Rates	Fringes
Laborers:		
GROUP 1	$ 29.07	11.70
GROUP 2	$ 29.37	11.70
GROUP 3	$ 30.07	11.70

LABORERS CLASSIFICATIONS (UTILITY CONSTRUCTION)

GROUP 1: Construction laborer; Fence erector; Flagger; Grade checker; Guard rail erector; Wire mesh layer; Joint man (mortar, mastic and all other types); Lighting installer (permanent or temporary); Lineman for automatic grade maker on paving machines; Mortar man; Multi-plate erector; Rip-rap installer (all products and materials); Road marking and delineation laborer; Setting and placing of all precast concrete products; Sign installation including supporting structure; Spraying of all epoxy, curing compound, or like material; sod layer; Air tool, power

tool, and power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Bridge handrail erector; Handler (bulk or bag cement); Chain saw man; concrete puddler; concrete rubber; Concrete saw operator; Core drill operator, eye level; Hand blade operator; Hydro seeder man; Motor-driven Georgia buggy operator; Power-driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Screed man or screw man on asphalt paver; Rebar installer; Sandblaster man; Sealer applicator for asphalt (toxic); Setting and placing prestressed or precast concrete structural members; Side rail setter (for sidewalks, side ditches, radii, and pavements); Spreader box tender (manual or power-driven); Straw blower man; Subsurface drain and culvert pipe layer; Transverse and longitudinal hand bull float man; Concrete conveyor assembly man; Horizontal boring and jacking man; Jackman and sheetman; Pipe grade man; Winch and windlass operator

GROUP 2: Cutting torch burner; Laser beam aligner; Manhole erector; Sewer pipe layer; Water line installer, temporary or permanent; Welder (electric or oxy-acetylene) in connection with waterline and sewer work, Hod Carrier (tending bricklayers); TVing and associated grouting of utility lines

GROUP 3: Air track and wagon drillman; Concrete barrier rail form setter; Dynamite and powder man; General leadman; Concrete Saw Joint Control cutting

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LABO0081-003 04/01/2012

UTILITY CONSTRUCTION

STARKE COUNTY

	Rates	Fringes
Laborers:		
GROUP 1	$ 25.47	11.70
GROUP 2	$ 25.77	11.70
GROUP 3	$ 26.47	11.70

LABORERS CLASSIFICATIONS (UTILITY CONSTRUCTION)

GROUP 1: Construction laborer; Fence erector; Flagger; Grade checker; Guard rail erector; Wire mesh layer; Joint man (mortar, mastic and all other types); Lighting installer

(permanent or temporary); Lineman for automatic grade maker on paving machines; Mortar man; Multi-plate erector; Rip-rap installer (all products and materials); Road marking and delineation laborer; Setting and placing of all precast concrete products; Sign installation including supporting structure; Spraying of all epoxy, curing compound, or like material; sod layer; Air tool, power tool, and power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Bridge handrail erector; Handler (bulk or bag cement); Chain saw man; concrete puddler; concrete rubber; Concrete saw operator; Core drill operator, eye level; Hand blade operator; Hydro seeder man; Motor-driven Georgia buggy operator; Power-driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Screed man or screw man on asphalt paver; Rebar installer; Sandblaster man; Sealer applicator for asphalt (toxic); Setting and placing prestressed or precast concrete structural members; Side rail setter (for sidewalks, side ditches, radii, and pavements); Spreader box tender (manual or power-driven); Straw blower man; Subsurface drain and culvert pipe layer; Transverse and longitudinal hand bull float man; Concrete conveyor assembly man; Horizontal boring and jacking man; Jackman and sheetman; Pipe grade man; Winch and windlass operator

GROUP 2: Cutting torch burner; Laser beam aligner; Manhole erector; Sewer pipe layer; Water line installer, temporary or permanent; Welder (electric or oxy-acetylene) in connection with waterline and sewer work, Hod Carrier (tending bricklayers); TVing and associated grouting of utility lines

GROUP 3: Air track and wagon drillman; Concrete barrier rail form setter; Dynamite and powder man; General leadman; Concrete Saw Joint Control cutting

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LABO0081-007 04/01/2012

UTILITY CONSTRUCTION

ALL REMAINING COUNTIES

	Rates	Fringes
Laborers:		
GROUP 1	$ 22.62	11.70
GROUP 2	$ 22.92	11.70

GROUP 3.....$ 23.62 11.70

LABORERS CLASSIFICATIONS (UTILITY CONSTRUCTION)

GROUP 1: Construction laborer; Fence erector; Flagger; Grade checker; Guard rail erector; Wire mesh layer; Joint man (mortar, mastic and all other types); Lighting installer (permanent or temporary); Lineman for automatic grade maker on paving machines; Mortar man; Multi-plate erector; Rip-rap installer (all products and materials); Road marking and delineation laborer; Setting and placing of all precast concrete products; Sign installation including supporting structure; Spraying of all epoxy, curing compound, or like material; sod layer; Air tool, power tool, and power equipment operator; Asphalt lute man; Asphalt raker man; Batch truck dumper; Bridge handrail erector; Handler (bulk or bag cement); Chain saw man; concrete puddler; concrete rubber; Concrete saw operator; Core drill operator, eye level; Hand blade operator; Hydro seeder man; Motor-driven Georgia buggy operator; Power-driven compactor or tamper operator; Power saw operator; Pumpcrete assembly man; Screed man or screw man on asphalt paver; Rebar installer; Sandblaster man; Sealer applicator for asphalt (toxic); Setting and placing prestressed or precast concrete structural members; Side rail setter (for sidewalks, side ditches, radii, and pavements); Spreader box tender (manual or power-driven); Straw blower man; Subsurface drain and culvert pipe layer; Transverse and longitudinal hand bull float man; Concrete conveyor assembly man; Horizontal boring and jacking man; Jackman and sheetman; Pipe grade man; Winch and windlass operator

GROUP 2: Cutting torch burner; Laser beam aligner; Manhole erector; Sewer pipe layer; Water line installer, temporary or permanent; Welder (electric or oxy-acetylene) in connection with waterline and sewer work, Hod Carrier (tending bricklayers); TVing and associated grouting of utility lines

GROUP 3: Air track and wagon drillman; Concrete barrier rail form setter; Dynamite and powder man; General leadman; Concrete Saw Joint Control cutting

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LABO0999-001 04/01/2012

HEAVY AND HIGHWAY CONSTRUCTION

	Rates	Fringes
Laborers:		
GROUP 1	$ 22.62	11.70
GROUP 2	$ 22.92	11.70
GROUP 3	$ 23.62	11.70

LABORERS CLASSIFICATIONS

GROUP 1: Building and Construction Laborers; Scaffold Builders (other than for Plasterers); Mechanic Tenders; Window Washers and cleaners; Waterboys and Toolhousemen; Roofers Tenders; Railroad Workers; Masonry Wall Washers (interior and exterior); Cement Finisher Tenders; Carpenter Tenders; All Portable Water pumps with discharge up to (3) inches; Plaster Tenders; Mason Tenders; Flag & Signal Person.

GROUP 2: Waterproofing; Handling of Creosote Lumber or like treated material (excluding railroad material); Asphalt Rakers and Lutemen; Kettlemen; Air Tool Operators and all Pneumatic Tool Operators; Air and Electric Vibrators and Chipping Hammer Operators; Earth Compactors Jackmen and Sheetmen working Ditches deeper than (6) ft. in depth; Laborers working in ditches (6) ft. in depth or deeper; Assembly of Unicrete Pump; Tile Layers (sewer or field) and Sewer Pipe Layer (metallic or non-metallic); Motor driven Wheelbarrows and Concrete Buggies; Hyster Operators; Pump Crete Assemblers; Core Drill Operators; Cement, Lime or Silica Clay Handlers (bulk or bag); Handling of Toxic Materials damaging to clothing; Pneumatic Spikers; Deck Engine and Winch Operators; Water Main and Cable Ducking (metallic and non-metallic); Screed Man or Screw Operator on Asphalt Paver; Chain and Demolition Saw Operators; Concrete Conveyor Assemblers.

GROUP 3: Water Blast Machine Operator; Mortar Mixers; Welders (Acetylene or electric); Cutting Torch or Burner; Cement Nozzle. Laborers; Cement Gun Operator; Scaffold Builders when Working for Plasterers. Dynamite Men; Drillers - Air Track or Wagon Drilling for explosives Hazardous and Toxic material handler, asbestos removal or handler.

PAIN0012-006 05/01/2012

COMMERCIAL AND INDUSTRIAL

DEARBORN, OHIO, RIPLEY AND SWITZERLAND COUNTIES:

	Rates	Fringes
Painters:		
Bridges, Lead Abatement	$ 24.10	8.33
Brush & Roller, Paperhanger, Drywall Taping	$ 23.10	8.33
Sandblasting, Waterblasting	$ 23.85	8.33
Spray	$ 23.60	8.33

PAIN0027-005 06/01/2012

NEWTON COUNTY, West of Highway #41

	Rates	Fringes
GLAZIER	$ 39.50	27.97

PAIN0047-005 06/01/2012

BARTHOLOMEW, BOONE, BROWN, DECATUR, HAMILTON, HANCOCK, HENDRICKS, JACKSON, JENNINGS, JOHNSON, LAWRENCE, MARION, MARTIN, MONROE, MORGAN, ORANGE, AND SHELBY COUNTIES

	Rates	Fringes
Painters:		
BRIDGE WORK		
Brush & Roller	$ 25.43	11.23
Spray, Sandblaster, Waterblaster, Lead Based Paint Abatement	$ 29.49	11.23
Brush, Roller	$ 24.43	11.23
Spray and Sand-Blasting	$ 25.43	11.23

PAIN0080-001 07/01/2011

BENTON, CARROLL, CASS, CLINTON, FOUNTAIN, MONTGOMERY TIPPECANOE AND WARREN COUNTIES

	Rates	Fringes
Painters:		
Brush and Roller	$ 22.75	13.34
Spray and Sandblasting	$ 23.75	13.34

PAIN0091-007 06/01/2011

ELKHART, FULTON, KOSCIUSKO AND MARSHALL COUNTIES

	Rates	Fringes
Painters:		
Brush & Roller, Drywall Taping & Finishing, Vinyl/Paper Hanging	$ 25.68	11.85
Spray	$ 26.18	11.85

PAIN0118-005 05/01/2011

CLARK, CRAWFORD, FLOYD, HARRISON JEFFERSON, SCOTT AND WASHINGTON COUNTIES

	Rates	Fringes
Painters:		
Brush, Roller & Paperhanger	$ 22.93	11.05
Spray, Sandblast & Waterblast	$ 23.93	11.05

PAIN0156-001 04/01/2011

DAVIESS, DUBOIS, GIBSON, KNOX, PERRY, PIKE, POSEY, SPENCER, VANDERBURGH, AND WARRICK COUNTIES

	Rates	Fringes
Painters:		
BRUSH & ROLLER	$ 25.60	12.16
DRYWALL FINISHERS	$ 25.85	12.16
MASTICS, CREOSOTES KEWINCH KOATE, & COAL TAR EPOXY	$ 26.60	12.16
SPRAY of MASTICS CREOSOTES, KWINCH KOATE, COAL TAR EPOXY	$ 27.60	12.16
SPRAY, SANDBLAST, POWER TOOLS, WATERBLAST & STEAM CLEANING	$ 26.60	12.16

PAIN0197-001 08/01/2011

CLAY, GREENE, OWEN, PARKE, PUTNAM, SULLIVAN, VERMILLION AND

VIGO COUNTIES:

	Rates	Fringes
Painters:		
Brush & Roller	$ 24.45	11.51
Sandblasting	$ 26.45	11.51
Spray & Pot Man	$ 25.95	11.51
Steel up to 30'	$ 24.45	11.00

PAIN0387-004 11/01/2009

DEARBORN, FRANKLIN, OHIO, RIPLEY, and SWITZERLAND COUNTIES

	Rates	Fringes
GLAZIER	$ 23.70	11.40

PAIN0460-004 06/01/2011

JASPER, NEWTON, PULASKI, STARKE AND WHITE COUNTIES

	Rates	Fringes
Painters:		
Brush & Roller	$ 33.99	19.88
Drywall Taping & Finishing	$ 34.79	19.88

PAIN0469-002 07/01/2011

ADAMS, ALLEN, DEKALB, GRANT, HUNTINGTON, LAGRANGE, NOBLE, STEUBEN, WABASH, WELLS, and WHITLEY COUNTIES

	Rates	Fringes
Painters:		
101' & over	$ 22.01	11.17
31' - 60'	$ 21.41	11.17
61' - 100'	$ 21.81	11.17
Brush, Roller, Paperhanger, & Drywall Finishing	$ 20.56	11.17
Lead Abatement	$ 25.56	11.17
Spray & Sandblast Pot Tenders and Ground Personnel	$ 21.46	11.17

Spray, Sandblast, Power
Tools, Waterblast, & Steam
Cleaning.....$ 21.56 11.17

PAIN0669-001 04/01/2011

BLACKFORD, DELAWARE, FAYETTE, FRANKLIN, HENRY, HOWARD, JAY, MADISON, MIAMI, RANDOLPH, RUSH, TIPTON, UNION and WAYNE COUNTIES

	Rates	Fringes
Painters:		
Brush; Roller; Paperhanging; Drywall Finishers	$ 20.00	10.44
Spray/Waterblasting; Sandblasting	$ 21.00	10.44

PAIN1165-014 07/01/2012

CLARK, CRAWFORD, DAVIESS, DUBOIS, FLOYD, GIBSON, HARRISION, JEFFERSON, KNOX, MARTIN, ORANGE, PERRY, PIKE, POSEY, SCOTT, SPENCER, VANDERBURGH, WARRICK AND WASHINGTON

	Rates	Fringes
GLAZIER	$ 26.78	11.62

PAIN1165-017 07/01/2011

ADAMS, ALLEN, BLACKFORD, DE KALB, GRANT, HUNTINGTON, JAY, NOBLE, STEUBEN, WABASH, WELLS AND WHITLEY COUNTIES

	Rates	Fringes
GLAZIER	$ 22.00	11.62

PAIN1165-018 07/01/2011

JASPER and NEWTON (East of Highway #41) COUNTIES

	Rates	Fringes
GLAZIER	$ 32.87	17.60

PAIN1165-019 07/01/2012

ELKHART, FULTON, KOSCIUSKO, LAGRANGE, MARSHALL, PULASKI, and
STARKE COUNTY

	Rates	Fringes
GLAZIER	$ 22.49	14.25

PAIN1165-022 07/01/2012

BARTHOLOMEW, BENTON, BOONE, BROWN, CARROLL, CASS, CLAY,
CLINTON, DECATUR, DELAWARE, FAYETTE, FOUNTAIN, GREENE, HAMILTON,
HANCOCK, HENDRICKS, HENRY, HOWARD, JACKSON, JENNINGS, JOHNSON,
LAWRENCE, MADISON, MARION, MIAMI, MONROE, MONTGOMERY, MORGAN,
OWEN, PARKE, PUTNAM, RANDOLPH, RUSH, SHELBY, SULLIVAN,
TIPPECANOE, TIPTON, UNION, VIGO, VERMILLION, WARREN, WAYNE, and
WHITE COUNTIES

	Rates	Fringes
GLAZIER	$ 25.86	12.82

PLAS0075-001 06/01/2007

CLAY, OWEN, PARKE, PUTNAM, VERMILLION AND VIGO COUNTIES:

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER	$ 22.75	8.40

PLAS0101-001 06/01/2012

FULTON AND MARSHALL COUNTIES; PULASKI COUNTY (SOUTHERN 1/2):

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER	$ 29.92	10.90

PLAS0101-003 06/01/2012

ADAMS, ALLEN, DEKALB, HUNTINGTON, NOBLE, STEUBEN, WELLS AND
WHITLEY COUNTIES

	Rates	Fringes

CEMENT MASON/CONCRETE FINISHER...$ 29.92 10.90
PLASTERER.....$ 24.18 9.31

PLAS0438-003 06/01/2011

PULASKI (NORTHERN 2/3), JASPER (N. EASTERN PORTION OF WEST TO BUT NOT INCLUDING WHEATFIELD), ALL OF STARKE COUNTY

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER	$ 34.26	21.40

PLAS0692-002 06/01/2010

AREA #46

BARTHOLOMEW, BOONE, BROWN, CLARK, CLAY, CRAWFORD, DAVIESS, DUBOIS, GIBSON, HENDRICKS, JACKSON, JEFFERSON, JENNINGS, JOHNSON, KNOX, LAWRENCE, MARION, MARTIN, MONROE, MORGAN, ORANGE, OWEN, PARKE, PERRY, PIKE, POSEY, PUTNAM, SCOTT, SHELBY, SPENCER, VANDERBURGH, VERMILLION, VIGO and WARRICK COUNTIES

	Rates	Fringes
PLASTERER	$ 25.04	12.48

PLAS0692-009 07/01/2010

AREA #83

BLACKFORD, DELAWARE, GRANT, HAMILTON (Northern Part), HANCOCK (Northern Part), JAY, MADISON and WABASH COUNTIES

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER	$ 24.10	10.69
PLASTERER	$ 25.69	11.75

PLAS0692-011 06/01/2010

AREA #83

DECATUR, FAYETTE, FRANKLIN, HENRY, RANDOLPH, RUSH, UNION and WAYNE COUNTIES

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER	$ 24.10	10.69
PLASTERER	$ 25.69	11.75

PLAS0692-015 06/01/2010

AREA #121

BENTON, CARROLL, CASS, CLINTON, FOUNTAIN, HOWARD, MIAMI, MONTGOMERY, TIPPECANOE, WARREN, WHITE and VERMILLION (Northern Part) COUNTIES

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER	$ 24.95	12.40
PLASTERER	$ 25.61	12.40

PLAS0692-018 01/01/2011

AREA #165

NEWTON COUNTY

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER	$ 33.14	13.80

PLAS0692-022 01/01/2010

Southward on Rt. No. 49 to the JASPER, BENTON and WHITE County lines, including the City Limits of Wheatfield, Rensselaer and Remington, Indiana. To the West, the boundary of NEWTON County

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER		
AREA #406	$ 31.23	14.27

PLAS0692-023 06/01/2010

AREA #532

BOONE, HAMILTON (SOUTH HALF OF COUNTY NORTH TO NEW ROUTE

INDIANA #32 INCLUDING NOBLESVILLE); HANCOCK COUNTY (SOUTHERN AND WESTERN PART OF HANCOCK COUNTY, NORTH TO BUT NOT INCLUDING FORTVILLE); HENDRICKS, JOHNSON, MARION and MORGAN COUNTIES

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER	$ 25.25	12.75

PLAS0692-027 04/01/2012

AREA #566

CRAWFORD, DAVIESS, DUBOIS, GIBSON, HARRISON, KNOX, MARTIN, PERRY, PIKE, POSEY, SPENCER, VANDERBURGH and WARRICK COUNTIES

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER	$ 24.50	13.91

PLAS0692-033 05/01/2012

BROWN, CLARKE, DEARBORN, FLOYD, FRANKLIN (SOUTHERN 1/2), JENNINGS, OHIO, RIPLEY AND SWITZERLAND COUNTIES

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER		
AREA #821	$ 23.58	10.99

PLUM0136-003 07/01/2012

DAVIESS, DUBOIS, GIBSON, JACKSON, LAWRENCE, MARTIN, MONROE, ORANGE, OWEN, PERRY, PIKE, POSEY, SPENCER, VANDERBURGH, and WARRICK COUNTIES

	Rates	Fringes
Plumbers and Pipefitters	$ 33.07	15.21

PLUM0157-002 07/01/2012

BENTON, CARROLL, CLINTON, FOUNTAIN, MONTGOMERY, TIPPECANOE, WARREN AND WHITE COUNTIES:

	Rates	Fringes
Plumbers and Pipefitters.....	$ 35.47	13.44

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* PLUM0166-001 06/01/2012

ADAMS, ALLEN, BLACKFORD, DE KALB, GRANT, HUNTINGTON, NOBLE, STEUBEN, WABASH, WELLS, and WHITLEY COUNTIES

	Rates	Fringes
Plumber and Steamfitter.....	$ 29.21	14.81

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* PLUM0166-002 06/01/2012

ELKHART, KOSCIUSKO, and LAGRANGE COUNTIES

	Rates	Fringes
PLUMBER.....	$ 29.21	14.81

PLUM0172-001 06/04/2012

JASPER (S of the N. Side of the City of Rensselaer), MARSHALL, PULASKI and STARKE COUNTIES

	Rates	Fringes
Plumber, Pipefitter, Steamfitter.....	$ 29.90	17.15

PLUM0210-003 06/01/2012

JASPER (to the City of Rensselaer) and NEWTON COUNTIES

	Rates	Fringes
PLUMBER.....	$ 37.32	19.09

PLUM0392-006 06/01/2012

DEARBORN, RIPLEY, OHIO AND SWITZERLAND COUNTIES

	Rates	Fringes

Plumbers and Pipefitters.....$ 29.30 16.59

PLUM0440-002 06/01/2012

BARTHOLOMEW, BOONE, HAMILTON, HANCOCK, HENDRICKS, HOWARD, JOHNSON AND MARION COUNTIES; MIAMI COUNTY (SOUTH OF A STRAIGHT LINE WHERE ROUTE 218 ENTERS W. BOUNDARY); MORGAN, SHELBY and TIPTON COUNTIES

	Rates	Fringes
Plumbers and Pipefitters.....	$ 33.17	15.24

PLUM0502-001 08/01/2011

CLARK, FLOYD AND HARRISON COUNTIES

	Rates	Fringes
PLUMBER/PIPEFITTER.....	$ 31.00	16.13

PLUM0597-004 06/01/2012

JASPER (Excluding the city limits of Rensselaer), AND NEWTON (Entire County)

	Rates	Fringes
PIPEFITTER.....	$ 45.05	25.09

PLUM0661-002 07/01/2012

FAYETTE, FRANKLIN, HENRY, RANDOLPH, RUSH, UNION and WAYNE COUNTIES

	Rates	Fringes
Plumber and Steamfitter.....	$ 31.17	14.72

ROOF0023-004 06/01/2012

ELKHART, FULTON, KOSCIUSKO, LAGRANGE, MARSHALL, PULASKI, and STARKE COUNTIES

	Rates	Fringes
Roofers:		
COMPOSITION	$ 27.61	12.07
SLATE & TILE	$ 28.11	12.07

ROOF0023-008 06/01/2012

ALLEN, DEKALB, NOBLE, STEUBEN, and WHITLEY COUNTIES

	Rates	Fringes
Roofers:		
COMPOSITION	$ 18.83	8.73
SLATE & TILE	$ 19.33	8.73

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* ROOF0106-006 07/01/2012

CRAWFORD, DAVIESS, DUBOIS, GIBSON KNOX, MARTIN, ORANGE PERRY, PIKE, POSEY, SPENCER, VANDERBURGH AND WARRICK

	Rates	Fringes
Roofers:		
COMPOSITION	$ 26.96	13.01
SLATE & TILE	$ 27.46	13.01

ROOF0150-002 07/01/2012

CLAY, GREENE, OWEN, PARKE, SULLIVAN, VERMILLION AND VIGO COUNTIES

	Rates	Fringes
ROOFER	$ 26.50	10.07

SHEE0020-003 07/01/2012

ADAMS, ALLEN, BLACKFORD, CASS, DEKALB, GRANT, HOWARD, HUNTINGTON, JAY, MIAMI, NOBLE, STEUBEN, WABASH, WELLS, and WHITLEY COUNTIES

	Rates	Fringes
Sheet metal worker (HVAC Duct		

Work).....$ 29.97 18.84

SHEE0020-010 07/01/2011

BARTHOLOMEW, BOONE, BROWN, DECATUR, DELAWARE, FAYETTE, FRANKLIN, HAMILTON, HANCOCK, HENDRICKS, HENRY, JACKSON, JENNINGS, JOHNSON, LAWRENCE, MADISON, MARION, MONROE, MORGAN, ORANGE, RIPLEY, RUSH, SHELBY, TIPTON, UNION AND WASHINGTON COUNTIES

	Rates	Fringes
Sheet metal worker	$ 31.72	17.75

SHEE0020-024 07/04/2011

CLAY, GREENE, MARTIN, OWEN, PARKE, PUTNAM, SULLIVAN, VERMILLION, and VIGO COUNTIES

	Rates	Fringes
Sheet metal worker	$ 31.22	16.90

TEAM0135-003 04/01/2012

REMAINING COUNTIES

	Rates	Fringes
Truck drivers:		
GROUP 1	$ 26.46	456.00/wk + .37
GROUP 2	$ 26.51	456.00/wk + .37
GROUP 3	$ 26.56	456.00/wk + .37
GROUP 4	$ 26.61	456.00/wk + .37
GROUP 5	$ 26.66	456.00/wk + .37
GROUP 6	$ 26.71	456.00/wk + .37
GROUP 7	$ 26.76	456.00/wk + .37
GROUP 8	$ 26.81	456.00/wk + .37
GROUP 9	$ 26.86	456.00/wk + .37
GROUP10	$ 26.31	456.00/wk + .37
GROUP11	$ 26.86	456.00/wk + .37
GROUP12	$ 26.96	456.00/wk + .37

TRUCK DRIVER CLASSIFICATIONS

GROUP 1: Single/batches axle straight trucks; Batch trucks,

wet or dry 3 (34E) axle or less; Single axle Grease and maintenance truck

GROUP 2: Single axle fuel and water trucks

GROUP 3: Single axle "dog-legs", and tandem truck or dog-legs; Winch trucks or A-frames when used for transportation purposes; Drivers on batch trucks, wet or dry over 3 (34E) batches and tandem axle grease and maintenance truck

GROUP 4: Tandem axle fuel trucks; tandem axle water trucks; bituminous distributors (two-man)

GROUP 5: Tandem trucks over 15 tons payload; Single axle semi trucks; Farm tractors hauling material; Mixer trucks (all types); Trucks pulling tilt-top trailer single axle; Single axle low- boys; Truck-mounted pavement breakers

GROUP 6: Tandem trucks or "dog-legs"; Semi-water Truck; Sprinkler Truck; Heavy equipment-type water wagons, 5,000 gallons and under; bituminous distributors (one-man)

GROUP 7: Tri-axle trucks; Tandem axle semi trucks; Equipment when not self-loaded or pusher loaded, such as Koehring or similar dumpsters, track trucks, Euclid bottom dump and hug bottom dump, tournatrailers, tournarockers, Acey wagons or for similar equipment (12 cu yds or less); Mobile mixer truck; Tandem Axle trucks pulling tilt-top trailer; Tandem - Axle lowboy; Tri- Axle batch Truck; Tri-Axle grease and maintenance truck

GROUP 8: Tandem-tandem semi trucks; Truck mechanics and welders; Heavy equipment-type water wagon over 5,000 gallons; Tri-Axle Trucks pulling tilt-top trailer; Low-boys, tandem-tandem axle

GROUP 9: Low-boys, tandem tri-axle; Acey wagons up to and including 3 buckets; Equipment when not self-loaded or pusher loaded, such as koehring or similar dumpsters, Track Trucks, Euclid bottom dump and hug bottom dump, Tournatrailers, Tournarockers, Acey wagons or for similar equipment (over 12 cu yds.)

GROUP 10: Pick-up trucks

GROUP 11: Helpers; Greasers; Tire men; Batch board tenders; Warehouseman

GROUP 12: Acey wagon (over 3 buckets); Quad Axle Trucks; Articulating Dump

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters , PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable , i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rate.

0000/9999: weighted union wage rates will be published annually

each January.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division

U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

Kentucky

General Decision Number: KY120125 08/31/2012 KY125

Superseded General Decision Number: KY20100211

State: Kentucky

Construction Type: Highway

Counties: Anderson, Bath, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Carroll, Carter, Clark, Elliott, Fayette, Fleming, Franklin, Gallatin, Grant, Grayson, Greenup, Hardin, Harrison, Henry, **Jefferson**, Jessamine, Larue, Lewis, Madison, Marion, Mason, Meade, Mercer, Montgomery, Nelson, Nicholas, Oldham, Owen, Robertson, Rowan, Scott, Shelby, Spencer, Trimble, Washington and Woodford Counties in Kentucky.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Modification Number	Publication Date
0	01/06/2012
1	01/13/2012
2	01/20/2012
3	04/13/2012
4	05/11/2012
5	05/25/2012
6	06/01/2012
7	06/22/2012
8	06/29/2012
9	07/13/2012
10	07/20/2012
11	08/03/2012
12	08/10/2012
13	08/17/2012
14	08/24/2012
15	08/31/2012

BRIN0004-003 06/01/2011

BRECKENRIDGE COUNTY

	Rates	Fringes
BRICKLAYER	$ 24.11	10.07

BRKY0001-005 06/01/2011

BULLITT, CARROLL, GRAYSON, HARDIN, HENRY, JEFFERSON, LARUE, MARION, MEADE, NELSON, OLDHAM, SHELBY, SPENCER, & TRIMBLE COUNTIES:

	Rates	Fringes
BRICKLAYER	$ 24.11	10.07

BRKY0002-006 06/01/2011

BRACKEN, GALLATIN, GRANT, MASON & ROBERTSON COUNTIES:

	Rates	Fringes
BRICKLAYER	$ 26.57	10.26

BRKY0007-004 06/01/2011

BOYD, CARTER, ELLIOT, FLEMING, GREENUP, LEWIS & ROWAN COUNTIES:

	Rates	Fringes
BRICKLAYER	$ 28.29	16.80

BRKY0017-004 06/01/2009

ANDERSON, BATH, BOURBON, BOYLE, CLARK, FAYETTE, FRANKLIN, HARRISON, JESSAMINE, MADISON, MERCER, MONTGOMERY, NICHOLAS, OWEN, SCOTT, WASHINGTON & WOODFORD COUNTIES:

	Rates	Fringes
BRICKLAYER	$ 24.11	9.97

CARP0064-001 07/01/2012

	Rates	Fringes
CARPENTER	$ 26.40	13.91
Diver	$ 39.98	13.91

PILEDRIVERMAN.....$ 26.65 13.91

ELEC0212-008 05/28/2012

BRACKEN, GALLATIN and GRANT COUNTIES

	Rates	Fringes
ELECTRICIAN	$ 26.11	15.42

ELEC0212-014 06/27/2011

BRACKEN, GALLATIN & GRANT COUNTIES:

	Rates	Fringes
Sound & Communication Technician	$ 21.55	8.46

ELEC0317-012 05/30/2012

BOYD, CARTER, ELLIOT & ROWAN COUNTIES:

	Rates	Fringes
Electricians:		
Cable Splicer	$ 32.68	18.13
Electrician	$ 32.22	20.09

ELEC0369-007 05/30/2012

ANDERSON, BATH, BOURBON, BOYLE, BRECKINRIDGE, BULLITT, CARROLL, CLARK, FAYETTE, FRANKLIN, GRAYSON, HARDIN, HARRISON, HENRY, JEFFERSON, JESSAMINE, LARUE, MADISON, MARION, MEADE, MERCER, MONTGOMERY, NELSON, NICHOLAS, OLDHAM, OWEN, ROBERTSON, SCOTT, SHELBY, SPENCER, TRIMBLE, WASHINGTON, & WOODFORD COUNTIES:

	Rates	Fringes
ELECTRICIAN	$ 29.32	13.78

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* ELEC0575-002 05/28/2012

FLEMING, GREENUP, LEWIS & MASON COUNTIES:

	Rates	Fringes

ELECTRICIAN.....$ 30.90 13.44

ENGI0181-018 07/01/2012

	Rates	Fringes
Operating Engineer:		
GROUP 1	$ 27.35	13.40
GROUP 2	$ 24.87	13.40
GROUP 3	$ 25.26	13.40
GROUP 4	$ 24.60	13.40

OPERATING ENGINEER CLASSIFICATIONS

GROUP 1 - A-Frame Winch Truck; Auto Patrol; Backfiller; Batcher Plant; Bituminous Paver; Bituminous Transfer Machine; Boom Cat; Bulldozer; Mechanic; Cableway; Carry-All Scoop; Carry Deck Crane; Central Compressor Plant; Cherry Picker; Clamshell; Concrete Mixer (21 cu. ft. or Over); Concrete Paver; Truck-Mounted Concrete Pump; Core Drill; Crane; Crusher Plant; Derrick; Derrick Boat; Ditching & Trenching Machine; Dragline; Dredge Operator; Dredge Engineer; Elevating Grader & Loaders; Grade-All; Gurries; Heavy Equipment Robotics Operator/Mechanic; High Lift; Hoe-Type Machine; Hoist (Two or More Drums); Hoisting Engine (Two or More Drums); Horizontal Directional Drill Operator; Hydrocrane; Hyster; KeCal Loader; LeTourneau; Locomotive; Mechanic; Mechanically Operated Laser Screed; Mechanic Welder; Mucking Machine; Motor Scraper; Orangepeel Bucket; Overhead Crane; Piledriver; Power Blade; Pumpcrete; Push Dozer; Rock Spreader, attached to equipment; Rotary Drill; Roller (Bituminous); Rough Terrain Crane; Scarifier; Scoopmobile; Shovel; Side Boom; Subgrader; Tailboom; Telescoping Type Forklift; Tow or Push Boat; Tower Crane (French, German & other types); Tractor Shovel; Truck Crane; Tunnel Mining Machines, including Moles, Shields or similar types of Tunnel Mining Equipment

GROUP 2 - Air Compressor (Over 900 cu. ft. per min.); Bituminous Mixer; Boom Type Tamping Machine; Bull Float; Concrete Mixer (Under 21 cu. ft.); Dredge Engineer; Electric Vibrator; Compactor/Self-Propelled Compactor; Elevator (One Drum or Buck Hoist); Elevator (When used to Hoist Building Material); Finish Machine; Firemen & Hoist (One Drum); Flexplane; Forklift (Regardless of Lift Height); Form Grader; Joint Sealing Machine; Outboard Motor Boat; Power Sweeper (Riding Type); Roller (Rock); Ross Carrier; Skid Mounted or Trailer Mounted Concrete Pump; Skid

Steer Machine with all Attachments; Switchman or Brakeman; Throttle Valve Person; Tractair & Road Widening Trencher; Tractor (50 H.P. or Over); Truck Crane Oiler; Tugger; Welding Machine; Well Points; & Whirley Oiler

GROUP 3 - All Off Road Material Handling Equipment, including Articulating Dump Trucks; Greaser on Grease Facilities servicing Heavy Equipment

GROUP 4 - Bituminous Distributor; Burlap & Curing Machine; Cement Gun; Concrete Saw; Conveyor; Deckhand Oiler; Grout Pump; Hydraulic Post Driver; Hydro Seeder; Mud Jack; Oiler; Paving Joint Machine; Power Form Handling Equipment; Pump; Roller (Earth); Steerman; Tamping Machine; Tractor (Under 50 H.P.); & Vibrator

CRANES - with booms 150 ft. & Over (Including JIB), and where the length of the boom in combination with the length of the piling leads equals or exceeds 150 ft. - $1.00 over Group 1 rate

EMPLOYEES ASSIGNED TO WORK BELOW GROUND LEVEL ARE TO BE PAID 10%
ABOVE BASIC WAGE RATE. THIS DOES NOT APPLY TO OPEN CUT WORK.

IRON0044-009 06/01/2012

BRACKEN, GALLATIN, GRANT, HARRISON, ROBERTSON,
BOURBON (Northern third, including Townships of Jackson, Millersburg, Ruddel Mills & Shawhan);
CARROLL (Eastern third, including the Township of Ghent);
FLEMING (Western part, excluding Townships of Beechburg, Colfax, Elizaville, Flemingsburg, Flemingsburg Junction, Foxport, Grange City, Hillsboro, Hilltop, Mount Carmel, Muses Mills, Nepton, Pecksridge, Plummers Landing, Plummers Mill, Poplar Plains, Ringos Mills, Tilton & Wallingford);
MASON (Western two-thirds, including Townships of Dover, Lewisburg, Mays Lick, Maysville, Minerva, Moranburg, Murphysville, Ripley, Sardis, Shannon, South Ripley & Washington);
NICHOLAS (Townships of Barefoot, Barterville, Carlisle, Ellisville, Headquarters, Henryville, Morningglory, Myers & Oakland Mills);
OWEN (Townships of Beechwood, Bromley, Fairbanks, Holbrook, Jonesville, Long Ridge, Lusby's Mill, New, New Columbus, New Liberty, Owenton, Poplar Grove, Rockdale, Sanders, Teresita & Wheatley);
SCOTT (Northern two-thirds, including Townships of Biddle,

Davis, Delaplain, Elmville, Longlick, Muddy Ford, Oxford,
Rogers Gap, Sadieville, Skinnersburg & Stonewall)

	Rates	Fringes
IRONWORKER		
Fence Erector	$ 22.50	15.10
Structural	$ 24.80	15.10

IRON0070-006 06/01/2012

ANDERSON, BOYLE, BRECKINRIDGE, BULLITT, FAYETTE, FRANKLIN,
GRAYSON, HARDIN, HENRY, JEFFERSON, JESSAMINE, LARUE, MADISON,
MARION, MEADE, MERCER, NELSON, OLDHAM, SHELBY, SPENCER,
TRIMBLE, WASHINGTON & WOODFORD
BOURBON (Southern two-thirds, including Townships of Austerlity,
Centerville, Clintonville, Elizabeth, Hutchison, Littlerock,
North Middletown & Paris);
CARROLL (Western two-thirds, including Townships of Carrollton,
Easterday, English, Locust, Louis, Prestonville & Worthville);
CLARK (Western two-thirds, including Townships of Becknerville,
Flanagan, Ford, Pine Grove, Winchester & Wyandotte);
OWEN (Eastern eighth, including Townships of Glenmary, Gratz,
Monterey, Perry Park & Tacketts Mill);
SCOTT (Southern third, including Townships of Georgetown, Great
Crossing, Newtown, Stampling Ground & Woodlake);

	Rates	Fringes
IRONWORKER	$ 26.34	18.58

IRON0372-006 06/01/2012

BRACKEN, GALLATIN, GRANT, HARRISON and ROBERTSON
BOURBON (Northern third, including Townships of Jackson,
Millersburg, Ruddel Mills & Shawhan);
CARROLL (Eastern third, including the Township of Ghent);
FLEMING (Western part, Excluding Townships of Beechburg, Colfax,
Elizaville, Flemingsburg, Flemingsburg Junction, Foxport,
Grange City, Hillsboro, Hilltop, Mount Carmel, Muses Mills,
Nepton, Pecksridge, Plummers Landing, Plummers Mill, Poplar
Plains,
Ringos Mills, Tilton & Wallingford);
MASON (Western two-thirds, including Townships of Dover,
Lewisburg, Mays Lick, Maysville, Minerva, Moranburg,
Murphysville, Ripley, Sardis, Shannon, South Ripley &

Washington);
NICHOLAS (Townships of Barefoot, Barterville, Carlisle, Ellisville, Headquarters, Henryville, Morningglory, Myers & Oakland Mills);
OWEN (Townships of Beechwood, Bromley, Fairbanks, Holbrook, Jonesville, Long Ridge, Lusby's Mill, New, New Columbus, New Liberty, Owenton, Poplar Grove, Rockdale, Sanders, Teresita & Wheatley);
SCOTT (Northern two-thirds, including Townships of Biddle, Davis, Delaplain, Elmville, Longlick, Muddy Ford, Oxford, Rogers Gap, Sadieville, Skinnersburg & Stonewall) COUNTIES

	Rates	Fringes
IRONWORKER, REINFORCING		
Beyond 30-mile radius of Hamilton County, Ohio Courthouse	$ 26.59	18.58
Up to & including 30-mile radius of Hamilton County, Ohio Courthouse	$ 26.34	18.58

IRON0769-007 06/01/2012

BATH, BOYD, CARTER, ELLIOTT, GREENUP, LEWIS, MONTGOMERY & ROWAN
CLARK (Eastern third, including townships of Bloomingdale, Hunt, Indian Fields, Kiddville, Loglick, Rightangele & Thomson);
FLEMING (Townships of Beechburg, Colfax, Elizaville, Flemingsburg, Flemingsburg Junction, Foxport, Grange City, Hillsboro, Hilltop, Mount Carmel, Muses Mills, Nepton, Pecksridge, Plummers Landing, Plummers Mill, Poplar Plains, Ringos Mills, Tilton & Wallingford);
MASON (Eastern third, including Townships of Helena, Marshall, Orangeburg, Plumville & Springdale);
NICHOLAS (Eastern eighth, including the Township of Moorefield Sprout)

	Rates	Fringes
IRONWORKER		
ZONE 1	$ 30.52	20.08
ZONE 2	$ 30.92	20.08
ZONE 3	$ 32.52	20.08

ZONE 1 - Up to 10 mi. radius of union hall, Ashland, Ky., 1643 Greenup Avenue

ZONE 2 - 10 to 50 mi. radius of union hall;
ZONE 3 - 50 mi. radius and beyond

LABO0189-003 07/01/2012

BATH, BOURBON, BOYD, BOYLE, BRACKEN, CARTER, CLARK, ELLIOTT, FAYETTE, FLEMING, FRANKLIN, GALLATIN, GRANT, GREENUP, HARRISON, JESSAMINE, LEWIS, MADISON, MASON, MERCER, MONTGOMERY, NICHOLAS, OWEN, ROBERTSON, ROWAN, SCOTT, & WOOLFORD COUNTIES

	Rates	Fringes
Laborers:		
GROUP 1	$ 21.15	11.41
GROUP 2	$ 21.40	11.41
GROUP 3	$ 21.45	11.41
GROUP 4	$ 22.05	11.41

LABORERS CLASSIFICATIONS

GROUP 1 - Aging & Curing of Concrete; Asbestos Abatement Worker; Asphalt Plant; Asphalt; Batch Truck Dump; Carpenter Tender; Cement Mason Tender; Cleaning of Machines; Concrete; Demolition; Dredging; Environmental - Nuclear, Radiation, Toxic & Hazardous Waste - Level D; Flagperson; Grade Checker; Hand Digging & Hand Back Filling; Highway Marker Placer; Landscaping, Mesh Handler & Placer; Puddler; Railroad; Rip-rap & Grouter; Right-of-Way; Sign, Guard Rail & Fence Installer; Signal Person; Sound Barrier Installer; Storm & Sanitary Sewer; Swamper; Truck Spotter & Dumper; Wrecking of Concrete Forms; General Cleanup

GROUP 2 - Batter Board Man (Sanitary & Storm Sewer); Brickmason Tender; Mortar Mixer Operator; Scaffold Builder; Burner & Welder; Bushammer; Chain Saw Operator; Concrete Saw Operator; Deckhand Scow Man; Dry Cement Handler; Environmental - Nuclear, Radiation, Toxic & Hazardous Waste - Level C; Forklift Operator for Masonry; Form Setter; Green Concrete Cutting; Hand Operated Grouter & Grinder Machine Operator; Jackhammer; Pavement Breaker; Paving Joint Machine; Pipelayer; Plastic Pipe Fusion; Power Driven Georgia Buggy & Wheel Barrow; Power Post Hole Digger; Precast Manhole Setter; Walk-Behind Tamper; Walk-Behind Trencher; Sand Blaster; Concrete Chipper; Surface Grinder; Vibrator Operator; Wagon Driller

GROUP 3 - Asphalt Luteman & Raker; Gunnite Nozzleman;

Gunnite Operator & Mixer; Grout Pump Operator; Side Rail Setter; Rail Paved Ditches; Screw Operator; Tunnel (Free Air); Water Blaster

GROUP 4 - Caisson Worker (Free Air); Cement Finisher; Environmental - Nuclear, Radiation, Toxic & Hazardous Waste - Levels A & B; Miner & Driller (Free Air); Tunnel Blaster; & Tunnel Mucker (Free Air); Directional & Horizontal Boring; Air Track Drillers (All Types); Powdermen & Blasters; Troxler & Concrete Tester if Laborer is Utilized

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LABO0189-008 07/01/2012

ANDERSON, BULLITT, CARROLL, HARDIN, HENRY, JEFFERSON, LARUE, MARION, MEADE, NELSON, OLDHAM, SHELBY, SPENCER, TRIMBLE & WASHINGTON COUNTIES

	Rates	Fringes
Laborers:		
GROUP 1	$ 21.61	10.95
GROUP 2	$ 21.86	10.95
GROUP 3	$ 21.91	10.95
GROUP 4	$ 22.51	10.95

LABORERS CLASSIFICATIONS

GROUP 1 - Aging & Curing of Concrete; Asbestos Abatement Worker; Asphalt Plant; Asphalt; Batch Truck Dump; Carpenter Tender; Cement Mason Tender; Cleaning of Machines; Concrete; Demolition; Dredging; Environmental - Nuclear, Radiation, Toxic & Hazardous Waste - Level D; Flagperson; Grade Checker; Hand Digging & Hand Back Filling; Highway Marker Placer; Landscaping, Mesh Handler & Placer; Puddler; Railroad; Rip-rap & Grouter; Right-of-Way; Sign, Guard Rail & Fence Installer; Signal Person; Sound Barrier Installer; Storm & Sanitary Sewer; Swamper; Truck Spotter & Dumper; Wrecking of Concrete Forms; General Cleanup

GROUP 2 - Batter Board Man (Sanitary & Storm Sewer); Brickmason Tender; Mortar Mixer Operator; Scaffold Builder; Burner & Welder; Bushammer; Chain Saw Operator; Concrete Saw Operator; Deckhand Scow Man; Dry Cement Handler; Environmental - Nuclear, Radiation, Toxic & Hazardous Waste - Level C; Forklift Operator for Masonry; Form Setter; Green Concrete Cutting; Hand Operated Grouter & Grinder Machine Operator; Jackhammer; Pavement Breaker; Paving

Joint Machine; Pipelayer; Plastic Pipe Fusion; Power Driven Georgia Buggy & Wheel Barrow; Power Post Hole Digger; Precast Manhole Setter; Walk-Behind Tamper; Walk-Behind Trencher; Sand Blaster; Concrete Chipper; Surface Grinder; Vibrator Operator; Wagon Driller

GROUP 3 - Asphalt Luteman & Raker; Gunnite Nozzleman; Gunnite Operator & Mixer; Grout Pump Operator; Side Rail Setter; Rail Paved Ditches; Screw Operator; Tunnel (Free Air); Water Blaster

GROUP 4 - Caisson Worker (Free Air); Cement Finisher; Environmental - Nuclear, Radiation, Toxic & Hazardous Waste - Levels A & B; Miner & Driller (Free Air); Tunnel Blaster; & Tunnel Mucker (Free Air); Directional & Horizontal Boring; Air Track Drillers (All Types); Powdermen & Blasters; Troxler & Concrete Tester if Laborer is Utilized

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LABO0189-009 07/01/2012

BRECKINRIDGE & GRAYSON COUNTIES

	Rates	Fringes
Laborers:		
GROUP 1	$ 21.96	10.60
GROUP 2	$ 22.21	10.60
GROUP 3	$ 22.26	10.60
GROUP 4	$ 22.86	10.60

LABORERS CLASSIFICATIONS

GROUP 1 - Aging & Curing of Concrete; Asbestos Abatement Worker; Asphalt Plant; Asphalt; Batch Truck Dump; Carpenter Tender; Cement Mason Tender; Cleaning of Machines; Concrete; Demolition; Dredging; Environmental - Nuclear, Radiation, Toxic & Hazardous Waste - Level D; Flagperson; Grade Checker; Hand Digging & Hand Back Filling; Highway Marker Placer; Landscaping, Mesh Handler & Placer; Puddler; Railroad; Rip-rap & Grouter; Right-of-Way; Sign, Guard Rail & Fence Installer; Signal Person; Sound Barrier Installer; Storm & Sanitary Sewer; Swamper; Truck Spotter & Dumper; Wrecking of Concrete Forms; General Cleanup

GROUP 2 - Batter Board Man (Sanitary & Storm Sewer); Brickmason Tender; Mortar Mixer Operator; Scaffold Builder; Burner & Welder; Bushammer; Chain Saw Operator; Concrete Saw Operator; Deckhand Scow Man; Dry Cement Handler;

Environmental - Nuclear, Radiation, Toxic & Hazardous Waste - Level C; Forklift Operator for Masonry; Form Setter; Green Concrete Cutting; Hand Operated Grouter & Grinder Machine Operator; Jackhammer; Pavement Breaker; Paving Joint Machine; Pipelayer; Plastic Pipe Fusion; Power Driven Georgia Buggy & Wheel Barrow; Power Post Hole Digger; Precast Manhole Setter; Walk-Behind Tamper; Walk-Behind Trencher; Sand Blaster; Concrete Chipper; Surface Grinder; Vibrator Operator; Wagon Driller

GROUP 3 - Asphalt Luteman & Raker; Gunnite Nozzleman; Gunnite Operator & Mixer; Grout Pump Operator; Side Rail Setter; Rail Paved Ditches; Screw Operator; Tunnel (Free Air); Water Blaster

GROUP 4 - Caisson Worker (Free Air); Cement Finisher; Environmental - Nuclear, Radiation, Toxic & Hazardous Waste - Levels A & B; Miner & Driller (Free Air); Tunnel Blaster; & Tunnel Mucker (Free Air); Directional & Horizontal Boring; Air Track Drillers (All Types); Powdermen & Blasters; Troxler & Concrete Tester if Laborer is Utilized

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PAIN0012-005 06/11/2005

BATH, BOURBON, BOYLE, CLARK, FAYETTE, FLEMING, FRANKLIN, HARRISON, JESSAMINE, MADISON, MERCER, MONTGOMERY, NICHOLAS, ROBERTSON, SCOTT & WOODFORD COUNTIES:

	Rates	Fringes
PAINTER		
Bridge/Equipment Tender and/or Containment Builder	$ 18.90	5.90
Brush & Roller	$ 21.30	5.90
Elevated Tanks; Steeplejack Work; Bridge & Lead Abatement	$ 22.30	5.90
Sandblasting & Waterblasting	$ 22.05	5.90
Spray	$ 21.80	5.90

PAIN0012-017 05/01/2012

BRACKEN, GALLATIN, GRANT, MASON & OWEN COUNTIES:

	Rates	Fringes

PAINTER (Heavy & Highway
Bridges - Guardrails -
Lightpoles - Striping)
Bridge Equipment Tender
and Containment Builder.....$ 20.49 8.33
Brush & Roller.....$ 23.10 8.33
Elevated Tanks;
Steeplejack Work; Bridge &
Lead Abatement.....$ 24.10 8.33
Sandblasting & Water
Blasting.....$ 23.85 8.33
Spray.....$ 23.60 8.33

PAIN0118-004 05/01/2010

ANDERSON, BRECKINRIDGE, BULLITT, CARROLL, GRAYSON, HARDIN, HENRY, JEFFERSON, LARUE, MARION, MEADE, NELSON, OLDHAM, SHELBY, SPENCER, TRIMBLE & WASHINGTON COUNTIES:

	Rates	Fringes
PAINTER		
Brush & Roller	$ 18.50	10.30
Spray, Sandblast, Power Tools, Waterblast & Steam Cleaning	$ 19.50	10.30

PAIN1072-003 12/01/2011

BOYD, CARTER, ELLIOTT, GREENUP, LEWIS and ROWAN COUNTIES

	Rates	Fringes
Painters:		
Bridges; Locks; Dams; Tension Towers & Energized Substations	$ 29.33	14.20
Power Generating Facilities	$ 26.09	14.20

PLUM0248-003 06/01/2012

BOYD, CARTER, ELLIOTT, GREENUP, LEWIS & ROWAN COUNTIES:

	Rates	Fringes
Plumber and Steamfitter	$ 33.00	16.93

PLUM0392-007 06/01/2012

BRACKEN, CARROLL (Eastern Half), GALLATIN, GRANT, MASON, OWEN & ROBERTSON COUNTIES:

	Rates	Fringes
Plumbers and Pipefitters	$ 29.30	16.59

PLUM0502-003 08/01/2011

BRECKINRIDGE, BULLITT, CARROLL (Western Half), FRANKLIN (Western three-fourths), GRAYSON, HARDIN, HENRY, JEFFERSON, LARUE, MARION, MEADE, NELSON, OLDHAM, SHELBY, SPENCER, TRIMBLE & WASHINGTON COUNTIES

	Rates	Fringes
PLUMBER	$ 31.00	16.13

SUKY2010-160 10/08/2001

	Rates	Fringes
Truck drivers:		
GROUP 1	$ 16.57	7.34
GROUP 2	$ 16.68	7.34
GROUP 3	$ 16.86	7.34
GROUP 4	$ 16.96	7.34

TRUCK DRIVER CLASSIFICATIONS

GROUP 1 - Mobile Batch Truck Tender

GROUP 2 - Greaser; Tire Changer; & Mechanic Tender

GROUP 3 - Single Axle Dump; Flatbed; Semi-trailer or Pole Trailer when used to pull building materials and equipment; Tandem Axle Dump; Distributor; Mixer; & Truck Mechanic

GROUP 4 - Euclid & Other Heavy Earthmoving Equipment & Lowboy; Articulator Cat; 5-Axle Vehicle; Winch & A-Frame when used in transporting materials; Ross Carrier; Forklift when used to transport building materials; & Pavement Breaker

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters , PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable , i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rate.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may

include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

ATTACHMENT 4 TO EXHIBIT 23

EQUAL EMPLOYMENT OPPORTUNITY

SPECIAL PROVISION
000---006
Standard Federal Equal Employment Opportunity
Construction Contract Specifications (Executive Order 11246)

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Indianan Native (all persons having origins in any of the original peoples of North American and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Hometown Plan area (including goals and timetables) shall be in accordance with that plan for those trades which have unions participating in the Hometown Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved Hometown Plan is individually required to comply

with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Hometown Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Hometown Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Hometown Plan goals and timetables.

4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing contracts in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or any Federal procurement contracting officer. The contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U. S. Department of Labor.

7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman sent by the contractor, or when the contractor has other information that the union referral Process has impeded the contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the contractor's EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the contractor's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the contractor's EEO policy and the contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. Nondiscrimination programs require that Federal-aid recipients, subrecipients, and contractors prevent discrimination and ensure nondiscrimination in all of their programs and activities, whether those programs and activities are federally funded or not. The factors prohibited from serving as a basis for action or inaction which discriminates include race, color, national origin, sex, age, and handicap/disability. The efforts to prevent discrimination must address, but not be limited to a program's impacts, access, benefits, participation, treatment, services, contracting opportunities, training opportunities, investigations of complaints, allocations of funds, prioritization of projects, and the functions of right-of-way, research, planning, and design.

11. The contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

16. In addition to the reporting requirements set forth elsewhere in this contract, the contractor and the subcontractors holding subcontracts, not including material suppliers, of $10,000 or more, shall submit for every month of July during which work is performed, employment data as contained under Form PR 1391 (Appendix C to 23 CFR, Part 230), and in accordance with the instructions included thereon.

ATTACHMENT 5 TO EXHIBIT 23

AFFIRMATIVE ACTION

SPECIAL PROVISION
000—0004
Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246)

1. General.

In addition to the affirmative action requirements of the Special Provision titled "Standard Federal Equal Employment Opportunity Construction Contract Specifications" as set forth in Attachment 4 to this Exhibit 23, the contractor's attention is directed to the specific requirements for utilization of minorities and females as set forth below.

2. Goals.

a. Goals for minority and female participation are hereby established in accordance with 41 CFR 60-4.

b. The goals for minority and female participation expressed in percentage terms for the contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:

Goals for minority participation in each trade (per-cent)	Goals for female participation in each trade (per-cent)
See Table 1	6.9%

c. These goals are applicable to all the contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and non-federally involved construction. The contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Standard Federal Equal Employment Opportunity Construction Contract Specifications Special Provision and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority and female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the contractor's goals shall be a violation of the contract, the

Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. Subcontracting.

The contractor shall provide written notification to IFA within ten Business Days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation pending concurrence of IFA in the award. The notification shall list the names, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

4. Covered area.

As used in this special provision, and in the contract resulting from this solicitation, the geographical area covered by these goals for female participation is the State of Indiana. The geographical area covered by these goals for other minorities are the boroughs or other geographic areas in the State of Indiana as indicated in Table 1.

5. Reports.

The contractor is hereby notified that he may be subject to the Office of Federal Contract Compliance Programs (OFCCP) reporting and record keeping requirements as provided for under Executive Order 11246 as amended. OFCCP will provide direct notice to the contractor as to the specific reporting requirements that he will be expected to fulfill.

Table 1

Borough or Other Geographic Area	Goals for Minority Participation	County
State of Indiana	11.2% (minority)	Clark County

ATTACHMENT 6 TO EXHIBIT 23

COMPLIANCE WITH 23 U.S.C. §129(a)(3) AND WITH THE AGREEMENT BETWEEN THE INDIANA FINANCE AUTHORITY AND THE FEDERAL HIGHWAY ADMINISTRATION FOR FUNDING FOR THE DEVELOPMENT, DESIGN, AND CONSTRUCTION OF THE EAST END CROSSING (THE "SECTION 129 AGREEMENT")

1. Certification of Adequate Maintenance

a. The Section 129 Agreement requires IFA to annually certify to the FHWA that the project is being adequately maintained.

b. To enable IFA to issue such certifications, Developer shall issue to IFA not later than 15 days after the end of each calendar year, starting with the calendar year in which the Substantial Completion Date occurs, a written certificate, in form reasonably acceptable to IFA, certifying that the project is being adequately maintained. If FHWA prescribes a form of certificate from IFA, then Developer shall deliver to IFA a certificate in the same form.

2. Annual Audit of Records

a. The Section 129 Agreement requires IFA to annually audit the records of the project for compliance with the provisions of the Section 129 Agreement, and to report the audit results to the FHWA. The Section 129 Agreement provides that in lieu of IFA performing the audit, IFA may deliver to the FHWA a report of an independent auditor furnished by Developer.

b. To enable IFA to comply with such annual audit requirement as it relates to compliance with the obligation in the Section 129 Agreement to adequately maintain the project, Developer shall prepare and deliver to IFA a written report of the results of each Performance Inspection and Asset Condition Score by Developer. IFA shall have the right to deliver to the FHWA copies of such reports. In addition, Developer shall permit the FHWA to audit Developer's O&M Records upon request.

EXHIBIT 24

INITIAL DESIGNATION OF AUTHORIZED REPRESENTATIVES

IFA: Kendra York, Public Finance Director, Indiana Finance Authority

Developer: Sidney Florey, Project Executive

Z. NON-COLLUSION AFFIDAVIT

[Attached]

FORM F

NON-COLLUSION AFFIDAVIT

STATE OF IL)
)SS:
COUNTY OF Cook)

Each of the undersigned, being first duly sworn, deposes and says that:

A. Matthew Walsh is the Manager of Walsh Investors, LLC and Sid Florey is the Business Development Manager, North America of Vinci Concessions and Dirk Söhngen and Nick Dawson are the Managing Directors of Bilfinger Berger, which entity(ies) are the members of WVB East End Partners, the entity making the foregoing Proposal.

B. The Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, joint venture, limited liability company or corporation; the Proposal is genuine and not collusive or sham; the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham Proposal, and has not directly or indirectly colluded, conspired, connived or agreed with any Proposer or anyone else to put in a sham Proposal or that anyone shall refrain from proposing; Proposer has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the prices of Proposer or any other Proposer, or to fix any overhead, profit or cost element (including the Maximum Availability Payment or its components) included in the Proposal, or of that of any other Proposer, or to secure any advantage against IFA or anyone interested in the proposed agreement; all statements contained in the Proposal are true; and, further, Proposer has not, directly or indirectly, submitted its prices or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, joint venture, limited liability company, organization, Proposal depository or any member, partner, joint venture member or agent thereof to effectuate a collusive or sham Proposal.

C. Proposer will not, directly or indirectly, divulge information or data regarding the price or other terms of its Proposal to any other Proposer, or seek to obtain information or data regarding the price or other terms of any other Proposal, until after award of the Agreement or rejection of all Proposals and cancellation of the RFP.

_____	S. R. Florey
(Signature)	(Signature)
_____	Sidney R. Florey
(Name Printed)	(Name Printed)
_____	Authorized Representative
(Title)	(Title)
	WVB East End Partners

(Signature)	(Signature)
(Name Printed)	(Name Printed)
(Title)	(Title)

Subscribed and sworn to before me this 24 day of Oct, 2012.

OFFICIAL SEAL
RITA CURTIS
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 06/15/2016

Rita Curtis
Notary Public in and for
said County and State

[Seal]

My commission expires: 6-15-16.

FORM F

NON-COLLUSION AFFIDAVIT

STATE OF IL)
)SS:
COUNTY OF Cook)

Each of the undersigned, being first duly sworn, deposes and says that:

A. Matthew Walsh is the Manager of Walsh Investors, LLC and Sid Florey is the Business Development Manager, North America of Vinci Concessions and Dirk Söhngen and Nick Dawson are the Managing Directors of Bilfinger Berger, which entity(ies) are the members of WVB East End Partners, the entity making the foregoing Proposal.

B. The Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, joint venture, limited liability company or corporation; the Proposal is genuine and not collusive or sham; the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham Proposal, and has not directly or indirectly colluded, conspired, connived or agreed with any Proposer or anyone else to put in a sham Proposal or that anyone shall refrain from proposing; Proposer has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the prices of Proposer or any other Proposer, or to fix any overhead, profit or cost element (including the Maximum Availability Payment or its components) included in the Proposal, or of that of any other Proposer, or to secure any advantage against IFA or anyone interested in the proposed agreement; all statements contained in the Proposal are true; and, further, Proposer has not, directly or indirectly, submitted its prices or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, joint venture, limited liability company, organization, Proposal depository or any member, partner, joint venture member or agent thereof to effectuate a collusive or sham Proposal.

C. Proposer will not, directly or indirectly, divulge information or data regarding the price or other terms of its Proposal to any other Proposer, or seek to obtain information or data regarding the price or other terms of any other Proposal, until after award of the Agreement or rejection of all Proposals and cancellation of the RFP.

_____	_____
(Signature)	(Signature)
_____	Matthew Walsh
(Name Printed)	(Name Printed)
_____	Manager, Walsh Investors, LLC
(Title)	(Title)

(Signature)	(Signature)
(Name Printed)	(Name Printed)
(Title)	(Title)

Subscribed and sworn to before me this 19th day of Oct, 2012.

Carol Foerster
Notary Public in and for
said County and State

[Seal]
My commission expires: 8-11-15.

OFFICIAL SEAL
CAROL FOERSTER
Notary Public – State of Illinois
My Commission Expires August 11, 2015

FORM F

NON-COLLUSION AFFIDAVIT

STATE OF IL)
)SS:
COUNTY OF Cook)

Each of the undersigned, being first duly sworn, deposes and says that:

A. Matthew Walsh is the Manager of Walsh Investors, LLC and Sid Florey is the Business Development Manager, North America of Vinci Concessions and Dirk Söhngen and Nick Dawson are the Managing Directors of Bilfinger Berger, which entity(ies) are the members of WVB East End Partners, the entity making the foregoing Proposal.

B. The Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, joint venture, limited liability company or corporation; the Proposal is genuine and not collusive or sham; the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham Proposal, and has not directly or indirectly colluded, conspired, connived or agreed with any Proposer or anyone else to put in a sham Proposal or that anyone shall refrain from proposing; Proposer has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the prices of Proposer or any other Proposer, or to fix any overhead, profit or cost element (including the Maximum Availability Payment or its components) included in the Proposal, or of that of any other Proposer, or to secure any advantage against IFA or anyone interested in the proposed agreement; all statements contained in the Proposal are true; and, further, Proposer has not, directly or indirectly, submitted its prices or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, joint venture, limited liability company, organization, Proposal depository or any member, partner, joint venture member or agent thereof to effectuate a collusive or sham Proposal.

C. Proposer will not, directly or indirectly, divulge information or data regarding the price or other terms of its Proposal to any other Proposer, or seek to obtain information or data regarding the price or other terms of any other Proposal, until after award of the Agreement or rejection of all Proposals and cancellation of the RFP.

_____	S. R. Florey
(Signature)	(Signature)
_____	Sidney R. Florey
(Name Printed)	(Name Printed)
_____	Business Development Mgr - North America
(Title)	(Title)
	Vinci Concessions, SAS

(Signature)	(Signature)
(Name Printed)	(Name Printed)
(Title)	(Title)

Subscribed and sworn to before me this 24 day of Oct, 2012.

OFFICIAL SEAL
RITA CURTIS
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 06/15/2016

Rita Curtis
Notary Public in and for
said County and State

[Seal]

My commission expires: 6-15-16.

FORM F

NON-COLLUSION AFFIDAVIT

Wiesbaden, Germany.

Each of the undersigned, being first duly sworn, deposes and says that:

A. Matthew Walsh is the Manager of Walsh Investors, LLC and Sid Florey is the Business Development Manager, North America of Vinci Concessions and Dirk Söhngen and Nick Dawson are the Managing Directors of Bilfinger Berger Project Investments International Holding GmbH, which entity(ies) are the members of WVB East End Partners, the entity making the foregoing Proposal..

B. The Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, joint venture, limited liability company or corporation; the Proposal is genuine and not collusive or sham; the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham Proposal, and has not directly or indirectly colluded, conspired, connived or agreed with any Proposer or anyone else to put in a sham Proposal or that anyone shall refrain from proposing; Proposer has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the prices of Proposer or any other Proposer, or to fix any overhead, profit or cost element (including the Maximum Availability Payment or its components) included in the Proposal, or of that of any other Proposer, or to secure any advantage against IFA or anyone interested in the proposed agreement; all statements contained in the Proposal are true; and, further, Proposer has not, directly or indirectly, submitted its prices or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, joint venture, limited liability company, organization, Proposal depository or any member, partner, joint venture member or agent thereof to effectuate a collusive or sham Proposal.

C. Proposer will not, directly or indirectly, divulge information or data regarding the price or other terms of its Proposal to any other Proposer, or seek to obtain information or data regarding the price or other terms of any other Proposal, until after award of the Agreement or rejection of all Proposals and cancellation of the RFP.

Nick Dawson

Managing Director

Dirk Söhngen

Managing Director

Bilfinger Berger ~~Project Investments~~ International Holding GmbH

D27/1646-12

Deed No. 905 of the Register of Deeds for 2012-S

I herewith certify the overleaf signature personally made in my presence by

- Mr. **Nick Dawson**,
  born on 17 March 1955,

  business address:
  Gustav-Stresemann-Ring 1, D-65189 Wiesbaden, Germany
  - known to me-
  acting on behalf of
  Bilfinger Berger PI International Holding GmbH
  Gustav-Stresemann-Ring 1, D-65189 Wiesbaden, Germany

a company having its registered office in Wiesbaden.

On request of the appeared I went to take the signature in the business premises of Bilfinger Berger PI International Holding GmbH, Gustav-Stresemann-Ring 1, D-65189 Wiesbaden, Germany.

I asked for a preliminary engagement referring to sec. 3 art. 1 no. 7 BeurkG. The answer of the person was negative.

Wiesbaden, 19 October 2012

PETER SCHIRMER NOTAR IN WIESBADEN

- Peter Schirmer -
Notary

D27/1650-12

Deed No. 910 of the Register of Deeds for 2012-S

I herewith certify the overleaf signature personally made in my presence by

- Mr. **Dirk Söhngen,**
  born on 19 July 1963,

  business address:
  Gustav-Stresemann-Ring 1, D-65189 Wiesbaden, Germany
  -known to me-
  acting on behalf of
  Bilfinger Berger PI International Holding GmbH
  Gustav-Stresemann-Ring 1, D-65189 Wiesbaden, Germany

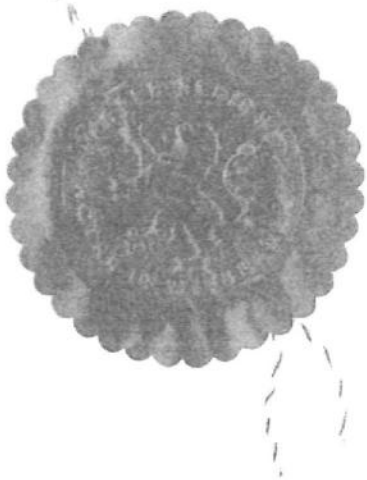
a company having its registered office in Wiesbaden.

From inspection of the electronic Commercial Register of the District Court of Wiesbaden, Section B No. 13322, made on 19 October 2012, I herewith certify that the said Bilfinger Berger PI International Holding GmbH, is there entered and that Mr. Nick Dawson and Mr. Dirk Söhngen are jointly authorised to represent it.

On request of the appeared I went to take the signature of Mr. Söhngen in the business premises of Bilfinger Berger PI International Holding GmbH, Gustav-Stresemann-Ring 1, D-65189 Wiesbaden, Germany.

I asked for a preliminary engagement referring to sec. 3 art. 1 no. 7 BeurkG. The answer of the person was negative.

Wiesbaden, 22 October 2012



- Peter Schirmer -
Notary

AA. DRUG-FREE WORKPLACE CERTIFICATION

[Attached]

DRUG-FREE WORKPLACE CERTIFICATION

Developer hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. Developer will give written notice to IFA within ten (10) days after receiving actual notice that Developer or an employee of Developer has been convicted of a criminal drug violation occurring in Developer's workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of agreed upon payments, termination of the Agreement and/or debarment of contracting opportunities with the State of Indiana for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total agreed upon amount set forth in the Agreement is in excess of $25,000.00, Developer hereby further agrees that the Agreement is expressly subject to the terms, conditions, and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds $25,000.00, shall be valid, unless and until this certification has been fully executed by Developer and made a part of the contract or agreement as part of the contract documents.

Developer certifies and agrees that it will provide a drug-free workplace by:

A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in Developer's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;

B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) Developer's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify Developer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

D. Notifying in writing to IFA and the Indiana Department of Administration within ten (10) days after receiving notice from an employee under subparagraph (C)(2) above, or otherwise receiving actual notice of such conviction;

E. W ithin thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including

termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

The undersigned affirms, under penalty of perjury that he or she is authorized to execute this certification on behalf of Developer.

dated December 27, 2012

WVB EAST END PARTNERS, LLC

By: _____
Name: Sidney Florey
Title: Project Executive

BB. TECHNICAL PROVISIONS

See Volume II CD